

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 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. E.700.2 FARMERS' WATERSHED ALLIANCE

(a) The secretary of natural resources shall allocate and grant \$125,000 of the funds appropriated to the agency for the Clean and Clear program to the Franklin County watershed alliance. The secretary shall report to the joint fiscal committee by September 15, 2009 regarding how this grant was allocated within the agency Clean and Clear budget. It is the intent of the general assembly that this funding, in coordination with \$75,000 of funding allocated through the agency of agriculture, food and markets, will provide a total grant of \$200,000 to the Franklin County watershed alliance for fiscal year 2010.

Sec. E.705 FUNDING GOALS FOR FISH & WILDLIFE

(a) It is the intent of the general assembly that the department of fish and wildlife be able to sustain services and seek the federal funds eligible to the state in the future through the generation of revenue and state funding.

(b) The department shall seek to access to the maximum amount the state may be eligible for of Pittman-Robertson, Dingell-Johnson, and other federal revenues. The department shall establish and administer a grant program for Vermont organizations and citizens to utilize the Pittman-Robertson funds for the public sport shooting ranges and the improvement or modification of existing sport shooting ranges. Sport shooting ranges are defined as per 10 V.S.A. § 5227.

Sec. E.707 FUNDING GOALS FOR FORESTS, PARKS AND RECREATION

(a) It is the intent of the general assembly that the department of forests, parks and recreation be able to sustain services and seek the federal funds eligible to the state in the future through the generation of revenue and state funding.

Sec. E.717 Natural resources board (Sec. B.717, #6215000000)

(a) It is the intent of the general assembly that should the level of funding provided in Sec. B.717 of this act require reductions in personal service

expenses in fiscal year 2010, any such reductions shall not reduce enforcement activities of the board. The administration is encouraged to review the need to maintain the board chair position at a full-time level.

* * * Commerce and Community Development * * *

Sec. E.800 COMMUNITY DEVELOPMENT PROGRAM; FUND CONSOLIDATION PLAN; IMPLEMENTATION

(a) Consistent with the requirements of subchapter 1 of chapter 29 of Title 10, a committee chaired by the Vermont league of cities and towns and consisting of the executive directors of the Vermont housing finance agency, the Vermont economic development authority, and the secretary of the agency of commerce and community development or designee, the Vermont housing conservation board, the Vermont bankers association, municipalities, regional development corporations, and other appropriate entities shall develop a proposal for the best use of and administration of community development grants which have previously been awarded to municipalities and that are currently inactive from the community development block grant (CDBG) program authorized by Title I of the federal Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301 et seq. The purpose of the proposal is to maximize the availability of CDBG funding for Vermont's municipalities. The proposal shall include criteria and processes for standardizing the administration and oversight of CDBG funds, while preserving a municipality's ability to access funds.

(b) The committee will be staffed by the agency of commerce and community development. The committee shall report its findings to the general assembly on or before January 15, 2010.

Sec. E.801 Housing and community affairs (Sec. B.801, #7110010000)

(a) Of this appropriation, \$60,000 shall be granted to the First Stop Program.

Sec. E.804 Community development block grants (Sec. B.804, #7110030000)

(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, and to serve families and individuals at or below 30 percent of HUD Area Median Income and people with special needs as described in the Consolidated Plan. Housing for seniors should be considered a priority when it meets clear unmet needs in the region for the lowest income seniors.

(4) Projects which address the ongoing deterioration of the existing housing stock through acquisition, preservation, and rehabilitation of units shall comply with housing quality standards with priority given to lead hazard reduction and energy efficiency.

(5) Preference shall be given to projects that maintain the historic settlement pattern of compact village and downtown centers separated by a rural working landscape. Funds generally should not be awarded to projects that promote or constitute sprawl, defined as dispersed development outside compact urban and village centers, along highways, and in rural countryside.

(c) No less than 50 percent of CDBG-generated loan repayments shall remain available to municipalities awarded community development block grant funds.

(d) The department of housing and community affairs may not restrict CDBG applications for housing to projects which have been previously awarded federal low income housing tax credits.

Sec. E.806 Economic development (Sec. 806, #7120010000)

(a) Of this appropriation, \$50,000 shall be used by the Commission on the Future of Economic Development (CFED) to continue the benchmarking process and to develop strategies to implement the four principal goals for economic development recommended to the legislature by CFED in fiscal year 2009.

(b) For fiscal year 2010, the chair of CFED shall convene and chair a working group consisting of the current CFED members and the commissioner of the department of economic development.

(c) The working group shall receive reasonable administrative, fiscal, and legal support from the joint fiscal office and the legislative council.

(d) Legislative members of the committee shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 2 V.S.A. § 406(a); other members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 32 V.S.A. § 1010.

(e) The fiscal year 2010 working group shall:

(1) Collaborate with the state economists to finalize the statistical benchmarking system proposed in fiscal year 2009.

(2) Establish baseline values for each benchmark and subsequently perform an economic development analysis against the baseline values at a suitable interval.

(3) Review and report on the development of the specific goals and benchmarks required of state agencies and departments under 10 V.S.A. § 3(d).

(4) Develop a work plan for CFED for fiscal year 2011.

(f) The working group shall report its findings and recommendations to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor not later than January 15, 2010.

Sec. E.813 10 V.S.A. § 311 is amended to read:

§ 311. CREATION OF THE VERMONT HOUSING AND CONSERVATION BOARD

(a) There is created and established a body politic and corporate to be known as the "Vermont housing and conservation board" to carry out the provisions of this chapter. The board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state. The board is exempt from licensure under chapter 73 of Title 8.

~~(b) The board shall consist of nine members, including ex officio the secretary of agriculture, food and markets, the secretary of commerce and community development, the secretary of natural resources and the executive director of the Vermont housing finance agency, or their designees, and five public members who shall be residents of the state and who shall in the opinion of the governor be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land, historic properties, important~~

~~natural areas or recreational lands. At least one member shall be a representative of lower income Vermonters and one member shall be a farmer as defined in 32 V.S.A. § 3752(7). The public members shall be appointed by the governor with the advice and consent of the senate for three-year terms beginning on February 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, one for a term of one year, two for a term of two years and two for a term of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

The board shall consist of the following 11 members:

(1) The secretary of agriculture, food and markets or his or her designee.

(2) The secretary of human services or his or her designee.

(3) The secretary of natural resources or his or her designee.

(4) The executive director of the Vermont housing finance agency or his or her designee.

(5) Three public members appointed by the governor who shall be residents of the state and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land, historic properties, important natural areas or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in subdivision 3752(7) of Title 32.

(6) One public member appointed by the speaker of the house, who shall not be a member of the general assembly at the time of appointment.

(7) One public member appointed by the senate committee on committees, who shall not be a member of the general assembly at the time of appointment.

(8) Two public members appointed jointly by the speaker of the house and the president pro tempore of the senate as follows:

(A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or board member of any of those organizations at the time of appointment.

(B) One member from the nonprofit conservation organizations whose activities are eligible under subdivision 303(3) of this title who shall not be an employee or member of the board of any of those organizations at the time of appointment.

(c) The public members shall serve terms of three years beginning July 1 of the year of appointment. However, two of the public members first appointed by the governor shall serve initial terms of one year; and the public members first appointed by the speaker and committee on committees shall serve initial terms of two years. A vacancy occurring among the public members shall be filled by the respective appointing authority for the balance of the unexpired term. A member may be reappointed.

~~(e)~~(d) Annually, the board shall elect from among its public members a chair and vicechair. The board may elect ~~such~~ officers as it may determine. Meetings shall be held at the call of the chair or at the request of three members. 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.

~~(d)~~(e) Members other than ex officio members shall be entitled to per diem authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties and each ~~such~~ member shall be reimbursed from the fund for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.

~~(e)~~(f) The board shall employ an executive director to administer, manage and direct the affairs and business of the board, subject to the policies, control and direction of the members. The board may employ technical experts and ~~such~~ other officers, agents and employees as are necessary to effect the purposes of this chapter, and may fix their qualifications, duties and compensation. The board shall use the office of the attorney general for legal services.

Sec. E.813.1 10 V.S.A. § 321 is amended to read:

§ 321. GENERAL POWERS AND DUTIES

(a) The board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided to a business corporation by ~~section 1852 of Title 11~~ Title 11A and including, without limiting the generality of the foregoing, the power to:

(1) upon application from an eligible applicant in a form prescribed by the board, provide funding in the form of grants or loans for eligible activities;

(2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this state to carry out the purposes of this chapter;

(3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter;

(4) transfer funds to the department of housing and community affairs to carry out the purposes of this chapter.

(b) The board shall seek out and fund not-for-profit organizations and municipalities that can assist any region of the state which has high housing prices, high unemployment and low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing. The board shall administer the "HOME" affordable housing program which was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The state of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and outcomes that the board will annually report on to the Vermont department of housing and community affairs.

(c) On behalf of the state of Vermont, the board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund which was enacted under HR 3221, Title I, Subtitle B, Section 1228 of the Federal Housing Finance Regulatory Reform Act of 2008 to increase perpetually affordable rental housing and home ownership for low and very low income families.

~~(e)~~(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter.

~~(d)~~(e) The board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and state bonding act of the following: "The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act." An appropriate placard shall, if feasible, be displayed at the location of the proposed grant activity.

(a) In accordance with the legislature's authority under 32 V.S.A. § 5, the U.S. Department of Housing and Urban Development (HUD) Neighborhood Stabilization Program (NSP) grant (JFO #2370), in the amount of \$19,600,000 is accepted pursuant to and subject to a memorandum of understanding (MOU) reached between the agency of commerce and community development (ACCD) and the Vermont housing and conservation board (VHCB) dated May 7, 2009, for the use of NSP funds by the Vermont housing and conservation board (VHCB) to grant subgrants to eligible projects. Further, the general assembly concludes that the MOU shall include the reservation of actual costs of \$3,000,000 to be solicited and awarded by VHCB, and conveyed by a grant agreement to VHCB. The MOU shall also include, but is not limited to provisions that will allow VHCB to be reimbursed for the actual costs of its administration up to \$400,000; a requirement that owners of projects funded with grant funds shall execute housing subsidy covenants to ensure permanent affordability; a requirement that VHCB will act according to and ensure compliance with all applicable state and federal laws and regulations; and that ACCD will provide training and technical assistance to VHCB staff with regard to administration of the NSP grant. It is also understood that the total of the NSP funds awarded to the state of Vermont that are not allocated pursuant to the MOU shall be utilized consistent with the terms of the HUD approval of the NSP grant. The MOU between ACCD and VHCB shall be submitted to the house and senate committees on appropriations and the joint fiscal committee immediately upon its execution.

* * * Transportation * * *

Sec. E.900 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR SUPPORT OF GOVERNMENT THE DEPARTMENT OF PUBLIC SAFETY

(a) ~~The maximum amount of~~ No transportation funds ~~that may~~ shall be appropriated for the support of government; other than for the agency of transportation, the transportation board, transportation pay act funds, construction of transportation capital facilities used by the agency of transportation, and transportation debt service shall not exceed \$32,852,807.00, and the department of public safety. The amount of transportation funds appropriated to the department of public safety shall:

- (1) in fiscal year 2010 not exceed \$30,850,000.00;
- (2) in fiscal year 2011 not exceed \$28,350,000.00; and
- (3) in fiscal year 2012 not exceed \$25,250,000.00.

Sec. E.910 Transportation – central garage (Sec. B.910, #8110000200)

(a) Of this appropriation, \$6,216,757 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.916 Transportation – town highway aid program (Sec. B.916, #810003000)

(a) This appropriation is authorized, notwithstanding 19 V.S.A. § 306(a).

* * * Miscellaneous * * *

Sec. E.1100 FISCAL YEAR 2010 NEXT GENERATION FUND ALLOCATIONS (Sec. B.1100(a))

(a) The \$3,293,000 appropriated in Sec. B.1100(a)(1) of this act from the next generation initiative fund, created in 16 V.S.A. § 2887, shall be as follows:

(1) Workforce development: \$1,415,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of \$1,415,500 is appropriated to the Vermont workforce education and training fund, which is administered by the department of labor, for workforce development. Up to seven percent of the funds may be used for administration of the program.

(B) Adult Technical Education Programs. The amount of \$410,500 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.

(C) UVM Technology Transfer Program. The amount of \$118,750 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 \$118,750 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: 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.

(3) Scholarships and grants: \$929,500 as follows:

(A) Nondegree VSAC Grants. The amount of \$494,500 is appropriated to the Vermont student assistance corporation. This appropriation 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 this appropriation 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 this appropriation shall be used for administrative overhead.

(B) 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) Dual Enrollment Programs. The sum of \$285,000 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 institution are better academically or geographically suited to student need.

Sec. E.1103. COST REDUCTION AUTHORIZATION

(a) Due to the current and continuing fiscal stress that will impact the Vermont state budget, the secretary of administration is authorized to develop a plan for submission to the legislative joint fiscal committee to make \$14,700,000 in general fund expenditure reductions and proportionate reductions in other funding sources through revisions to payroll and personnel services related expenditures as indicated below.

(b) First, the secretary of administration shall reduce budgeted contract expenditures for fiscal year 2010 by \$1,300,000 in general funds. In the event that such expenditure reductions are not identified by October 31, 2009, the secretary of administration shall submit a plan of recommendation to achieve this general fund savings target by alternate reductions in budgeted funds to the joint fiscal committee in November 2009.

(c) Second, the general assembly strongly urges the Vermont state employees' association and the secretary of administration to negotiate

contract changes and other personnel adjustments to achieve expenditure reductions of \$13,400,000 general funds and proportionate reductions in other funding sources to avoid job cuts. In negotiating contract revisions, the general assembly recommends the parties consider the following principles in achieving a contract modification to produce the savings:

(1) Any such changes or reductions shall include proportional impacts on exempt employees, classified confidential, and other employee classifications; and

(2) Changes should reflect the ability to pay with larger expected savings from higher paid employees.

(d) Third, in the event that the expenditure reductions are not achieved through subsection (c) of this section, the secretary of administration shall develop an alternate savings plan for submission to the legislative joint fiscal committee on or before June 10, 2009. In developing a plan, the secretary shall operate within the following parameters:

(1) Any such plan shall include proportional impacts on exempt employees, classified confidential, and other employee classifications;

(2) Impacts on service delivery, public health, safety, and cost transfers to other levels of government shall be minimized; and

(3) Departments shall have the option, to the extent allowable by contract, to avoid position elimination through reductions of working hours.

(e) No reductions in force shall take place or be effective unless and until they are part of a plan submitted to and approved by the legislative joint fiscal committee. The secretary may include alternatives to position reductions and shall not be limited to positions already submitted to the legislature in list development.

(f) The legislative joint fiscal committee shall treat any plan submitted for approval under the procedures outlined under 32 V.S.A. § 704.

(g) The recommendations in subsections (c) and (d) of this section shall apply to all state employees in all branches of government. Agency or department heads may adjust the salaries or furloughs of exempt employees who have already taken furloughs or salary reductions in excess of the impacts of the plan above to make them consistent with the proposals under subsections (c) and (d) of this section.

(h) The secretary of administration shall not plan to close or significantly reduce operations at any correctional facility unless approval to proceed with such closing or reduction plans is granted by both the joint committee on

corrections oversight and the joint fiscal committee. Any plan submitted to the committees shall include an analysis of the regional impact, including how the increased transportation costs will be funded.

Sec. G.100 EFFECTIVE DATES

(a) This section and Secs. C.100, C.101, C.102, C.103, C.104, C.105, D.103, D.105, D.106, D.108, D.109, D.110, E.102.1, E.129, E.135.2, E.135.3, E.204(b), E.207(c), E.209(c), E.307.1, E.322.2, E.330(c), and E.813.2 shall take effect on passage.

(b) Sec. E.318.1 (33 V.S.A. § 3512(b)) shall take effect upon approval by the joint fiscal committee of the proposal provided for in Sec. E.318 of this act. If the proposal is not approved, 33 V.S.A. § 3512(b), as amended by Sec. E.318.1 of this act, shall revert to the language it contained before the passage of this act.

(c) Sec. E.813.2 shall take effect upon passage by the house and senate.

* * * Proposed Miscellaneous Tax Amendments * * *

Sec. H.1. INCREASING THE NUMBER OF COMPLIANCE PERSONNEL IN THE DEPARTMENT OF TAXES

(a) Of the funds appropriated to the department of taxes in this act, \$535,000 is for the purpose of hiring nine full-time limited service employees to augment the department's compliance division. The department shall use the funds so appropriated to hire four tax field examiners, two desk audit examiners, one collector, one desk audit supervisor, and either one attorney or a second collector.

(b) It is the intent of the general assembly that the funding of an additional \$935,000 be provided to the tax department in fiscal year 2011 for the purpose of retaining the nine full-time limited service employees hired pursuant to subsection (a) of this section and hiring six additional full-time limited service employees to further augment the department's compliance division. The department shall use the additional funds so appropriated to hire four tax field examiners and two desk audit examiners.

(c) It is the intent of the legislature to further augment the department's compliance efforts in fiscal year 2012 by appropriating additional funds for fiscal year 2012 for the purpose of retaining the 15 full-time limited service employees hired pursuant to subsections (a) and (b) of this section and hiring five additional limited service employees.

(d) The positions created pursuant to subsections (a) and (b) of this section shall not be new state employee positions but instead shall be transferred and

converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(e) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

Sec. H.2. ADDING COMPLIANCE PERSONNEL TO THE DEPARTMENT OF LABOR

(a) Of the funds appropriated to the department of labor in this act, \$308,212 shall be for the purpose of hiring four full-time limited service employees as workers' compensation fraud staff who will investigate the classification of workers as either contractors or employees and enforce compliance of the proper classification by businesses.

(b) The positions created pursuant to subsection (a) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(c) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

* * * Tax Amnesty * * *

Sec. H.3. TAX AMNESTY

(a) Notwithstanding any law to the contrary, the commissioner of taxes shall establish a tax amnesty program during which all penalties that could be assessed by the commissioner may be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect if the taxpayer, prior to the expiration of the amnesty period, files proper returns for any tax types and any period for which the taxpayer has or had a filing obligation and pays the full amount of tax shown on such return together with all interest due thereon. The amnesty program shall be established for a period of six consecutive weeks to be determined by the commissioner, to expire not later than October 2, 2009.

(b) The amnesty program shall apply to a tax liability of any tax type for any periods for which the due date of the return was before January 26, 2009 but shall not apply to those penalties which the commissioner would not have the sole authority to waive, including fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes.

(c)(1) The commissioner shall maintain records of the amnesty provided under this section, including:

(A) the number of taxpayers provided with amnesty;

(B) the types of tax liability for which amnesty was provided and, for each type of liability:

(i) the amount of tax liability collected by the commissioner; and

(ii) the amount of penalties forgone by virtue of the amnesty; and

(iii) the total outstanding tax liability due to the state, for the period through June 30, 2009, after the collection of all funds under this section.

(2) The commissioner shall file a report detailing the information required by subdivision (1) of this subsection with the clerk of the house of representatives and the secretary of the senate, the joint fiscal committee, the house committee on ways and means, and the senate committee on finance not later than December 15, 2009; provided, however, that the report shall not contain information sufficient to identify an individual taxpayer or the amnesty an individual taxpayer was provided under this section.

Sec. H.4. FUNDING FOR TAX AMNESTY

(a) Of the funds appropriated to the tax department in this act, \$132,000 is for the purpose of marketing the tax amnesty program provided for in Sec. H.3 of this act. In order to help stimulate the local economy, the legislature asks in determining what resources or marketing firms to use, the department give priority to Vermont-based firms.

* * * Sale of State-Owned Personal Property * * *

Sec. H.5. SALE OF STATE-OWNED SURPLUS PERSONAL PROPERTY

In order to raise capital and to free space in buildings owned or leased by the state, the commissioner of buildings and general services is authorized and directed to conduct a "spring cleaning" to identify and sell surplus personal property of the state. Each department and agency of the state shall, in accordance with section 1556 of Title 29, transfer all surplus personal property to the commissioner, who is authorized to sell such surplus personal property pursuant to subdivision 1556(6). Notwithstanding section 1557 of Title 29, the proceeds of such sale, net of the commissioner's administrative costs, shall be deposited into the general fund.

* * * Department of Revenue * * *

Sec. H.6. DEPARTMENT OF TAXES; DEPARTMENT OF REVENUE;
TRANSITION

(a) In accordance with the report of the commissioner of taxes dated January 22, 2007, the department of taxes shall be converted into a department of revenue no later than June 30, 2012.

(b) To accomplish the requirement set out in subsection (a) of this section, there is hereby established a revenue transition committee to review and approve the commissioner's plan to transition the department of taxes to a department of revenue, which shall be responsible for collecting taxes, fees, levies, and other assessments as determined pursuant to subsection (c) of this section. The revenue transition committee shall be composed of the following seven members:

(1) The commissioner of finance and management or designee;

(2) The state treasurer or designee;

(3) A member of the house committee on ways and means, appointed by the speaker of the house;

(4) A member of the house committee on government operations, appointed by the speaker of the house;

(5) A member of the senate committee on finance, appointed by the committee on committees;

(6) A member of the senate committee on government operations, appointed by the committee on committees;

(7) The court administrator or designee.

(c) The commissioner shall review each state revenue source and determine whether the management of such revenue source should:

(1) remain substantially as is;

(2) be transferred to the treasurer's lockbox services contract;

(3) be transferred to the department of taxes, which shall ultimately be redesignated the department of revenue; or

(4) be transferred to another entity.

(d) The revenue transition committee shall meet as needed to review and approve the commissioner's implementation plan for the transition to a revenue department. The commissioner shall report to the revenue transition committee the findings and recommendations required pursuant to

subsection (c) of this section, and the commissioner will implement any changes upon the approval of the revenue transition committee.

(e) No later than February 15 of each of the three years following the effective date of this act, the committee shall issue a report to the general assembly on its findings and containing specific recommendations concerning the implementation of the transition, efficiencies, technology, staffing issues, and recommendations with respect to subsection (c) of this section.

(f) The legislative members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided to members of standing committees under 2 V.S.A. § 406 for attendance at a meeting when the general assembly is not in session.

Sec. H.7. STATUTORY REVISION

After June 30, 2012, the legislative council is directed to revise the Vermont Statutes Annotated to reflect the redesignation of the department of taxes as the department of revenue. When applicable, the term "commissioner of taxes" shall be replaced by the term "commissioner of revenue"; and when applicable, the term "department of taxes" shall be replaced by the term "department of revenue."

*** Education Property Tax Rates ***

Sec. H.8. FISCAL YEAR 2010 EDUCATION PROPERTY TAX RATE REDUCTION

(a) For fiscal year 2010 only, the education property tax imposed under subsection 5402(a) of Title 32 shall be reduced from the rate of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.35 per \$100.00;
and

(2) the tax rate for homestead property shall be \$0.86 multiplied by the district spending adjustment for the municipality, per \$100.00 of equalized property value as most recently determined under section 5405 of Title 32.

(b) For claims filed in 2010 only, "applicable percentage" in subdivision 6066(a)(2) of Title 32 shall be reduced from 2.0 percent and instead shall be 1.80 percent multiplied by the fiscal year 2010 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.80 percent.

*** Fiscal Year 2010 Education Base Payment Amount ***

Sec. H.9. FISCAL YEAR 2010 EDUCATION BASE PAYMENT AMOUNT

Notwithstanding subsection 4011(b) of Title 16 or any other provision of law, the base education payment for fiscal year 2010 only shall be \$8,485.00.

* * * Electronic Filing of Property Transfer Tax * * *

Sec. H.10. DEVELOPMENT OF ELECTRONIC SYSTEM FOR FILING AND PAYING PROPERTY TRANSFER TAXES

No later than August 1, 2009, the department of taxes shall file with the joint fiscal committee an implementation plan for the electronic filing of property transfer tax returns and the electronic payment of property transfer taxes.

* * * VHFA: Moral Obligation for Pledged Equity Funds * * *

Sec. H.11. FINDINGS AND INTENT

Moral obligation of the state is used by municipal bond insurers, such as the Vermont Housing and Finance Agency (VHFA), as a discretionary capitalization obligation. By expanding VHFA's ability to pledge the state's existing commitment of moral obligation without increasing the amount of the state's existing potential obligation, the general assembly can provide VHFA with another tool to increase confidence and attract new financial partners so that the agency can continue its housing programs for low and moderate income Vermonters, even in these challenging economic times.

Sec. H.12. 10 V.S.A. § 631(f) is amended to read:

(f) The agency, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the agency, ~~which shall thereupon be cancelled, at a price not exceeding:~~

~~(1) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or~~

~~(2) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.~~

as shall be determined in the economic best interests of the agency.

Sec. H.13. REPEAL

10 V.S.A. § 632 (authorizing the Vermont housing and finance agency to establish reserve funds) is repealed.

Sec. H.14. 10 V.S.A. § 632a is added to read:

§ 632a. RESERVE AND PLEDGED EQUITY FUNDS

(a) The agency may create and establish one or more special funds, herein referred to as "debt service reserve funds" or "pledged equity funds."

(b) The agency shall pay into each debt service reserve fund:

(1) Any moneys appropriated and made available by the state for the purpose of such fund.

(2) Any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing their issuance.

(3) Any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any debt service reserve fund created and established under this section except as hereinafter provided shall be used, as required, solely for the payment of the principal of the bonds, notes, or other debt instruments secured in whole or in part by such fund or of the payments with respect to the bonds, notes, or other debt instruments specified in any resolution of the agency as a sinking fund payment, the purchase or redemption of the bonds, the payment of interest on the bonds, notes, or other debt instruments, or the payment of any redemption premium required to be paid when the bonds, notes, or other debt instruments are redeemed prior to maturity, or to reimburse the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement for the payment by such party of any of the foregoing amounts on the agency's behalf; provided, however, that the moneys or financial instruments in any such debt reserve fund shall not be drawn upon or withdrawn therefrom at any time in such amounts as would reduce the amount of such funds to less than the debt service reserve requirement established by resolution of the agency for such fund as provided in this section except for the purpose of paying, when due, with respect to bonds secured in whole or in part by such fund, the principal, interest, redemption premiums, and sinking fund payments and of reimbursing, when due, the issuer of any credit enhancement for any such payments made by it, for the payment of which other moneys of the agency are not available. Any income or interest earned by or increment to any debt service reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such debt service reserve fund below the debt service reserve requirement for such fund.

(c) The agency shall pay into each pledged equity fund:

(1) Any moneys appropriated and made available by the state for the purpose of such fund.

(2) Any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof.

(3) Any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any pledged equity fund created and established under this section except as provided in this section shall be used, as required, solely to provide pledged equity or over-collateralization of any trust estate of the agency to the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement obtained by the agency; provided, however, that the moneys or financial instruments in any pledged such equity fund shall not be drawn upon or withdrawn from such fund at any time in such amounts as would reduce the amount of such funds to less than the pledged equity requirement established by resolution of the agency for such fund as provided in this section except for the purposes set forth in and in accordance with the governing resolution. Any income or interest earned by or increment to any pledged equity fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such pledged equity fund below the requirement for such fund. Anything in this subdivision to the contrary notwithstanding, upon the defeasance of the bonds, notes, or other debt instruments with respect to which the pledged equity requirement was established, the agency may transfer amounts in such fund to another fund or account of the agency proportionately to the amount of such defeasance; provided that the agency shall repay to the state any amount appropriated by the state pursuant to subsection (f) of this section.

(d) The debt service reserve and pledged equity requirements for any fund established under this section shall be established by resolution of the agency prior to the issuance of any bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or prior to entering into any credit enhancement agreement and shall be the amount determined by the agency to be reasonably required in light of the facts and circumstances of the particular debt issue or credit enhancement; provided that the maximum amount of the state's commitment with respect to any pledged equity fund shall be determined by the agency at or prior to entering into any credit

enhancement agreement related to such pledged equity fund. The agency shall not at any time issue bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or enter into any credit enhancement agreement that requires establishment of a pledged equity fund created and established under this section unless:

(1) the agency at the time of such issuance or execution shall deposit in such fund from the proceeds of such bonds, notes, or other debt instruments or from other sources an amount which, together with the amount then in such fund, will not be less than the requirement established for such fund at that time;

(2) the agency has made a determination at the time of the authorization of the issuance of such bonds, notes, or other debt instruments or at the time of entering into such credit enhancement agreement that the agency will derive revenues or other income from the mortgage loans that secure such bonds, notes, or other debt instruments or that relate to any credit enhancement agreement sufficient to provide, together with all other available revenues and income of the agency other than any amounts appropriated by the state pursuant to this section for the payment or purchase of such bonds, notes, and other debt instruments and reimbursement to the issuer of any credit enhancement the payment of any expected deposits into any pledged equity fund established with respect to such credit enhancement, and the payment of all costs and expenses incurred by the agency with respect to the program or purpose for which such bonds, notes, or other debt instruments are issued; and

(3) the state treasurer or his or her designee has provided written approval to the agency that the agency may issue such bonds, notes, or other debt instruments and enter into any related credit enhancement agreement.

(e) In computing the amount of the debt service reserve or pledged equity funds for the purpose of this section, securities in which all or a portion of such funds shall be invested shall be valued at par if purchased at par or at amortized value, as that term is defined by resolution of the agency, if purchased at other than par.

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the agency under this section, there may be appropriated annually and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the

president of the senate, and the speaker of the house a certificate stating the sum required to restore each such fund to the amount required by this section, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. In order to assure the funding of the pledged equity fund requirement in each pledged equity fund established by the agency under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish each pledged equity fund to an amount equal to the amount determined by the agency at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment as determined by the agency pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to bring each fund to the amount required by this section or to otherwise satisfy the state's commitment with respect to each fund, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed \$155,000,000.00 at any time, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the agency in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the agency pursuant to subsection (d) of this section, and the state shall have no other obligation to replenish or maintain any pledged equity fund.

Sec. H.15. SAVINGS CLAUSE

Nothing in Sec. H.14 of this act shall be construed to impair the obligation of any preexisting contract or contracts entered into by the agency or by the state.

* * * Tax Expenditure Reporting Requirement * * *

Sec. H.16. 32 V.S.A. § 306 is amended to read:

§ 306. BUDGET REPORT

(a) The governor shall submit to the general assembly, not later than the third Tuesday of every annual session, a budget which shall embody his or her estimates, requests and recommendations for appropriations or other authorizations for expenditures from the state treasury. In the first year of the biennium, the budget shall relate to the two succeeding fiscal years. In the second year of the biennium, it shall relate to the succeeding fiscal year.

(b) The governor shall also submit to the general assembly, not later than the third Tuesday of each session of every biennium, a tax expenditure budget which shall embody his or her estimates, requests, and recommendations. The tax expenditure budget shall be provided to the house committee on ways and means and the senate committee on finance, which committees shall review the tax expenditure budget and shall report their recommendations in bill form.

Sec. H.17. 32 V.S.A. § 307 is amended to read:

§ 307. FORM OF BUDGET

(a) The budget shall be arranged and classified so as to show separately the following estimates and recommendations:

(1) Expenses of state administration.

(2) Deficiencies, overdrafts, and unexpended balances in appropriations of former years.

(3) Bonded debt, loans and interest charges.

(4) All requests and proposals for expenditures for new projects, new construction, additions, improvements, and other capital outlay.

(5) With respect to the tax expenditure budget required under subsection 306(b) of this chapter, all requests and proposals for new, amended, or continued tax expenditures as defined in section 312 of this chapter.

* * *

* * * Vermont State-Sponsored Affinity Card Program * * *

Sec. H.18. 32 V.S.A. § 584 is added to read:

§ 584. VERMONT STATE-SPONSORED AFFINITY CARD PROGRAM

(a) The state treasurer is hereby authorized to sponsor and participate in an affinity card program for the benefit of the residents of this state upon his or

her determination that such a program is feasible and may be procured at rates and terms in the best interest of the cardholders. In selecting an affinity card issuer, the treasurer shall consider the issuer's record of investments in the state and shall take into consideration program features which will enhance the promotion of the state-sponsored affinity card, including consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card.

(b) The treasurer shall consult with other state agencies about potential public purpose projects to be designated for the program and shall allow cardholders to designate that funds be used either to support sustainable agricultural programs, renewable energy programs, state parks and forestland programs, or any combination of these. The net proceeds of the state fees or royalties generated by this program shall be transmitted to the state and shall be deposited in a state-sponsored affinity card fund and subsequently transferred to the designated state programs and purposes as selected by the cardholders. The funds received shall be held by the treasurer until transferred for the purposes directed by participating state-sponsored affinity cardholders in accordance with the trust fund provisions of section 462 of this title.

(c) All program balances at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the program. The treasurer's annual financial report to the governor and the general assembly shall contain an accounting of receipts, disbursements, and earnings of the state-sponsored affinity card program.

(d) The state shall not assume any liability for lost or stolen credit cards nor any other legal debt owed to the financial institutions.

(e) The state treasurer is authorized to adopt such rules as may be necessary to implement the Vermont state-sponsored affinity card program.

* * * Government Licenses and Employment * * *

Sec. H.19. 32 V.S.A. § 3113 is amended to read:

§ 3113. REQUIREMENT FOR OBTAINING LICENSE OR,
GOVERNMENTAL CONTRACT, OR EMPLOYMENT

* * *

(c) Every agency shall, upon request of the commissioner, furnish a list of licenses and contracts issued or renewed by such agency during the reporting period; provided, however, that the secretary of state shall, with respect to certificates of authority to transact business issued to foreign corporations, furnish to the commissioner only those certificates originally issued by the secretary of state during the reporting period and not renewals of such

certificates. The lists ~~should~~ shall include the name, address, ~~social security~~ Social Security or federal identification number of such licensee or provider, and such other information as the commissioner may require.

* * *

(i) No agency of the state shall hire any person as a full-time, part-time, temporary, or contractual employee unless the person shall first sign a written declaration under the pains and penalties of perjury that the person is in good standing with respect to or in full compliance with a plan to pay any and all taxes due as of the date such declaration is made. This requirement applies only to the initial hire of an individual into a position that is paid using the state of Vermont federal taxpayer identification number, other than as a county employee, and not to an employee serving in such position or who returns to any position in state government as a result of a placement right or reduction in force recall right.

* * * Unclaimed Property * * *

Sec. H.20. 32 V.S.A. § 3113a is added to read:

§ 3113a. ABANDONED PROPERTY; SATISFACTION OF TAX LIABILITIES

The commissioner may request from the office of the treasurer the names and Social Security or federal identification numbers of owners of unclaimed property prior to notice being given to such persons pursuant to section 1249 of Title 27. If any such owner owes taxes to the state, the commissioner, after notice to the owner, may request and the treasurer shall transfer the abandoned property of such owner to the department for setoff of the taxes owed. The notice shall advise the owner of the action being taken and the right to appeal the setoff if the tax debt is not the owner's debt; or if the debt has been paid; or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined; or if the debt was discharged in bankruptcy.

* * * Mapping Program * * *

Sec. H.21. 32 V.S.A. § 3409 is amended to read:

§ 3409. PREPARATION OF PROPERTY MAPS

Consistent with available resources and pursuant to a memorandum of understanding entered into between the commissioner and the Vermont center for geographic information, the ~~director shall prepare~~ center shall provide regional planning commissions, state agencies, and the general public with orthophotographic maps of the state at a scale appropriate for the production

and revision of town property maps. Periodically, such maps shall be revised and updated to reflect land use changes, new settlement patterns and such additional information as may have become available to the director or the center.

(1) The ~~director~~ center shall supply to the clerk and to the listers or assessors of each town such maps as have been prepared by ~~the director~~ it of the total area of that town. Any map shall be available, without charge, for public inspection ~~both in the office of the Vermont mapping program and in the office of the town clerk to whom the map was supplied.~~

(2) The ~~director~~ may state of Vermont shall retain the copyright of any map prepared under this section by the Vermont mapping program, and the center and the Vermont mapping program shall jointly own the copyright to any map prepared on or after the effective date of this act.

(3) A person, who, without the written authorization of the director and the center, copies, reprints, duplicates, sells, or attempts to sell any map prepared under this chapter shall be fined an amount not to exceed \$1,000.00.

(4) At a reasonable charge to be established by the center and the director, the ~~director~~ center shall supply to any person or agency other than a town clerk or lister a copy of any map prepared under this section.

*** Unorganized Towns and Gores and Unified Towns and Gores ***

Sec. H.22. 32 V.S.A. § 4408 is amended to read:

§ 4408. HEARING BY BOARD

(a) On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

(b) Ad hoc board for unorganized towns and gores and unified towns and gores. For purposes of hearing appeals under this subchapter only, the supervisor shall create an ad hoc board composed of:

(1) the supervisor; and

(2) one member from each adjoining municipality's board of civil authority, to be appointed by each respective board of civil authority.

representing no fewer than three and no more than five of the adjoining municipalities, at the discretion of the supervisor.

(c) The ad hoc board provided for in subsection (b) of this section shall, for purposes of hearing appeals under this subchapter only, act as a board of civil authority, and an aggrieved party shall have further appeal rights as though the party had appealed to a board of civil authority.

* * * Education Property Tax Information Insert * * *

Sec. H.23. 32 V.S.A. § 5402(b)(1) is amended to read:

(1) The commissioner of taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed. ~~Each homestead property tax bill shall include a copy of the document entitled "About Your 20XX Taxes "The more you spend the more you pay",~~ updated annually for each town by the commissioner of taxes.

* * * Unsigned Declaration of Homestead * * *

Sec. H.24. 32 V.S.A. § 5410(c) is added to read:

(c) In the event that an unsigned but otherwise completed homestead declaration is filed with the declarant's signed state income tax return, the commissioner may treat such declaration as signed by the declarant.

* * * Unrelated Business Income of Nonprofit Corporations * * *

Sec. H.25. 32 V.S.A. § 5811(3) and (18) are amended to read:

(3) "Corporation" means any business entity subject to income taxation as a corporation, and any entity qualified as a small business corporation, under the laws of the United States, with the exception of the following entities which are exempt from taxation under this chapter:

(A) ~~Railroad and insurance, surety and guaranty companies, mutual or otherwise~~ that are taxed under chapter 211 of this title;

~~(B) Life, fire and marine insurance companies and mutual life, fire and marine insurance companies;~~

~~(C) Farmers' or other mutual hail, cyclone, fire or life insurance companies, mutual water, mutual or cooperative telephone companies or similar organizations of a purely local character, the income of which companies consists solely of assessments, dues and fees collected from the members for the sole purpose of meeting the expenses of the company;~~

~~(D) Farmers', fruit growers', or like associations organized and operated on a cooperative basis:~~

~~(i) for the purpose of processing, preparing for market, handling or marketing the farm products of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses, on the basis of either quantity or the value of the products furnished by them;~~

~~(ii) for the purpose of purchasing supplies and equipment for the use of the members and other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses; or~~

~~(iii) for the purpose of processing, preparing for market, or marketing handcraft products as defined in section 991 of Title 11 of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses;~~

~~(E) Credit unions organized under chapter 71 of Title 8 and federal credit unions;~~

~~(F)(C) Nonprofit hospital service corporations organized under chapter 123 of Title 8;~~

~~(G)(D) Nonprofit medical service corporations organized under chapter 125 of Title 8;~~

~~(H) Free public library corporations organized under chapter 3 of Title 22;~~

~~(I) Cemetery corporations and associations, labor, agricultural or horticultural organizations, fraternal beneficiary societies, no part of the net earnings of which inures to any member or stockholder;~~

~~(J) Sanitary corporations and corporations organized for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;~~

~~(K) Business organizations, chambers of commerce or boards of trade and area development organizations not organized for profit, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;~~

~~(L) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;~~

~~(M) Clubs organized and operated exclusively for pleasure and recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member; or~~

~~(N) Any political organization which is exempt from or does not owe any federal income taxes as provided in the federal internal revenue code.~~

* * *

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

* * *

(D) For a corporation with federal exempt status, "Vermont net income" means all income that is subject to federal income tax, including unrelated business income under Section 511 of the Internal Revenue Code and any income arising from debt-financed property subject to taxation under Section 514 of the Internal Revenue Code.

* * * Annual Update of Links to Federal Law * * *

Sec. H.26. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2007~~ 2008, but without regard to federal income tax rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

* * * Trustee Process * * *

Sec. H.27. 32 V.S.A. § 5892 is amended to read:

§ 5892. ACTION TO COLLECT TAXES; LIMITATIONS

(a) Action may be brought by the attorney general of the state at the instance of the commissioner in the name of the state to recover the amount of the tax liability of any taxpayer, if the action is brought within six years after the date the tax liability was collectible under section 5886 of this title. The action shall be returnable in the county where the taxpayer resides or has a

place of business, and if the taxpayer neither resides nor has a place of business in this state, the action shall be returnable in Washington ~~county~~ County.

(b) Notwithstanding sections 3167 and 3168 of Title 12, a motion may be brought by the attorney general of the state at the instance of the commissioner in the name of the state for issuance of trustee process at the same time as an action is brought under subsection (a) of this section, and, if judgment is granted in that action, the court may proceed immediately to hear and render a decision on the trustee process.

* * * Repeal of Certain Tax Credits * * *

Sec. H.28. REPEAL

(a) 32 V.S.A. § 5930v (providing an income tax credit for eligible venture capital investment) is repealed effective for tax years beginning on or after January 1, 2010.

(b) 32 V.S.A. § 3802(13) (exempting fallout shelters from property tax) is repealed for grand lists prepared for April 1, 2010 and after.

* * * Property Tax Adjustments * * *

Sec. H.29. 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

* * *

(c) The commissioner shall notify the municipality of any claim and refund amounts unresolved by September 15 at the time of final resolution, including adjudication if any; provided, however, that towns will not be notified of any additional adjustment amounts after ~~December 31~~ September 15 of the claim year, and such amounts shall be paid to the claimant by the commissioner.

* * *

(f) Property tax bills.

* * *

(4) If the property tax adjustment amount as described in subsection ~~(b)~~(e) of this section exceeds the property tax, penalties and interest, due for the current and all prior years, the municipality shall refund the excess to the taxpayer, without interest, within 20 days of the first date upon which taxes become due and payable or 20 days after notification by the commissioner of education, whichever is later.

* * *

* * * Clarifying the Homestead Declaration Requirements * * *

Sec. H.30. DECLARATION OF HOMESTEAD

The commissioner of taxes shall ensure that the homestead declaration form clearly informs taxpayers that a homestead declaration must be filed each year regardless of whether or not the taxpayer is applying for an income sensitivity adjustment and that homestead declarations must be timely filed even if the taxpayer is granted an extension of time to file his or her return.

* * * Estate Tax * * *

Sec. H.31. 32 V.S.A. § 7442a is amended to read:

§ 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF TAX

(a) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was a resident of this state. The base amount of this tax shall be a sum equal to the amount ~~by which of~~ the credit for state death taxes allowable to a decedent's estate under Section 2011, ~~as in effect on January 1, 2001, of the Internal Revenue Code, hereinafter sometimes referred to as the "credit," exceeds the lesser of as in effect on January 1, 2001.~~ This base amount shall be reduced by the lesser of the following:

(1) The total amount of all constitutionally valid state death taxes actually paid to other states; or

(2) A sum equal to the proportion of the credit which the value of the property taxed by other states bears to the value of the decedent's total gross estate for federal estate tax purposes.

(b) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was not a resident of this state. The amount of this tax shall be a sum equal to the proportion of the ~~credit~~ base amount of tax under subsection (a) of this section which the value of Vermont real and tangible personal property taxed in this state bears to the value of the decedent's total gross estate for federal estate tax purposes.

(c) The Vermont estate tax shall not exceed the amount of the tax imposed by Section 2001 of the Internal Revenue Service Code calculated using the applicable credit amount under Section 2010 as in effect on January 1, 2008, with no deduction under Section 2058.

(d) All values shall be as finally determined for federal estate tax purposes.

Sec. H.32. 32 V.S.A. § 7444 is amended to read:

§ 7444. RETURN BY EXECUTOR

In all cases where ~~the federal gross estate at the time of the death of the decedent exceeds the applicable federal exclusion amount or where the estate is subject to federal estate tax~~ a tax is imposed upon the estate under section 7442a of this chapter, the executor shall make a return with respect to the estate tax imposed by this chapter. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he or she shall include in his or her return (to the extent of his or her knowledge or information) a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the commissioner such person shall in like manner make a return as to such part of the gross estate. A return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this section shall contain a statement that the return is, to the best of the knowledge and belief of the fiduciary, true and correct.

Sec. H.33. 32 V.S.A. § 7445 is amended to read:

§ 7445. COPIES OF FEDERAL ESTATE TAX RETURNS TO BE FILED

It shall be the duty of the executor of every person who may die a resident of Vermont or a nonresident with real estate or tangible personal property having an actual situs in Vermont to file with the commissioner a duplicate of all federal estate tax returns which he or she is required to make to the federal authorities, or, if no federal estate tax return is required, a pro forma federal estate tax return for the estate of a decedent with a Vermont estate tax liability shall be filed with the commissioner.

Sec. H.34. 32 V.S.A. § 7446 is amended to read:

§ 7446. WHEN RETURNS TO BE FILED

The estate tax return required under section 7444 of this title shall be filed ~~at the time the federal estate tax return is required to be filed under the laws of the United States, including any extensions of time for filing granted by the federal authorities~~ within nine months of the death of the decedent. Prior to expiration of the filing period, executors may apply for a six-month extension.

Sec. H.35. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on January 1, ~~2008~~ 2009, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) ~~with~~ the credit for state death taxes shall remain as provided for under Section 2011 and 2604 of the Internal Revenue Code as in effect on January 1, 2001;

(2) the applicable credit amount shall remain as provided for under Section 2010 of the Internal Revenue Code, as in effect on January 1, 2008; and

(3) ~~without any~~ the deduction for state death taxes under Section 2058 of the Internal Revenue Code shall not apply.

* * * Cigarette and Tobacco Taxes * * *

Sec. H.36. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

* * *

(13) "Snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked, has a moisture content of no less than 45 percent, and is not offered in individual single-dose tablets or other discrete single-use units.

* * *

(15) "Tobacco products" means ~~eigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweeping of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking~~ any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner; but shall not include cigarettes, little cigars, roll-your-own tobacco, moist snuff, or new smokeless tobacco as defined in this section.

* * *

(20) "New smokeless tobacco" means any tobacco product manufactured from, derived from, or containing tobacco that is not intended to be smoked, has a moisture content of less than 45 percent, or is offered in individual single-dose tablets or other discrete single-use units.

Sec. H.37. 32 V.S.A. § 7771(c) is amended to read:

(c) The tax imposed under this section shall be at the rate of ~~89.5~~ 112 mills per cigarette or little cigar and for each 0.09 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. H.38. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all tobacco products except roll-your-own tobacco and little cigars taxed under section 7771 of this title possessed in the state of Vermont by any person for sale on and after July 1, 1959 which were imported into the state or manufactured in the state after said date, ~~except that no tax shall be imposed on tobacco products sold under such circumstances that this state is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. Such tax ~~on~~ is intended to be imposed only once upon the wholesale sale of any tobacco products~~ product and shall be at the rate of ~~41~~ 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at \$1.66 per ounce, or fractional part thereof, ~~and is intended to be imposed only once upon any tobacco product and new smokeless tobacco, which shall be taxed at the greater of \$1.66 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of \$1.99 per package.~~ Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all tobacco products within the state are subject to tax until the contrary is established and the burden of proof that any tobacco products are not taxable hereunder shall be upon the person in possession thereof. Wholesalers of tobacco products shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. H.39. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this state who is either a wholesaler, or a retailer who at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and on which cigarette stamps have been affixed before July 1, ~~2006~~ following enactment of this act. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.60~~ \$0.25 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25, ~~2006~~ following enactment of this act, file a report to the commissioner in such form as the commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2006~~ following enactment of this act, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

* * *

* * * Sales and Use Tax on Digital Downloads * * *

Sec. H.40. 32 V.S.A. § 9701(45), (46), and (47) are added to read:

(45) Transferred electronically: means obtained by the purchaser by means other than tangible storage media.

(46) Specified digital products: means digital audio-visual works, digital audio works, digital books, or ringtones that are transferred electronically.

(A) Digital audio-visual works: means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(B) Digital audio works: means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones;

(C) Digital books: means works that are generally recognized in the ordinary and usual sense as "books."

(D) Ringtones: means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(47) End user: means any person other than a person who received by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.

Sec. H.41. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this state. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

* * *

(8) Specified digital products transferred electronically to an end user.

Sec. H.42. 32 V.S.A. § 9772 is amended to read:

§ 9772. AMOUNT OF TAX TO BE COLLECTED

(a) For the purpose of adding and collecting the tax imposed by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof, to be reimbursed to the vendor by the purchaser, the vendor shall ~~use either the calculation in subdivision (1) of this subsection or the formula in subdivision (2). The tax required to be remitted shall be the rate specified in section 9771 of this title multiplied by the total sales price of all the taxable transactions; provided, however, the tax required to be remitted shall be no more than the amount required to be collected. The vendor shall be entitled to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter.~~

(1) ~~The multiply the~~ total sales price of ~~all the transaction multiplied~~ transactions taxable by the rate specified in section 9771 of this title carried to the third decimal place and rounded up to the nearest whole cent if the third decimal point is greater than four and rounded down to the nearest whole cent if the third decimal point is four or less. The tax may be computed on either the total invoice amount or on each taxable item.

Amount of Sale	Amount of Tax
\$0.01-0.10	No Tax
0.11-0.16	\$.01
0.17-0.33	.02
0.34-0.50	.03
0.51-0.66	.04
0.67-0.83	.05
0.84-1.00	.06

~~In addition to a tax of \$0.06 on each full dollar, a tax shall be collected on each part of a dollar in excess of a full dollar in accordance with the following formula:~~

\$ 0.01-0.16	\$.01
0.17-0.33	.02
0.34-0.50	.03
0.51-0.66	.04
0.67-0.83	.05
0.84-0.99	.06

* * *

Sec. H.43. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this state, except as otherwise exempted under this chapter:

* * *

(2) Of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him or her in the regular course of business, but the mere storage, keeping, retention or withdrawal from storage of tangible personal property or the use for demonstrational or instructional purposes of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him or her; and for purposes of this section only, the sale of electrical power generated by the taxpayer shall not be considered a sale by him or her in the regular course of business if at least 60 percent of the electrical power generated annually by the taxpayer is used by the taxpayer in his or her trade or business; ~~and~~

(3) Of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in subdivision 9771(3) of this title have been performed; and

(4) Specified digital products transferred electronically to an end user.

*** Sales Tax on Spirituous Liquor ***

Sec. H.44. 32 V.S.A. § 9743(1) is amended to read:

(1) The state of Vermont, or any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when it is the purchaser, user or consumer, or when it is a vendor of services or property of a kind not ordinarily sold by private persons, or when it charges for admission to any amusement; except that a performance jointly produced or presented by it and another person shall not be exempt from amusement tax unless it meets the joint production requirements imposed on a qualified organization under subdivision (3)(B) of this section and sales of alcoholic beverages shall not be exempt from sales tax.

*** Returns Upon Business Closing ***

Sec. H.45. 32 V.S.A. § 9775 is amended to read:

§ 9775. RETURNS

(a) Except as otherwise provided in this section, every person required to collect or pay tax under this chapter shall, where the sales and use tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) \$500.00 or less, pay the tax imposed by this chapter in one annual payment on or before the 25th day of January of each year. Every person required to collect or pay tax under this chapter shall, where the sales and use

tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) more than \$500.00 but less than \$2,500.00, pay the tax imposed by this chapter in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June, September, and December of each year. In all other cases, except as provided in ~~subsection~~ subsections (e) and (g) of this section, the tax imposed by this chapter shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due. Payment by electronic funds transfer does not affect the requirement to file returns. The return of a vendor of tangible personal property shall show such information as the commissioner may require.

* * *

(g) A person required to report sales and use tax annually who cancels his, her, or its sales and use tax account shall file a final return not later than 60 days after such cancellation.

* * * Land Gains Tax * * *

Sec. H.46. 32 V.S.A. § 10009(b) is amended to read:

(b) All the administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement by the commissioner of the withholding tax and the income tax, and of chapter 103, including those relating to interest and penalty charges, shall apply to the tax imposed by this chapter.

* * * Capital Gains Exemption and Partial Exclusion of Deduction for State Income Taxes * * *

Sec. H.47. 32 V.S.A. § 5811(21) is amended to read:

(21) "Taxable income" means federal taxable income determined without regard to Section 168(k) of the Internal Revenue Code and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;
and

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; and

(iii) the amount in excess of \$5,000.00 of state and local income taxes deducted from federal adjusted gross income for the taxable year, but in

no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations; and

(ii) ~~40 percent of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code, but the total amount of decrease under this subdivision (ii) shall not exceed 40 percent of federal taxable income the first \$5,000.00 of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code; and~~

(iii) recapture of state and local income tax deductions not taken against Vermont income tax.

* * * Deduction for Vehicle Purchase Sales Tax * * *

Sec. H.47b. INCLUSION IN INCOME OF AMOUNT OF DEDUCTION TAKEN FOR SALES AND USE TAX ON PURCHASE OF NEW VEHICLE

(a) For taxable year 2009 only, a taxpayer shall increase his or her taxable income calculated pursuant to Section 5811(21) by the amount of any deduction taken pursuant to Section 164(a)(6) of the Internal Revenue Code.

(b) The \$100,000 appropriation in Sec. B 1101 (a) (10) of the this act is to fund the joint legislative government accountability committee established in Sec. 5 of No. 206 of the Acts of the 2008 General Assembly (adj. sess.) for the purpose of hiring consultants to make recommendations for further efficiencies in state government.

* * * Reduction of Income Tax Rates * * *

Sec. H.48. REDUCTION OF PERSONAL INCOME TAX RATES

For taxable year 2009 and subsequent taxable years, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

For taxable income which, without the passage of this act, would be subject to tax at the following rate:

3.60%

7.20%

8.50%

That taxable income shall instead be taxed at the following rate:

3.55%

6.80%

7.80%

9.00%8.80%9.50%8.95%

Sec. H.48a. STATUTORY REVISION

The legislative council is directed to revise the Vermont Statutes Annotated to reflect the income tax rate changes in Sec. H.48 of this act.

Sec. H.49. HEALTH CARE REFORM PROPERTY TAX EXEMPTION

In fiscal years 2010 and 2011, 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 subdivision 3832(7) of Title 32.

*** Digital Business Entities ***

Sec. H.50. LEGISLATIVE INTENT

The purpose of the following sections of this act concerning digital business entities is to build on the momentum created by Secs. 74 through 100 of No. 190 of the Acts of the 2007 Adj. Sess. (2008), which provided for Vermont companies to conduct much of their statutorily required corporate affairs using electronic media, including e-mail, facsimile, and web-based filings.

Sec. H.51. 32 V.S.A. § 5811(26) is added to read:

(26) "Digital business entity" means a business entity which, during the entire taxable year:

(A) was not a member of an affiliated group or engaged in a unitary business with one or more members of an affiliated group that is subject to Vermont income taxation; did not have any Vermont property, payroll, or sales and did not perform any activities in this state which would constitute doing business for purposes of income taxation except activities described in subdivisions (15)(C)(i) (fulfillment operations) and (C)(ii) (web page or Internet site maintenance) of this section; and

(B) used mainly computer, electronic, and telecommunications technologies in its formation and in the conduct of its business meetings, in its interaction with shareholders, members, and partners, in executing any other formal requirements.

Sec. H.52. 32 V.S.A. § 5832(2) is amended to read:

(2)(A) \$75.00 for small farm corporations. "Small farm corporation" means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or

(C) \$250.00 for all other corporations.

Sec. H.53. 32 V.S.A. § 5832a is added to read:

§ 5832a. DIGITAL BUSINESS ENTITY FRANCHISE TAX

(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:

(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or \$250.00, but in no case more than \$500,000.00; or

(2) where the authorized capital stock does not exceed 5,000 shares, \$250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, \$500.00; and the further sum of \$250.00 on each 10,000 shares or part thereof.

(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than \$500,000.00 or less than \$250.00.

(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.

(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.

(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total

number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.

(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided, however, that an electing corporation shall also provide the commissioner with a copy of its federal tax return.

Sec. H.54. 32 V.S.A. § 5838 is added to read:

§ 5838. DIGITAL BUSINESS ENTITY ELECTION

A corporation shall not be subject to the tax imposed by section 5832 of this title if the corporation qualifies as and elects to be taxed as a digital business entity for the taxable year.

Sec. H.55. REPORT TO THE GENERAL ASSEMBLY ON DIGITAL BUSINESS ENTITY INCOME

Beginning in 2011 and every year thereafter, by January 15, the commissioner of taxes shall report to the house committee on ways and means and to the senate committee on finance on the amount of income reported to date to the department by businesses electing to be taxed as digital businesses, an estimate of the amount of income taxes exempted as a result, and details as to the size of businesses reporting. The committees shall review the report and make their recommendation to the general assembly as to whether to continue the taxpayer option of a digital business election and whether to extend the option to pass-through entities. If the digital business election is repealed, the commissioner's reporting requirement of this section shall no longer apply.

* * * Blue Ribbon Tax Structure Commission * * *

Sec. H.56. BLUE RIBBON TAX STRUCTURE COMMISSION

(a) Composition of commission. There is hereby established a blue ribbon tax structure commission composed of three to five members to be selected as follows:

(1) The speaker of the house, the president pro tempore of the senate, and the governor shall each appoint one member; and

(2) The three members appointed pursuant to subdivision (1) of this subsection may select one or two additional members.

(b) The commission shall be appointed as soon as possible after the effective date of this act. The panel shall elect a chair and a vice chair from among its members.

(c) Purpose and goals. The commission shall prepare a structural analysis of the state's revenue system and offer recommendations for improvements and modernization and provide a long-term vision for the tax structure. The commission shall have as its goal a tax system that provides sustainability, appropriateness, and equity. For guidance, the commission may use the Principles of a High-Quality State Revenue System as prepared by the National Conference of State Legislatures as of June 2007. A high-quality revenue system:

(1) Comprises elements that are complementary, including the finances of both state and local governments.

(2) Produces revenue in a reliable manner. Reliability involves stability, certainty, and sufficiency.

(3) Relies on a balanced variety of revenue sources.

(4) Treats individuals equitably. Minimum requirements of an equitable system are that it imposes similar tax burdens on people in similar circumstances, it minimizes regressivity, and it minimizes taxes on low income individuals.

(5) Facilitates taxpayer compliance. It is easy to understand and minimizes compliance costs.

(6) Promotes fair, efficient, and effective administration. It is as simple as possible to administer, raises revenue efficiently, is administered professionally, and is applied uniformly.

(7) Is responsive to interstate and international economic competition.

(8) Minimizes its involvement in spending decisions and makes any such involvement explicit.

(9) Is accountable to taxpayers.

(d) The blue ribbon commission shall receive technical support from the department of taxes, the legislative joint fiscal office, and consultants. From data provided from the tax department the following reports will be provided to the commission:

(1) Changes in personal income, arranged by decile, over the last five years;

(2) House site and homestead value arranged by adjusted gross income (AGI) and, where available, household income;

(3) Gross and net school taxes paid, arranged by adjusted gross income and, where available, by household income.

(e) The joint fiscal office with the assistance of the legislative council 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 extensive experience with state tax systems and shall have participated in at least one other study of a state tax system.

(f) Work Plan.

(1) Year 1 – Examine Vermont's income tax structure and analyze, among other things, whether the principles of sustainability, appropriateness, and equity would be better met by using adjusted gross income rather than federal taxable income. This shall include an examination of personal exemptions, deductions, brackets, credits, and other adjustments to income.

The commission shall prepare a work plan by September 15, 2009, preliminary findings by November 1, 2009, and a final report due January 1, 2010 submitted to the governor, the speaker, the president pro tempore, the house committee on ways and means and the senate committee on finance.

(2) Year 2 – The commission, by February 1, 2010, shall also present a proposed work plan which shall include a delivery date prior to February 1, 2011 for examining tax expenditures, fees, consumption taxes, and business taxes. The work plan shall include examining whether fees are being used to fund general responsibilities of government and whether such use is sustainable, appropriate, and equitable. The work plan shall include an analysis of the process for reviewing tax expenditures under section 312 of Title 32.

(g) Of the funds appropriated to the joint fiscal office, \$200,000 is for the purpose of hiring consultants and other support for the commission.

(h) Non-legislative members of the commission shall be entitled to compensation as provided under 32 V.S.A. § 1010. Any legislative members of the commission shall be entitled to the same per diem compensation and reimbursement of necessary expenses for attendance at a meeting when the general assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

* * * Financing and Effectiveness of the Vermont Education System * * *

SEC. H.57. FINANCING AND EFFECTIVENESS OF THE VERMONT EDUCATION SYSTEM IN THE 21ST CENTURY; COMMITTEE

(a) Findings.

(1) ' The future of Vermont's economic and social well-being is dependent on a strong, efficient public education system.

(2) Pressures on Vermont's education funding system, the state's general fund, and the Vermont economy as a whole make it increasingly difficult to ensure that Vermonters will continue to have access to the high quality education they have come to expect.

(b) Committee created. There is created a committee to examine potential improvements to the structure and funding of the Vermont educational system in light of the state's limited financial resources. When performing the duties assigned to it, the committee shall consider the work of the committee convened by the governor, the speaker of the house, and the president pro tempore during the 2009 legislative session. Among other issues, the committee shall:

(1) Examine the role and the effectiveness of the policy-making, management, and administrative structure that creates and implements Vermont education policy, including consideration of the functions of the legislature, the governor, the state board of education, the department of education, supervisory unions, local school boards, parents, students, community members, and other entities and individuals.

(2) Consider the types of decisions the identified entities and individuals make and how these decisions influence decisions made by others, with a focus on how they shape educational outcomes and drive funding requirements.

(3) Identify and evaluate the long-range sustainability of current and potential funding sources and mechanisms.

(4) Determine whether and to what extent each identified funding source and mechanism advances the mission of Vermont's educational system, including whether it complies with Brigham v. State, 166 Vt. 246 (1997).

(c) Committee membership. The committee shall have 15 members who shall be:

(1) The chairs of the house committees on education, on appropriations, and on ways and means or their designees, plus one additional member of the house of representatives appointed by the speaker of the house.

(2) The chairs of the senate committees on education, on appropriations, and on finance or their designees, plus one additional member of the senate appointed by the committee on committees.

(3) The commissioner of education or the commissioner's designee.

(4) Six members from constituencies such as the business community, superintendents, school boards, teachers, parents, and community members to

be selected by July 15, 2009 as follows: two by the speaker of the house, two by the committee on committees, and two by the governor.

(d) Committee's overall composition. Persons making appointments under subsection (c) of this section shall consider the overall composition of the committee and shall attempt to ensure both that committee members have a broad understanding of the current education funding system and that the committee includes both supporters and critics of the system.

(e) Initial meeting. The commissioner of education shall convene the first meeting of the committee on or before July 30, 2009. The committee shall select a chair from among its members at the first meeting.

(f) Committee staff. The department of education and the joint fiscal office shall provide administrative and fiscal services to the committee. The committee shall rely upon the legislative council to draft all proposed legislation.

(g) Compensation for legislators. For attendance at a meeting when the general assembly is not in session, legislative members of the committee shall be entitled to compensation for services and reimbursement of expenses as provided in 2 V.S.A. § 406(a).

(h) Compensation for private citizens. Committee members who are not full-time state employees shall be entitled to expenses as provided in 32 V.S.A. § 1010 from money appropriated for this purpose by the general assembly.

(i) Number of meetings authorized. The committee shall meet no more than six times unless specifically authorized by the speaker of the house and the president pro tempore of the senate.

(j) Report. On or before December 15, 2009, the committee shall present detailed written findings and recommendations to the members of the house and senate committees on education, the house committee on ways and means, the senate committee on finance, and the governor. It shall provide draft legislation designed to implement its recommendations to the same parties by January 15, 2010.

Sec. H.58. EFFECTIVE DATES

This section, and Secs. H.1–H.57 of this act shall take effect upon passage, except:

(1) Sec. H.22 (establishing an ad hoc board of civil authority for unorganized towns and gores and unified towns and gores) shall apply to appeals filed on or after July 1, 2009.

(2) Sec. H.23 (repealing tax information insert) shall apply to homestead property tax bills mailed in 2009 and after.

(3) Sec. H.24 (unsigned declaration of homestead) shall apply to declarations filed in calendar year 2010 and after.

(4) Sec. H.25 (taxation of unrelated business income of nonprofit corporations) shall take effect for taxable years beginning on and after January 1, 2010.

(5) Sec. H.26 (update of link to federal income tax laws) shall apply to taxable years beginning on and after January 1, 2008.

(6) Sec. H.29 (deadline for notice from department to towns regarding adjustment amounts) shall apply to homestead declarations filed in 2009 and after.

(7) Secs. H.31–H.35 (estate taxes) shall apply to estates of individuals dying on or after January 1, 2009.

(8) Secs. H.36–H.39 (tax on cigarettes and other tobacco products) shall take effect on July 1, 2009.

(9) Secs. H.40–H.43 (sales and use tax on digital downloads) shall take effect on July 1, 2009.

(10) Sec. H.44 (sales tax on spirituous liquor) shall take effect on July 1, 2009).

(11) Sec. H.45 (cancellation of sales and use tax account) shall take effect with respect to cancellations on or after July 1, 2009.

(12) Sec. H.47 (capital gains exemption and state income tax deduction) shall apply to taxable years beginning on or after January 1, 2009.

(13) Secs. H.50–H.55 (digital business entities) shall take effect on January 1, 2010.

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.

SUSAN J. BARTLETT
RICHARD W. SEARS
DIANE B. SNELLING

Committee on the part of the Senate

MARTHA P. HEATH
MARK LARSON

Committee on the part of the House

Pending the question, Shall the report of the Committee of Conference be adopted? **Rep. Scheuermann of Stowe** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Committee of Conference be adopted? was decided in the affirmative. Yeas, 91. Nays, 52.

Those who voted in the affirmative are:

Ancel of Calais *	Heath of Westford	Mrowicki of Putney *
Andrews of Rutland City	Hooper of Montpelier	Nease of Johnson
Aswad of Burlington	Howard of Rutland City *	Nuovo of Middlebury
Atkins of Winooski	Howrigan of Fairfield	O'Brien of Richmond
Audette of South Burlington	Jernan of Essex	Obuchowski of Rockingham
Bissonnette of Winooski	Jewett of Ripton	Orr of Charlotte
Bohi of Hartford	Johnson of South Hero *	Partridge of Windham
Bray of New Haven	Keenan of St. Albans City	Pellett of Chester
Burke of Brattleboro	Kitzmiller of Montpelier	Peltz of Woodbury
Cheney of Norwich	Klein of East Montpelier	Poirier of Barre City *
Clarkson of Woodstock	Lanpher of Vergennes	Pugh of South Burlington
Condon of Colchester	Larson of Burlington	Ram of Burlington
Conquest of Newbury	Lenes of Shelburne	Rodgers of Glover
Consejo of Sheldon	Leriche of Hardwick	Shand of Weathersfield
Copeland-Hanzas of	Lippert of Hinesburg	Sharpe of Bristol
Bradford	Lorber of Burlington	Smith of Mendon
Corcoran of Bennington	Macaig of Williston	South of St. Johnsbury *
Courcelle of Rutland City	Maier of Middlebury *	Spengler of Colchester
Deen of Westminster	Malcolm of Pawlet	Stevens of Waterbury *
Donovan of Burlington	Manwaring of Wilmington	Sweaney of Windsor
Edwards of Brattleboro	Marek of Newfane *	Taylor of Barre City
Emmons of Springfield	Martin of Springfield	Till of Jericho
Evans of Essex	Martin of Wolcott	Toll of Danville
Fisher of Lincoln *	Masland of Thetford	Townsend of Randolph
Frank of Underhill	McCullough of Williston	Waite-Simpson of Essex
French of Shrewsbury *	Milkey of Brattleboro	Webb of Shelburne
French of Randolph	Miller of Shaftsbury	Weston of Burlington
Geier of South Burlington	Minter of Waterbury *	Wilson of Manchester
Gilbert of Fairfax	Mitchell of Barnard	Wizowaty of Burlington
Grad of Moretown	Mook of Bennington	Zenie of Colchester
Head of South Burlington	Moran of Wardsboro	

Those who voted in the negative are:

Acinapura of Brandon	Canfield of Fair Haven	Donaghy of Poultney
Adams of Hartland *	Clark of Vergennes *	Donahue of Northfield *
Ainsworth of Royalton *	Clerkin of Hartford	Fagan of Rutland City *
Baker of West Rutland	Crawford of Burke	Flory of Pittsford
Botzow of Pownal	Davis of Washington	Greshin of Warren
Branagan of Georgia *	Devereux of Mount Holly	Haas of Rochester
Brennan of Colchester	Dickinson of St. Albans	Higley of Lowell *
Browning of Arlington	Town *	Hube of Londonderry *

Hubert of Milton *	McFaun of Barre Town	Savage of Swanton
Koch of Barre Town *	McNeil of Rutland Town	Scheuermann of Stowe
Komline of Dorset	Morley of Barton	Stevens of Shoreham
Krawczyk of Bennington	Morrissey of Bennington *	Turner of Milton
Larocque of Barnet	Myers of Essex	Westman of Cambridge
Lawrence of Lyndon *	O'Donnell of Vernon	Wheeler of Derby
Lewis of Derby *	Pearce of Richford	Winters of Williamstown
Marcotte of Coventry	Peaslee of Guildhall	Wright of Burlington *
McAllister of Highgate *	Perley of Enosburg	Zuckerman of Burlington
McDonald of Berlin	Reis of St. Johnsbury	

Those members absent with leave of the House and not voting are:

Helm of Castleton	Kilmartin of Newport City	Trombley of Grand Isle
Johnson of Canaan	Potter of Clarendon	Young of St. Albans City

On motion of **Rep. McDonald of Berlin**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

Rep. Adams of Hartland explained his vote as follows

"Mr. Speaker:

Several weeks ago our legislative leaders feigned surprise that Vermont is in a financial crisis. They had been warned time and again since last October that the negative news received from the state economist would be coming and that this body needed to make hard decisions to stabilize and prepare Vermont for the tough times ahead. Instead we are preparing to continue with what has become our M.O.-raise taxes on hard-working Vermonters. We fail to remember or perhaps ignore that Vermonters pockets are not bottomless and whose assets in these troubling times are not limitless. Thousand of Vermonters all across our beautiful state are getting by with less, or with very little at all. Business owners are experiencing sales so bad that they go without paying themselves and in some cases – closing their doors (perhaps for good) and putting their employees out of work. Homebuilders, contractors and others in the building trades are having the same issues as shopkeepers as new housing starts are at an all-time low. Realtors who are only compensated when a property sells have seen sales dwindle to a fraction of what they once were. Farmers make less on a gallon milk than what it costs them to produce it. Yet we under the Golden Dome continue putting more pressure on Vermonters that struggle hard to earn a living by requiring they open their wallets wider and send us more to fritter away on our favorite programs.

We need to remember, no we **must** remember, that government was instituted to be a protector of our rights, not a provider of privileges."

Rep. Ainsworth of Royalton explained his vote as follows

"Mr. Speaker:

In passing this budget, the legislature has effectively refused to make the tough choices that all Vermonters are facing during these challenging economic times. Instead of living within our means and ensuring that we fund government at a level we can afford, Democratic leadership has placed over \$30 million in new taxes onto the backs of struggling Vermonters. I think one of our Senators put it best: we already knew that we can't afford to live in Vermont, now we can't afford to die, we can't afford to move, and if we want to drown our sorrows in drink we can't afford to that now either."

Rep. Ancel of Calais explained her vote as follows

"Mr. Speaker:

I voted yes for a tax cut for low and middle income taxpayers for progressivity and for continued prosperity in our income tax structure.

43% of Vermonters will have lower income taxes as a result of today's action. 54% will see no change. This is a tax policy we can be proud of.

Rep. Branagan of Georgia explained her vote as follows

"Mr. Speaker:

This weekend is the opening of the newest star Trek movie of which I am a long time fan. I dearly wished to attend the opening this weekend, but feeling strong responsibility to complete this legislation (and hope to make Vermont's fiscal future better) kept me here.

After looking at this budget and revenue package, all I can say is "Beam me up Scottie".

Rep. Clark of Vergennes explained his vote as follows

"Mr. Speaker:

We cannot build a loyal and trusting citizenry by taxing away their independence and initiative. If we continue to erode their confidence and trust by punishing their success, we chance never regaining their respect and trust. They know and we know that this budget attempts to escape the fiscal responsibility we have to all Vermonters over the next several years by evading our responsibility today. We need to adopt fiscal policies based on the sound fiscal policies that made this state so great: common sense, initiative, hard work and frugality."

Rep. Dickinson of St. Albans Town explained her vote as follows

"Mr. Speaker:

Our job as legislators is to build a budget that the Vermont economy can support. We have less revenue and we must work together to find the balance between raising taxes and budget cuts that will protect our neediest citizens, provide necessary services and that will not threaten our struggling tax-payers and business community.

I regret that I cannot support a budget because it fails to address the economic reality that faces Vermonters today.

Rep. Donahue of Northfield explained her vote as follows

"Mr. Speaker:

I am tired of leaving this building each year hanging my head because of the process by which we addressed the most significant issues facing the role of our government. I do not know how we look our constituents in the face. This year, in addition to all else, we addressed an economic crisis through decisions narrowed into a few weeks of time, outlined to us in a 132-page document received three hours ago. We have no contingency for the further downgrades likely in the months ahead.

I vote no for many of the reason identified by others regarding our fiscal sustainability and the substance of this bill. But I vote no even more so, because of the way we have conducted ourselves in its development and review.

In these past few days, I believe we have reached new heights in the travesty of process, and the abdication of our responsibility to our constituents and our state that occurs when we vote on major legislation on this floor without allowing time to think it through, ask questions, get information and make careful judgments that are appropriate to the gravity of the issues. I protest this vote.

Rep. Fagan of Rutland City explained his vote as follows:

"Mr. Speaker:

This budget chooses pet projects over scholarships for our Vermont students. It chooses conservation over economic development. It chooses a short-term band aid in lieu of a long-term solution. Mr. Speaker, this budget must do better to address the public's interests."

Rep. Fisher of Lincoln explained his vote as follows:

"Mr. Speaker:

This is a very tough budget package for me to come around to support. I know the impacts of the cuts we have made here. I know the lives that will be impaired.

When people say we have not made the tough decisions, I say they don't know the people who will be most impacted.

Yet a balance has been found here. While I would call for enough revenue to provide for a sound safety net, this is a supportable compromise. I am thankful that many far worse cuts have been avoided. I am thankful for this good work on behalf of all Vermonters."

Rep. French of Shrewsbury explained his vote as follows:

"Mr. Speaker:

Over a two year period with the help of AARA funding specifically designated to be used in that manner, this body has made over 400 million dollars in cuts while only raising 21.4 million in new revenue. A remarkable achievement in an extraordinary economic climate. Sounds like a lot of hard choices to me."

Rep. Higley of Lowell explained his vote as follows:

"Mr. Speaker:

Vermonters need their legislators to be responsible with their money now more than ever. I vote "no" on this irresponsible budget."

Rep. Howard of Rutland City explained his vote as follows:

"Mr. Speaker:

I support this budget because it includes a middle class tax cut for the hardworking Vermonters. According to the non-partisan analysis of JFO 43% of Vermonters will get a tax reduction as a result of this proposal at a time when they need it the most."

Rep. Hubert of Milton explained his vote as follows:

"Mr. Speaker:

I voted no on the budget today for the following reasons:

1. In the economic hard times we are in now, hard working Vermonters need a break from more taxes.
2. The tax increases you are asking for are flawed (DLC 4.4 million) cigarette tax 2.50 per carton and 100% increase in all other tobacco products. This will not increase revenues, but will send 15 to 50% of our tax dollars to other states.
3. We need cuts, not more taxes."

Rep. Hube of Londonderry explained his vote as follows:

"Mr. Speaker:

To characterize the steps taken to balance the 2120 budget as adjustments or cuts is a disservice to the people of this state.

Roughly 40% of the \$59 million in cuts are nothing more than cost shifts or raids – this is net of the additional \$.03 per \$100 tax reduction that truly is owed to Vermont property owners.

Hopefully, we will be recipients of divine intervention when constructing our 2011 and 2012 budgets as we will have run out of smoke and mirrors."

Rep. Johnson of South Hero explained her vote as follows:

"Mr. Speaker:

In two years Vermont has seen a cumulative \$423 million budget gap. Less than 5% of that - \$21.3 million – has been in new revenues. This budget spreads responsibility fairly across all Vermonters. Some Vermonters will see a decrease in services. Some will see very slight increases in taxes. All will see a long-term reduction in marginal tax rates. I support this difficult, responsible budget."

Rep. Koch of Barre Town explained his vote as follows:

"Mr. Speaker:

This bill demonstrates this legislature's inability to make the hard decisions needed to assure Vermonters' financial health. It preserves pet programs in a time when belt tightening is in order, and it manifests an attitude that the taxpayers can always be tapped for just a little more."

Rep. Lewis of Derby explained his vote as follows:

"Mr. Speaker:

This could be the final straw that will break the back of Vermonters."

Rep. Lawrence of Lyndon explained his vote as follows:

"Mr. Speaker:

In this budget, we have instituted an elimination of the capital gains exemption that is retroactive to January 1, 2009. How can we do this to elderly Vermonters who use these funds for their income, to family businesses, farmers, and loggers who have already made financial decisions based on the exemption in place:

We have pulled the rug out from under many Vermonters – we have broken their trust and faith in government.”

Rep. Maier of Middlebury explained his vote as follows

“Mr. Speaker:

I vote YES to support a budget that supports health care for Vermonters. In these difficult economic times, people all over the country who lose their jobs also lose their health care. That is not true in Vermont and I am proud of our state.”

Rep. Marek of Newfane explained his vote as follows

“Mr. Speaker:

“Hard times require hard decisions. Those charged with preparing this budget asked us all over and over and over again for explanations as to how they could approach that task in better ways. So few explanations then, so many now after the fact and after the hard work is all done.”

Rep. McAllister of Highgate explained his vote as follows

“Mr. Speaker:

At a time when Vermont families and small businesses are reducing their spending in order to pay their bills and stay in business, the state, in this budget, is increasing its spending and using \$40 million in new, additional taxes on Vermonters to do so. It's as if we just applied for a new credit card to pay for a shopping spree, only this time, it's Vermonters who are going to have to pay the balance and interest payments for years and years to come.”

Rep. Minter of Waterbury explained her vote as follows

“Mr. Speaker:

“Any budget in these economic times needs to use multiple strategies to maintain economic security, ensure safe neighborhoods, strong communities, excellent schools and social stability. We are all in this together and Vermonters want to see the compromise, responsibility and leadership, which this budget provides. I support this budget, not just because it makes me feel good, but because it faces our economic challenges in a responsible way. Our state revenues are rapidly declining and this budget asks Vermonters to weather this economic storm together. It asks for sacrifice from those most in need of state services while asking more from those with income security. This budget asks from all sectors, including the education fund, in these economic times.”

Rep. Morrissey of Bennington explained her vote as follows

“Mr. Speaker:

“It is with a heavy heart that today I cannot support a 2010 appropriations bill as presented. The appropriations bill is the most critical piece of legislation we pass during a session.

Mr. Speaker, we had a tremendous opportunity, especially in these difficult times to have our committees prioritize their work to address the efficiencies and the inefficiencies in state government.

This bill does nothing to plan for our near certain future reductions in state revenue, relies heavily on temporary “tax payers” federal dollars and places us at the edge of a cliff that we will fall off in 2 years or less.

The budget today, is unsustainable, and does little to plan for our state’s future.

Our constituents were looking for us to help to provide some stability as they continue to struggle with their own financial challenges. Unfortunately, I fear we have only added to them now and long into the future.”

Rep. Mrowicki of Putney explained his vote as follows

“Mr. Speaker:

This budget provides medicine for elders, hardly a pet project. It assists single mothers struggling in poverty that would have been cut, and on and on. It does cut \$60 million but balances the cuts with an even- handed compassion. I’m proud of the legislative leadership that has stepped up to present a budget that faces our responsibilities without forsaking our neighbors in need.”

Rep. Poirier of Barre City explained his vote as follows

“Mr. Speaker:

I voted yes, while not agreeing with all the provisions, because in January the Governor announced that he was going to cut 600 state employee positions, regardless of how they were funded. The Governor has shown no respect to the state employees during these past 4 months, and no desire to negotiate a responsible compromise.

Fortunately, the conference committee adopted language to treat the Vermont workforce as professionals and with dignity.”

Rep. South of St. Johnsbury explained his vote as follows:

“Mr. Speaker:

I vote yes because this bill supports the resident's of St. Johnsbury and the NEK with good paying jobs at the correctional center which also helps support area business.

Rep. Stevens of Waterbury explained his vote as follows:

"Mr. Speaker:

I strongly supported this budget – it expresses the American ideal of compromise and extraordinary times require extraordinary measures, rather than take political potshots at each other. I hope next year our desire to address the fundamental deficiencies of funding our government overwhelms our political divide.

Rep. Wright of Burlington explained his vote as follows:

"Mr. Speaker:

It is with great disappointment I vote no on this budget. We have failed to make fundamental change and structural reform. We have increased spending and nearly every tax imaginable. Rather than work together the entire legislative session to find workable solutions, we passed a political document that faces a certain veto. Today we have failed Vermonters on our most basic obligation: Do No Harm. The dark clouds and gathering storm outside, as we vote today, are symbolic of the action we took today. Passage of this budget would result in thunderous harm to Vermont's economy.

**Rules Suspended; Senate Proposal of Amendment Concurred in;
Rules Suspended; Action Ordered Messaged to Senate Forthwith
and Bill Delivered to the Governor Forthwith**

H. 12

Pending entrance of the bill on the Calendar for notice, **Rep. McDonald of Berlin**, moved that the rules be suspended and House bill, entitled

An act relating to education property tax rates;

Be taken up for immediate consideration.

The Senate proposed to the House to amend the bill by striking Sec. 2 in its entirety and inserting in lieu thereof Secs. 2, 3, 4 and 5 to read as follows:

Sec. 2. FISCAL YEAR 2010 AND 2011 BASE EDUCATION PAYMENT AMOUNT

Notwithstanding subsection 4011(b) of Title 16 or any other provision of law, the base education payment for fiscal years 2010 and 2011 shall be \$8,544.00.

Sec. 3. AMENDMENT

Each occurrence of the amount "\$239,303,944" in Secs. B.513 and E.513(a) in H.441 of 2009 shall instead be "\$240,803,944".

Sec. 4. REPEAL

Secs. E.109 and E.109.1 of H.441 of 2009 (per acre valuation and study) are repealed as of the date of passage of this act.

Sec. 5. APPLICATION AND EFFECTIVE DATE

Secs. 1 (tax rates) and 2 (base education payment) of this act shall supersede and take precedence over any provisions of H. 441 of 2009 as enacted, and this act shall take effect upon final enactment of, and delivery to the secretary of state of, a state budget act for fiscal year 2010.

Pending the question, Shall the rules be suspended to take up the bill for immediate consideration pending its entrance on the Notice Colander? **Rep. Donahue of Northfield** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the rules be suspended to take up the bill for immediate consideration pending its entrance on the Notice Colander? was decided in the affirmative. Yeas, 133. Nays, 2.

Those who voted in the affirmative are:

Acinapura of Brandon	Consejo of Sheldon	Gilbert of Fairfax
Adams of Hartland	Copeland-Hanzas of	Grad of Moretown
Ainsworth of Royalton	Bradford	Greshin of Warren
Ancel of Calais	Corcoran of Bennington	Haas of Rochester
Andrews of Rutland City	Courcelle of Rutland City	Head of South Burlington
Aswad of Burlington	Crawford of Burke	Heath of Westford
Atkins of Winooski	Davis of Washington	Higley of Lowell
Audette of South Burlington	Deen of Westminster	Hooper of Montpelier
Baker of West Rutland	Devereux of Mount Holly	Howard of Rutland City
Bissonnette of Winooski	Dickinson of St. Albans	Howrigan of Fairfield
Bohi of Hartford	Town	Hubert of Milton
Botzow of Pownal	Donaghy of Poultney	Jerman of Essex
Branagan of Georgia	Donovan of Burlington	Jewett of Ripton
Bray of New Haven	Edwards of Brattleboro	Johnson of South Hero
Brennan of Colchester	Emmons of Springfield	Keenan of St. Albans City
Browning of Arlington	Evans of Essex	Klein of East Montpelier
Burke of Brattleboro	Fagan of Rutland City	Koch of Barre Town
Canfield of Fair Haven	Fisher of Lincoln	Krawczyk of Bennington
Cheney of Norwich	Flory of Pittsford	Lanpher of Vergennes
Clarkson of Woodstock	Frank of Underhill	Larocque of Barnet
Clerkin of Hartford	French of Shrewsbury	Larson of Burlington
Condon of Colchester	French of Randolph	Lawrence of Lyndon
Conquest of Newbury	Geier of South Burlington	Lenes of Shelburne

Lerich of Hardwick	Moran of Wardsboro	Shand of Weathersfield
Lewis of Derby	Morrissey of Bennington	Sharpe of Bristol
Lippert of Hinesburg	Mrowicki of Putney	Smith of Mendon
Lorber of Burlington	Myers of Essex	South of St. Johnsbury
Macaig of Williston	Nease of Johnson	Spengler of Colchester
Maier of Middlebury	Nuovo of Middlebury	Stevens of Waterbury
Malcolm of Pawlet	O'Brien of Richmond	Stevens of Shoreham
Manwaring of Wilmington	Obuchowski of Rockingham	Sweaney of Windsor
Marek of Newfane	Orr of Charlotte	Taylor of Barre City
Martin of Springfield	Partridge of Windham	Till of Jericho
Martin of Wolcott	Pearce of Richford	Toll of Danville
Masland of Thetford	Peaslee of Guildhall	Townsend of Randolph
McAllister of Highgate	Pellett of Chester	Waite-Simpson of Essex
McCullough of Williston	Peltz of Woodbury	Webb of Shelburne
McDonald of Berlin	Perley of Enosburg	Westman of Cambridge
McFaun of Barre Town	Poirier of Barre City	Weston of Burlington
McNeil of Rutland Town	Pugh of South Burlington	Wheeler of Derby
Milkey of Brattleboro	Ram of Burlington	Wilson of Manchester
Miller of Shaftsbury	Reis of St. Johnsbury	Winters of Williamstown
Minter of Waterbury	Rodgers of Glover	Wizowaty of Burlington
Mitchell of Barnard	Savage of Swanton	Zenie of Colchester
Mook of Bennington	Scheuermann of Stowe	Zuckerman of Burlington

Those who voted in the negative are:

Donahue of Northfield	Turner of Milton
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Those members absent with leave of the House and not voting are:

Clark of Vergennes	Kitzmiller of Montpelier	Potter of Clarendon
Helm of Castleton	Komline of Dorset	Trombley of Grand Isle
Hube of Londonderry	Marcotte of Coventry	Wright of Burlington
Johnson of Canaan	Morley of Barton	Young of St. Albans City
Kilmartin of Newport City	O'Donnell of Vernon	

Thereupon, the Senate proposal of amendment was considered and concurred in.

On motion of **Rep. McDonald of Berlin**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

House Resolution Adopted

H.R. 21

House resolution, entitled

House resolution urging the federal government to approve Canadian provincial enhanced driver's licenses as meeting the land and sea border requirements of the Western Hemisphere Travel Initiative

Which was taken up and adopted on the part of the House.

Recess

At five o'clock and thirty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At nine o'clock and ten minutes in the evening, the Speaker called the House to order.

Message from the Senate No. 66

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 313. An act relating to near-term and long-term economic development.

And has accepted and adopted the same on its part.

**Rules Suspended; Report of Committee of Conference Adopted;
Rules Suspended; Action Ordered Messaged to Senate Forthwith
and Bill Delivered to the Governor Forthwith**

H. 313

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Nease of Johnson**, the rules were suspended and House bill, entitled

An act relating to near-term and long-term economic development

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the Senate recede from its proposals of amendment and 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 that:

(1) Vermont has lost nearly 15,000 jobs since the cyclical peak in November of 2007, reaching an unemployment rate of 7.2 percent as of April 2009. Broader measures of underemployment, which include workers forced from full time to part time work and marginally attached workers, now exceed nine percent in Vermont. Revised macro-economic projections anticipate that the Vermont rate of unemployment will reach nine percent for the first time in more than 30 years.

(2) Initial claims for unemployment insurance have continued to rise, spiking in Vermont in recent months at record levels, with the weekly average of claims in January of 2009 reaching approximately 1,550.

(3) At the national level, the unemployment rate has reached 8.5 percent and consumer spending, which accounts for more than two-thirds of all economic activity, has experienced its steepest reversal since the Great Depression, with inflation-adjusted spending dropping by more than 10 percent in four of the last five months. Consumption taxes in Vermont are expected to recede accordingly, with sales and use revenues expected to be down five percent in fiscal year 2009 and meals and rooms receipts down three percent, with further declines expected in fiscal year 2010, which would comprise the first ever consecutive annual declines for these important revenue sources.

(4) Residential construction in Vermont has come to a virtual halt in Vermont, declining by nearly 70 percent. With weakness in Vermont second home markets mounting in the face of regional job losses, housing price declines are likely in the next four-to-seven quarters, with very low property price appreciation for an extended period of at least four-to-five years. This stagnation in property prices will ultimately have a significant impact on grand list growth and the tax base for the largest component of the education fund.

(5) Federal tax changes resulting from the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, while stimulating to the national economy, will result in reduced state tax revenues in approximately \$9.1 million in fiscal year 2010.

(6) Despite the many difficulties in the national and Vermont economies at this time, there are several factors leaning against the prevailing winds that offer hope for an emergent recovery. For one, United States and global fiscal and monetary policies are as stimulative as they have ever been, with even additional capacity and willingness if further measures are required to right the economy.

(7) For the first time in 55 years, the Consumer Price Index is expected to post an annual decline in 2009, while inflation and related energy prices have

been subdued, lowering consumer gas and heating bills, providing additional disposable income.

(8) Business inventories have been dramatically reduced, setting the stage for rapid gains in output and hiring, once demand resumes.

(9) With the passage of ARRA, Vermont is positioned to receive nearly one billion dollars in resources, which will be allocated to state and local government, to Vermont businesses, and to individuals. In addition, federal tax cuts will result in approximately \$500 million in savings to Vermont businesses and individuals.

(10) Although state government is limited in its ability in the near-term to initiate new programs and expenditures due to revenue constraints, it can provide targeted support to programs best suited to capitalize on state and federal funding to leverage growth. The state can also improve existing programs, permitting processes, funding mechanisms, and other areas that affect economic development, in order to provide a more efficient and effective role for government to aid Vermont's businesses and individuals and lead the state in its economic recovery.

(11) In the long-term, once the current economic crisis inevitably subsides, Vermont will be prepared to move forward with a focused economic development strategy based on four principal, interrelated goals generated by the commission on the future of economic development:

(A) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(B) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(C) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(D) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(12) The four principal goals emerged from two and one-half years of the commission's study of Vermont's economy and the public policies that advance and impede economic development. The goals are interdependent and

interconnected, and they must all be addressed if Vermont is to reach its economic development promise.

(13) The implementation of the goals is the joint task of the legislature, the administration, our local, regional, and state agencies, our nongovernmental organizations, and our citizens. State economists have concluded that the goals cannot be adequately evaluated with a small set of simplistic benchmarks, but rather, must be evaluated through a wide range of indicators using statistical benchmarks accompanied by a narrative that is a contextual interpretation of the data by professionals. Ultimately, consistent monitoring of credible benchmarks will provide information on both the efficacy and cost-effectiveness of our public policies and strategies so that necessary adjustments can be made to continually improve Vermont's economic prosperity.

(14) Despite its small scale and accessible government, Vermont lacks a shared statewide vision of its economic future. Economic vitality in Vermont is hampered by the lack of coordination among and between state agencies, between regional economic development corporations and regional planning commissions, and between these regional entities and state agencies. As a result of these disconnects, Vermont lacks a single, holistic, integrated state plan for economic development. Additionally, coordinated regional input is imperative for an effective, nimble, and integrated statewide economic development plan. Strong regional development organizations and regional planning commissions are critical partners and resources. Our citizens and business and civic leaders consistently recognize Vermont's small scale and easy access to our government as a potential strength, but observe that we have often failed to take advantage of the opportunities that our smallness offers us.

(15) Vermonters are struggling to secure basic needs such as health care, child care, affordable housing, and quality education. These basic needs are prerequisites to, rather than the product of, economic development. Employers recognize that the health and well-being of our workforce are critical to business success. Worker recruitment, retention, and productivity depend on worker quality of life as measured by wages, health care, child care, housing, connected communities, and a healthy environment.

(16) In addition to providing for these basic needs, an essential role of government is investing in our digital, physical, and human infrastructure as the foundation for all successful economic development. Funding, building, and maintaining our state's infrastructure is one of the highest priorities for the investment of state resources.

(17) The lack of adequate and reliable broadband and cellular infrastructure and access across the state not only impedes the growth of existing and new business in Vermont, but may induce existing businesses to relocate to other states that have better access to broadband and cellular service. Digital infrastructure benefits include government cost savings, increased productivity, and improved quality of life for Vermonters.

(18) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(19) The Vermont telecommunications authority has made significant progress toward, and should continue going forward as the primary vehicle for, achieving the goal of realizing universal availability of adequate mobile telecommunications and broadband services, with a focus on unserved and underserved areas in the state.

(20) Vermonters' ingenuity, work ethic, and entrepreneurship have long been viewed as competitive assets. Our rapidly evolving economy requires a collaborative partnership of business people, educators, representatives from nongovernmental organizations, and government leaders to provide a skilled workforce to traditional and emerging Vermont businesses, and to enhance career opportunities to all Vermonters.

(21) The strength of our state economy is dependent upon a diversity of business sectors. Despite difficult economic conditions, the state should exercise leadership and creativity in continuing its support of traditional economic drivers such as tourism, agriculture, forestry, construction, and manufacturing, among others.

(22) Tourism has a stabilizing effect on Vermont's economy by insulating the state's residents from the inevitable ups and downs of national and global business cycles, while providing individuals and their families with a diverse set of earning possibilities and challenging occupations that fit into their lifestyle and family situation. Vermont should continue to support this critical component of its economy.

(23) State government should lead by example in supporting local- and state-based economic strategies that are not protectionist, but rather, build on the proud Vermont tradition of self-reliance. Initiatives such as Local First, the department of agriculture, food and markets' Buy Local program, and state and local government procurement policies for food, goods, and services that give

priority to Vermont businesses when possible, each enhance the Vermont economy through the demonstrated multiplier effects of buying local.

(24) Vermont is home to a vibrant manufacturing sector, which consists of many businesses producing specialized and innovative products. Nationwide, manufacturing accounts for the majority of product and service innovation, and businesses whose competitive advantage flows from innovative and unique products and services, rather than low-cost or high volume, enjoy significantly increased profitability and generate more job opportunities and tax revenue. State government's role should be to support this dynamic manufacturing base, and to provide the necessary training, education, and resources to cultivate a culture of innovation.

(25) In addition to traditional economic drivers, there are new, unique, and innovative Vermont businesses that are successfully competing in the global marketplace that need to be nurtured. There is broad consensus that Vermont can further leverage its brand, including its green reputation, into economic gain. Our entrepreneurial people, healthy environment, and connected communities – our quality of life – are genuine economic assets.

(26) Vermont's reputation for environmental stewardship can be turned to our advantage. Vermont businesses, government, and environmental organizations must be partners and leaders in supporting and creating a green economic sector and the use of green business practices throughout our diverse economy.

(27) Microenterprise also plays an important role in our state's economy and within the working lives of low to moderate income families. Microenterprises develop new industries, increase community assets, are important providers of goods and services in local communities, find unique solutions to local problems, and keep profits circulating locally. Microenterprise provides economic opportunity for low income households and is a proven wealth creation strategy for struggling communities.

(28) Microenterprises often require access to training, services, financing, and support that are different from what small businesses require in order to grow and prosper. Microenterprise financing options and business training and technical assistance are equally important and work together to support microenterprise development.

(29) The legislature, administration, and myriad economic and community partners must now work together with unerring discipline to focus policies, regulations, programs, and incentives on the critical interconnection between Vermont's assets, our collective values, our capabilities, and the opportunities which will increase state revenues and the prosperity of all Vermonters.

Sec. 2. PURPOSE; POLICY STATEMENTS FOR FEDERAL STIMULUS COLLABORATION AND FUTURE UTILIZATION OF ECONOMIC DEVELOPMENT RESOURCES

(a) The purpose of this act is to promote the economic development of the state and the prosperity of its businesses and citizens. In the near-term, this act is intended to address the immediate economic crisis facing Vermont. The purposes of this act include the following:

(1) To preserve and create jobs and promote economic recovery.

(2) To assist those most impacted by the recession.

(3) To provide opportunities for investments needed to increase economic efficiency, entrepreneurship, and business growth in traditional and emerging sectors.

(4) To provide oversight and guidance for the expenditure of ARRA funds to ensure that the benefits of the federal stimulus extend to the broadest geographic and demographic range of Vermont businesses and individuals.

(b) The American Reinvestment and Recovery Act of 2009 ("ARRA") provides economic development resources that are available to the state, its subdivisions, and the private sector. In order to realize the full potential of these funds, and in order to most effectively increase the opportunities for Vermonters to benefit from the ARRA, the director of Vermont's office of economic stimulus and recovery ("VOESR") shall, to the extent possible: coordinate efforts to obtain funds under the ARRA; oversee the use of those funds received by or through the state; and collect information on the use of funds awarded to Vermont recipients.

(c) State agencies that are recipients of ARRA formula fund allocations and applicants for ARRA competitive grants shall collaborate to the extent possible to present unified proposals for funding. The VOESR shall provide support to applicants and recipients of ARRA funds to develop unified proposals, and priority shall be given to those programs that achieve multiple economic development goals simultaneously and demonstrate broad geographic benefits. Where applicable, potential beneficiaries shall use best efforts to structure programs so as to maximize eligibility for ARRA funds, and the VOESR shall give priority to those programs that are structured to maximize ARRA eligibility.

(d) The ARRA offers competitive grants to stimulate economic development in the areas of agriculture and rural development, broadband and telecommunications, energy efficiency and renewable energy, employment and training, educational technical assistance, redevelopment of abandoned and

foreclosed homes, homelessness prevention and housing, and energy-saving and green retrofit investments in elderly, low income, and disability housing. In order to help Vermonters secure competitive grant funding, the VOESR, in coordination with the appropriate agencies of the state, shall be responsible for identifying competitive grant programs relating to the department's or agency's jurisdiction. Each agency shall provide technical and logistical information and support to the VOESR as necessary, and shall connect grant applicants with grant-writing and additional resources and services available from both the VOESR and related public and private resources as appropriate.

(e) In the long term, this act seeks to build a foundation for economic development through targeted investments, modifications, and improved efficiencies in economic development initiatives, environmental and energy permitting, and other state investment and regulatory programs that will provide long-term economic benefits. It is the intent of the general assembly to ultimately channel these economic development efforts through the principal goals and benchmarks identified by the commission on the future of economic development, using both new and existing resources from the state and federal levels to increase prosperity for all Vermonters.

Sec. 3. ARRA FUNDS; ECONOMIC SECURITY FOR WOMEN

(a) While all Vermonters are suffering from the current economic downturn, research indicates that women and female-headed households are likely to bear a disproportionate share of the hardship. As a result of longstanding discrimination and economic disadvantage, they often have fewer personal assets to sustain them through periods of unemployment, and they tend to feel cutbacks in traditional, public safety-net programs more acutely than men do, particularly in times of economic crisis. The general assembly, therefore, encourages that the recession's disparate impact on women and children be taken into consideration in the awarding of federal funds under the ARRA to the extent allowable by law.

(b) The VOESR shall report the number of jobs created and retained by industry as required by federal law for the purpose of determining the number of jobs that are likely to benefit women.

* * * Commission on the Future of Economic Development * * *

Sec. 4. 10 V.S.A. chapter 1 is amended to read:

CHAPTER 1. VERMONT DEVELOPMENT BOARD THE FUTURE OF ECONOMIC DEVELOPMENT

* * *

§ 3. ECONOMIC DEVELOPMENT; LONG-TERM GOALS; REVIEW AND ASSESSMENT

(a) For purposes of the Vermont Statutes Annotated and state economic development programs and assistance, "economic development" means the process of generating economic wealth and vitality, security, and opportunity for all Vermonters.

(b) There are established the following four principal, interrelated goals for future economic development in Vermont:

(1) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(2) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(3) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(4) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(c) The four principal goals shall be used to guide the design and implementation of each economic development program, policy, or initiative that is sponsored or financially supported by the state, its subdivisions, agencies, authorities, or private partners.

(d)(1) The commission on the future of economic development, or a working group thereof designated by the general assembly, shall work with the state economists and the joint fiscal office to adopt benchmarks for the four principal goals.

(2) The commission or workgroup thereof shall on or before January 15, 2010 report to the house committee on commerce and economic development, the senate committee on finance, and the senate committee on economic development, housing and general affairs concerning its review of the goals, benchmarks, and agency progress pursuant to this subsection.

(3) On or before January 15, 2010, the commission shall recommend to the senate committee on economic development, housing and general affairs, the senate committee on finance, the house committee on commerce and economic development, the house committee on ways and means, and the

governor on whether it would promote the best interests of Vermont for the commission to continue its review of the goals and benchmarks, or if a successor to that responsibility should be designated. Notwithstanding any recommendation, the commission shall continue to perform the review unless and until a successor is designated by legislation approved by the legislature and the governor.

Sec. 5. Commission on the Future of Economic Development WORKGROUP

(a) Pursuant to 10 V.S.A. § 3(d), for FY 2010, the chair of CFED shall convene and chair a workgroup composed of the current CFED chair, the commissioner of economic development, the current legislative members, and such other current members of CFED that the chair shall appoint at his or her discretion.

(b) The workgroup shall receive reasonable administrative, fiscal, and legal support from the joint fiscal office and the legislative council.

(c) Legislative members of the committee shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 2 V.S.A. § 406; other members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 32 V.S.A. § 1010.

(d) The FY 2010 workgroup shall:

(1) Collaborate with the state economists to finalize the statistical benchmarking system proposed in FY 2009.

(2) Establish baseline values for each benchmark and subsequently perform an economic development analysis against the baseline values at a suitable interval.

(3) Determine the best model for an entity responsible for developing and overseeing economic planning in Vermont. The entity's responsibilities would include: establishing a statewide, comprehensive economic development plan; making policy recommendations to the general assembly and governor; analyzing existing programs and policies in terms of the benchmarks and the four principal goals established by CFED; amending and updating the plan, benchmarks, and goals as necessary; and reporting annually to the general assembly and governor on the status of economic development in Vermont.

(4) Study models of economic development used in other states, such as the private-public-nonprofit coordinating board used in Arizona (Arizona Economic Resource Organization) and the North Carolina economic development board.

(5) Propose ways of improving the value and usefulness of the unified economic development budget required under 10 V.S.A. § 2.

(e) The workgroup shall report its findings and recommendations to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor not later than January 15, 2010.

(f) This shall supersede any conflicting provision adopted by act of the general assembly in the 2009 legislative session.

* * * Workforce Development * * *

Sec. 6. FINDINGS AND ARRA WORKFORCE DEVELOPMENT PRIORITIES

(a) The general assembly recognizes numerous hurdles that inhibit workforce opportunities for working families in need of adequate child care, for low income persons, for the disabled, and for the elderly. The department of labor, and other agencies where applicable, shall use ARRA funds allocated to workforce development, including funds for child care services, to expand employment opportunities to the unemployed, to dislocated workers, to working families, and to low income, disabled, and elderly Vermonters.

(b) The general assembly recognizes the opportunities available to the next generation of Vermonters to secure well-paying and secure jobs in emerging sectors such as energy efficiency and health care, including health care information technology. The department of education, the department of labor, and other agencies where applicable, shall use ARRA funds allocated to education and workforce development to promote education and job opportunities in these emerging sectors.

(c) Current economic conditions may present an opportunity for unemployed or dislocated workers to innovate and develop new businesses or products. Where appropriate, the departments of labor and of education should use ARRA funds for training and education to aid unemployed or dislocated workers in pursuing product innovations and new business pursuits.

(d) Prior to expending ARRA funds for workforce development or for expenditures that will require additional workforce capacity, the government authority seeking funding shall collaborate with the department of labor to determine that the workforce capacity currently exists, or alternatively, how much capacity will be necessary to implement a program or project. To the extent allowable under the ARRA, the relevant agency shall prioritize expenditures first for training that is necessary to maintain current

employment, second for hiring or training unemployed and dislocated workers, and third for promoting new hiring. Priority for workforce training funds shall be given to programs or training that will result in increased worker remuneration or job promotion to the extent allowable.

(e) When pursuing competitive grant funds for workforce development under Title VIII of the ARRA, the VOESR shall coordinate with appropriate government agencies, nonprofit organizations, private businesses, and individuals to secure the maximum amount of resources available to promote workforce development and opportunity for Vermonters.

Sec. 7. Sec. 7(a)(3) of No. 46 of the Acts of 2007 (career and alternative workforce education) is amended to read:

(3) Career And Alternative Workforce Education. The amount of \$900,000 is appropriated to the department of labor. Of this appropriation, \$450,000 is from the fiscal year 2007 monies transferred to the next generation initiative fund, and \$450,000 is from the fiscal year 2008 monies transferred to the next generation initiative fund. This appropriation shall be to support

out-of-school youth, youth at risk, and youth at risk of remaining unemployed with outcomes that lead to employment or continued education ~~as follows:~~

~~(A) Forty five percent (45%).~~ At least 25 percent of this appropriation shall be for grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades 7 through 12-, and at least 25 percent

~~(B) Fifty five percent (55%) shall be for grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and non-profit organizations, designated by the workforce development council, for alternative and intensive vocational/academic programs for secondary students in order to earn necessary credits toward graduation.~~

Sec. 8. Sec. 6 of No. 46 of the Acts of 2007 is amended to read:

Sec. 6. WORKFORCE DEVELOPMENT LEADER; ~~LEADERSHIP~~
~~COMMITTEE; CREATED~~

~~(a) The commissioner of labor shall be the leader of workforce development strategy and accountability. The commissioner of labor shall consult with and chair a subcommittee of the workforce development council consisting of the secretary of human services, the commissioner of economic development, the commissioner of education, four business members appointed by the governor, and a higher education member appointed by the governor. Membership on the subcommittee shall be coincident with the~~

~~members' terms on the workforce development council~~ the workforce development council executive committee in developing the strategy, goals, and accountability measures. The workforce development council shall provide administrative support. The ~~subcommittee~~ executive committee shall assist the leader. The duties of the leader include all the following:

(1) developing a limited number of overarching goals and challenging measurable criteria for the workforce development system that supports the creation of good jobs to build and retain a strong, appropriate, and sustainable economic environment in Vermont;

(2) reviewing reports submitted by each entity that receives funding from the Next Generation fund. The reports shall be submitted on a schedule determined by the executive committee and shall include all the following information:

(A) a description of the mission and programs relating to preparing individuals for employment and meeting the needs of employers for skilled workers;

(B) the measurable accomplishments that have contributed to achieving the overarching goals;

(C) identification of any innovations made to improve delivery of services;

(D) future plans that will contribute to the achievement of the goals;

(E) the successes of programs to establish working partnerships and collaborations with other organizations that reduce duplication or enhance the delivery of services, or both; and

(F) any other information that the committee may deem necessary and relevant.

(3) reviewing information pursuant to subdivision (2) of this section that is voluntarily provided by education and training organizations that are not required to report this information but want recognition for their contributions;

(4) issuing an annual report to the governor and the general assembly on or before December 1, which shall include a systematic evaluation of the accomplishments of the system and the participating agencies and institutions and all the following:

(A) a compilation of the systemwide accomplishments made toward achieving the overarching goals, specific notable accomplishments, innovations, collaborations, grants received, or new funding sources developed

by participating agencies, institutions, and other education and training organizations;

(B) ~~an evaluation~~ identification of each provider's contributions toward achieving the overarching goals;

(C) identification of areas needing improvement, including time frames, expected annual participation, and contributions, and the overarching goals; and

(D) recommendations for the allocating of next generation funds and other public resources.

(5) developing an integrated workforce strategy that incorporates economic development, workforce development, and education to provide all Vermonters with the best education and training available in order to create a strong, appropriate, and sustainable economic environment that supports a healthy state economy; and

(6) developing strategies for both the following:

(A) coordination of public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact; and

(B) more effective communications between the business community and educational institutions, both public and private.

(b) Entities receiving grants through the workforce education and training fund (WETF) and the Vermont training program (VTP) shall provide the Social Security number of each individual who has successfully completed a training program funded through the WETF and the VTP within 30 days. This requirement shall not apply to training seminars lasting no more than two days. On or before July 1 of each year, the department of labor and the department of economic development shall process the information received within the most recent 12 months and prepare the report required in subdivision (a)(4) of this section. The report shall include a table that sets forth quarterly wage information received pursuant to 21 V.S.A. § 1314a at least 18 months following the date on which the individuals completed the program of study. The table shall include the number of individuals completing the program, the number of those individuals who are employed in Vermont, and the median quarterly income of those individuals.

(c) Other entities, including public and private institutions of higher education, postsecondary and secondary programs, and other training providers who wish to receive grants under the WETF and the VTP may do so by

making a request in writing to the commissioner of labor and the commissioner of economic development who shall make a decision regarding inclusion of such programs and the process for the collection of the necessary data.

(d) Confidentiality. Notwithstanding any other provision of law, the departments of labor and of economic development shall collect the Social Security numbers of students for the purposes of this section. The departments shall retain Social Security numbers collected from the entities listed in subsection (b) of this section for no more than five years from the date of receipt by the departments. Access to the Social Security numbers provided to the department of labor and department of economic development shall be limited to those department individuals creating the table required in subsection (b) of this section and shall be confidential. The departments shall prepare the tables in a way that ensures the confidentiality of all trainee and employer information. A department employee who intentionally communicates or otherwise makes available to the general public a Social Security number collected pursuant to this section or who otherwise disseminates the number for purposes other than those specified in this section shall be subject to the penalties of the Social Security Number Protection Act, subchapter 3 of chapter 62 of Title 9.

Sec. 9. REPEAL

The following are repealed:

- (1) Sec. 7(d) of No. 46 of the Acts of 2007 (reporting);
- (2) 10 V.S.A. § 543(g) (reporting); and
- (3) Section 5.801.1 of No. 192 of the Acts of the 2007 Adj. Sess. (2008).

Sec. 10. WORK-BASED LEARNING REPORT

(a) On or before January 1, 2010, the career and technical education coordinator within the department of education, the commissioner of economic development or his or her designee, and the commissioner of labor or his or her designee, shall submit a report to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor regarding work-based learning programs in Vermont.

(b) The report shall include an inventory of existing career and technical education (CTE) work-based learning programs and other non-CTE work-based learning opportunities, such as registered apprenticeships, high school internships, and postsecondary internships, as well as community-based learning programs. The report also shall include the amount and source of

funding for each program; the number of personnel hired to administer each program; participation in each program; categorization of learning opportunities offered; and other relevant standards and outcomes. Finally, the report shall include recommendations relative to statewide and regional coordination; creation of timely skill standards based on emerging or growing industry sectors; credentials that articulate postsecondary training and education; and the expansion, restructuring, or elimination of existing programs.

Sec. 11. GREEN WORKFORCE COLLABORATIVE; STIMULUS

MONIES

(a) The workforce development council and the commissioner of labor shall convene a green workforce collaborative as a committee of the council. The purpose of the collaborative is to develop and promote a vocational curriculum, career training, and employment opportunities for Vermonters in green industry sectors; maximize the state's use of federal funds under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5; enhance the economic and environmental vitality of the state; and give priority to programs that provide education, training, and other services to target populations of eligible individuals.

(b) Members of the collaborative shall include the career and technical education coordinator within the department of education, as well as representatives of the various workforce training programs within the departments of economic development and of labor, as appropriate, the Vermont Energy Investment Corporation, representatives from Vermont Technical College and other Vermont educational institutions, and representatives of any other programs or entities pursuing green workforce development in Vermont, as deemed appropriate by the commissioner of labor.

(c) For purposes of this section:

(1) "Green industry sectors" shall include:

(A) The energy-efficient building, construction, and retrofit industries.

(B) The renewable electric power industry.

(C) The energy-efficient and advanced drive train vehicle industry, including performance and low-emission vehicle technology, automotive computer systems, mass transit fleet conversion, and the servicing and maintenance of those technologies.

(D) The biofuels industry.

(E) The deconstruction and materials use and re-use industries.

(F) The energy-efficiency assessment industry serving the residential, commercial, or industrial sectors.

(G) Manufacturers that produce sustainable products using environmentally sustainable processes and materials.

(H) Pollution prevention and hazardous and solid waste reduction.

(I) Soil or water conservation, or forestation strategies to mitigate climate change impacts.

(J) Any other sector deemed appropriate by the green workforce collaborative.

(2) "Target populations" shall include:

(A) Workers impacted by national energy and environmental policy.

(B) Individuals in need of updated training related to the energy efficiency and renewable energy industries.

(C) Veterans, or past and present members of reserve components of the Armed Forces.

(D) Unemployed individuals.

(E) Individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency.

(F) Formerly incarcerated, adjudicated, nonviolent offenders.

(G) Any other populations specifically referenced in Title VIII of ARRA as enacted or as amended subsequent to passage of this act.

(d) In promoting education and training in green industry sectors, the collaborative shall seek to capitalize on existing infrastructure wherever appropriate, including the Center for Sustainable Practices at Vermont Technical College, the Vermont State Colleges, the University of Vermont, the regional technical centers, and the comprehensive high schools, including adult technical education programs.

(e) Funding of programs designed to promote a green workforce in Vermont is a legislative priority with respect to appropriations of unencumbered federal monies available through the state fiscal stabilization fund under § 14002(a) of Title XIV of Division A of ARRA.

(f) The commissioner of labor shall collaborate with the director of the office of economic stimulus and recovery to secure competitive grants

available under Titles IV and VIII of ARRA, and shall further pursue other state or federal workforce training funds available through the Vermont departments of education and of labor, and through the Vermont Energy Investment Corporation.

(g) On or before January 15, 2010, the commissioner of labor shall provide the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the senate and house committees on natural resources and energy a report detailing a status and needs assessment of green workforce development in Vermont pursuant to this section.

* * * Misc. Technical VEGI Amendments * * *

Sec. 12. 32 V.S.A. § 5930b(b)(2) is amended to read:

(2) The council shall review each application in accordance with section 5930a of this title, except that the council may provide for a preliminary an initial approval pursuant to the conditions set forth in subsection 5930a(c), followed by a final approval at a later date, before December 31 of the calendar year in which the economic activity commences.

Sec. 13. RETROACTIVE APPLICATION

Sec. 12 of this act shall apply retroactively to all applications received on or after January 1, 2007.

Sec. 14. 32 V.S.A. § 5930a is amended to read:

§ 5930a. VERMONT ECONOMIC PROGRESS COUNCIL

* * *

(b)(1) The Vermont economic progress council, within 60 days of receipt of a complete application, shall approve or deny the following economic incentives:

(1)(A) tax stabilization agreements and exemptions under subdivision 5404a(a)(2) of this title;

~~(2) applications for allocation to municipalities of a portion of education grand list value and municipal liability from new economic development under subsection 5404a(e) of this title; and~~

(3)(B) Vermont employment growth incentives (VEGI) under section 5930b of this title.

(2) All incentives are subject to application of the incentive ratio as determined under subdivision 5930b(b)(3) of this title and no tax stabilization

agreement, or exemption or allocation shall be approved except in conjunction with the approval of an incentive under subdivision ~~(3)~~(1)(B) of this subsection.

* * *

(d) The council shall apply the cost-benefit model in reviewing applications under subdivisions ~~(b)(1), (2), and (3)~~ (A) and (B) of this section to determine the net fiscal benefit to the state. The cost-benefit model shall be a uniform and comprehensive methodology for assessing and measuring the projected net fiscal benefit or cost to the state of proposed economic development activities. Any modification of the cost-benefit model shall be subject to the approval of the joint fiscal committee. The cost-benefit analysis shall include consideration of the effect of the passage of time and inflation on the value of multi-year fiscal benefits and costs.

(1) In determining the projected net fiscal benefit or cost of the incentives considered under ~~subdivisions~~ subdivision ~~(b)(1) and (2)(A)~~ of this section, the council shall calculate the net present value of the enhanced or forgone statewide education tax revenues, reflecting both direct and indirect economic activity. If the council approves an incentive pursuant to this section, the net fiscal costs, if any, to the state shall be counted as if all those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the annual authorization for such approvals established by the legislature for the applicable calendar year.

(2) In determining the projected net fiscal benefit or cost of the incentives considered under ~~subdivision (b)(3)~~ (b)(1)(B) of this section, the council shall calculate the net present value of the enhanced or forgone state tax revenues attributable to the incentives, reflecting both direct and indirect economic activity over the five-year award period. If the council approves an incentive, the net fiscal costs, if any, to the state shall be counted as if all of those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the council's annual authorization for approval of economic incentives as established by the legislature for the applicable calendar year.

(e) Only a business may apply for approval under subdivision ~~(b)(3)~~ (b)(1)(B) of this section. A municipality and a business must apply jointly for approval of a tax stabilization agreement pursuant to ~~subdivisions~~ subdivision ~~(b)(1) and (2)(A)~~ of this section.

* * *

Sec. 15. 32 V.S.A. § 5930b(f) is amended to read:

(f) The property of a business whose authority to earn, apply or retain incentives under this section has been revoked is ineligible for property tax stabilization under subdivision 5404a(a)(2) of this title ~~or allocation of property tax value under subsection 5404a(e) of this title for any education property tax grand list~~ after the date of revocation.

* * * Capitalization on Federal Stimulus Funding for Smart Grid,
Additional State Energy Grants, and Rural Electrification Grants * * *

Sec. 16. FEDERAL FUNDING FOR SMART GRID AND ENERGY
GRANTS; STATE COLLABORATION

It is the intent of the legislature that the department of public service, Vermont utilities, and other interested parties work collaboratively to ensure that Vermont capitalizes on all available funding allocated for research, workforce development, and projects relating to energy efficiency and electric generation, transmission, and distribution under Titles I and IV of Division A of the American Recovery and Reinvestment Act of 2009. Accordingly, to ensure that Vermont accesses and utilizes federal resources under the ARRA to the fullest extent possible:

(1) The department of public service shall investigate and pursue the opportunities for funding of electricity delivery and energy reliability research and projects to implement smart grid technologies, activities, and workforce training made available under Title IV of the ARRA.

(2) The department of public service shall generate a list of projects that are eligible for federal loan and grant funding available from the United States Departments of Agriculture and of Energy under the ARRA, identify the source of the grant funding, and identify the necessary steps for securing grant funds. The department shall work collaboratively with private utilities, additional government entities as necessary and appropriate, and other interested persons to design and submit grant applications that best position the state to capitalize on available funds.

(3) The governor, the department of public service, the public service board, and relevant state and local governmental entities shall take any and all steps necessary to implement the measures required under section 410 of the American Recovery and Reinvestment Act of 2009 to ensure that Vermont will receive the maximum amount of additional state energy grants available from the United States Department of Energy under part D of Title III of the Energy Policy and Conservation Act.

* * * Legislative Priorities: ARRA Funds * * *

Sec. 17. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

(a) With respect to federal monies potentially available to the state of Vermont as competitive funds under the ARRA, the general assembly establishes the following priorities as outlined in this section.

(b) Burlington International Airport (BTV). The general assembly recognizes the importance of maintaining and upgrading the programs and facilities at BTV, Vermont's primary commercial airport. BTV has an estimated economic impact of over one-half billion dollars annually. The general assembly finds that the development of the following list of planned airport projects is a legislative priority:

(1) A new aviation technical center facility.

(2) A new customs border protection office.

(3) The following three south-end taxiway projects:

(A) Completion of taxiway K connection from the new general aviation apron to the end of runway 33;

(B) Rehabilitation of portions of taxiways C and G and construction of a new intersection; and

(C) Completion of a parallel taxiway G from existing taxiway C to runway 1-19.

(4) The building of a green roof on the parking structure.

(c) Agriculture. Agriculture is one of the major drivers of the state's economy. For that reason, the general assembly recognizes the crucial role of agriculture in the state of Vermont and expresses the following priorities for federal funding that may become available through ARRA:

(1) The agency of agriculture, food and markets, Vermont agricultural credit corporation, and the Vermont housing and conservation board's farm viability program shall cooperate in seeking ARRA funding from the USDA Farm Service Agency, the USDA Rural Development Program, and other appropriate federal programs and shall prioritize applications for federal stimulus funding based on the goals established in this act. The agency shall further work to educate relevant entities about funding opportunities, provide technical application assistance to priority applicants, and develop a single, common application to be used by applicants for agency funding.

(2) The following are specific agriculture priorities and include the state entities to which funding for these priorities should be directed:

(A) Stabilization of spring planting with loans through the Vermont agricultural credit corporation and the Vermont economic development authority.

(B) Support for in-state slaughter and processing facilities through grants and technical assistance from the agency of agriculture, food and markets.

(C) Funding for regional food hubs and dairy transition through the Vermont housing and conservation board farm viability program and support for the Vermont farm-to-plate investment program, established by Sec. 35 of this act, through the Vermont sustainable jobs fund.

(D) Environmental protection and energy conservation, including power modernization and methane digesters through grants and technical assistance from the agency of agriculture, food and markets.

(d) Municipal communications services. Since passage of an act relating to establishing the Vermont telecommunications authority and to advancing broadband and wireless communications infrastructure throughout the state of Vermont, No. 79 of the Acts of 2007, many Vermont towns and cities have affiliated themselves to promote, sponsor, develop, and provide a range of communications services to their respective inhabitants, governments, schools, and businesses. Through local volunteer initiatives, resources have been collected and directed toward the design, construction, operation, and management of publicly owned communications plants, with minimal dependency on the resources, finances, and credit of the state of Vermont. Access to various forms of public and private credit enhancement will assist towns and cities in further developing and constructing communications plant improvements through lower capital interest and financing costs. Under the ARRA, financial resources may be made available to the state that are suitable for application in assisting unserved municipalities in their communications goals. With respect to these local efforts and the federal stimulus monies, the general assembly establishes the following priorities:

(1)(A) The North-link project launched by Northern Enterprises, Inc. in 2007.

(B) The broadband initiative of East Central Vermont Community Fiber.

(C) Replacement of the Burke Mountain power line owned and operated by Vermont Public Television.

(2) To the extent possible, allocation of ARRA initiatives available to Vermont shall include direct and indirect credit enhancement assistance to

unserved municipalities seeking capital to fund communications plant improvements.

(3) The development, promotion, construction, and operation of public communications plants in unserved areas is declared to be in the best interest of Vermont and an infrastructure priority among capital improvements eligible to receive benefits under the ARRA.

Sec. 18. SBA LOAN PROGRAMS; STIMULUS PROGRAMS

(a) Significant changes have been made to the Small Business Association (SBA) loan programs pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5. These changes create an opportune time for Vermont entrepreneurs seeking to start, expand, or acquire a small business. Time is of the essence, however, because the new opportunities created by ARRA will sunset at the end of 2009.

(b) The commissioner of economic development, in cooperation with the director of the Vermont district office of the United States SBA, shall work with small business lending companies such as the Vermont economic development authority, the Vermont small business development center, the Vermont bankers association, and the association of Vermont credit unions, to promote favorable SBA-loan program changes among potential borrowers.

(c) Some of the SBA-loan program changes under ARRA include a one-time opportunity at very low risk to lenders (90 percent guaranty) and very low cost for small businesses (no guarantee fee, prime at a low of 3.25 percent) to access lines of credit, contract financing (such as government contracts with the agency of transportation), export financing, and long-term fixed-asset financing of real estate and equipment.

Sec. 19. VIRTUALIZED INFORMATION TECHNOLOGY

INFRASTRUCTURE; STUDY

(a) The legislative director of information technology and the commissioner of the department of information and innovation shall issue a request for proposals no later than July 1, 2009 to evaluate the viability of cloud computing and other virtualized infrastructure options for the state's information technology infrastructure as it pertains to the use of e-mail, spreadsheets, word processing, and calendars in the legislative, executive, and judicial branches of government. Evaluations shall consider the following:

- (1) Current service level and scalability to future service needs;
- (2) Physical and virtual data security and recovery;

(3) Potential for savings in software licensing and hardware investment in both the near and long term;

(4) Opportunities for improved systems performance and capacity;

(5) Specific vendors and relevant vendor policies; and

(6) Potential for legal and regulatory obstacles.

(b) The legislative director of information technology and the commissioner of the department of information and innovation shall submit the proposals to the legislative information technology committee established under chapter 22 of Title 2 on or before January 15, 2010. The director and the commissioner are respectively authorized to implement virtualized information technology.

(c) This section supersedes any similar cloud-computing proposal in H.441 (2009).

Sec. 20. INITIATIVE TO BUILD A MEDIA AND FILM INDUSTRY IN

VERMONT

(a)(1) Given its unique blend of creative, cultural, and educational resources, Vermont currently has an opportunity to become a destination for a new media and film industry.

(2) Vermont is home to authors, filmmakers, producers, and young people concentrating their educational and professional development in the emerging fields of communications, multi-media and film production, graphic and digital design, and performing arts.

(3) Vermont's natural and seasonal beauty and the charm and character of its towns and regions equals or surpasses other potential destinations for the media and film industry, and these strengths position Vermont as an ideal location for filming and producing movies, television, commercials, and other media.

(4) Vermont is home to at least seven institutions of higher education that provide one or more degrees or certificate programs in media or film sectors, including Burlington College's cinema studies and film production program; Champlain College's communications and creative media division; the University of Vermont's film and television studies program; Marlboro College's undergraduate programs in media, visual, and performing arts; Bennington College's Visual Arts program; Johnson State's Fine and Performing Arts programs; and Castleton State College's concentrations in communications, mass media, and digital media.

(b) Considering these substantial resources, it is the intent of the general assembly to encourage and promote the development of a strong and dynamic media and film sector within Vermont's creative economy.

(c) The Vermont film corporation, in collaboration with the Vermont film and media coalition and, to the extent possible, the faculty and students of Burlington College, Champlain College, the University of Vermont, Marlboro College, Bennington College, Johnson State, and Castleton State College, shall propose a program to develop a media and film sector within Vermont's economy. The corporation should consider the most beneficial role the state can play in supporting the media and film sector, and should consider grants, public-private partnerships, and other appropriate financing mechanisms in order to promote this sector of the creative economy and to retain young Vermonters currently supported by the communications, film, and media programs at Vermont colleges and universities.

(d) On or before January 30, 2010, the corporation is invited to deliver a presentation of its program proposal to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

* * * ARRA: Schools: Tax Credit Bond Financing * * *

Sec. 21. 16 V.S.A. chapter 125, subchapter 5 is added to read:

Subchapter 5. Tax-Credit Bond Financing

§ 3597. TAX-CREDIT BOND FINANCING; QUALIFIED SCHOOL

ACADEMY ZONES; QUALIFIED SCHOOL CONSTRUCTION
BONDS

The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, expanded existing and created new tax-credit bond programs available to public schools. Accordingly, school districts are authorized to issue bonds to finance public school building construction and rehabilitation, the purchase of equipment, the development of course materials, and teacher and personnel training, consistent with sections 1397E and 54F of the Internal Revenue Code, pertaining to qualified school academy zones and qualified school construction bonds.

*** School Construction: ARRA Funds ***

Sec. 22. Sec. 45(b) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(b)(1) Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, if a school district declares its intent to pay for the cost of a school construction project without state aid provided pursuant to chapter 123 of Title 16 and has received voter approval for the project on or after March 7, 2007, then the commissioner of education shall review the project as a preliminary application upon the district's request. In this case, the commissioner shall use the standards and processes of chapter 123 for determining preliminary approval, and shall deduct the portion of education spending that is approved from the calculation of excess spending under 32 V.S.A. § 5401(12). Preliminary approval received pursuant to this subsection is to be used solely for purposes of:

(A) calculating whether the district has exceeded the excess spending threshold ~~and neither; or~~

(B) enabling the district to proceed with a project using funds other than those provided under chapter 123 of Title 16, or both.

(2) Neither preliminary approval nor the provision of technical assistance indicates that the district will receive state aid for school construction or preliminary approval for that aid when school construction aid is again available. Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, upon the request of the district, the department shall provide technical assistance regarding the planning and implementation of school renovation and construction.

*** Microbusiness and Entrepreneurship ***

Sec. 23. MICROBUSINESS; ARRA FUNDS

It is the intent of the general assembly to enhance the individual development account program and the microbusiness development program currently administered by the office of economic opportunity using funds available through federal allocations and competitive grants available under Title VIII of the ARRA.

Sec. 24. ECONOMIC OPPORTUNITY STUDIES AND COLLABORATION

The office of economic opportunity and a designee of the community action agency directors' association shall conduct a joint study of possible tools to promote the success of individual development accounts and the microbusiness development program. The study shall evaluate:

(1) Innovative microenterprise development funding models to identify ways to fill existing gaps in start-up capital.

(2) A guarantee program or interest buy-down program that encourages private banks to make longer-term, lower-interest fixed rate loans to Community Development Financial Institutions (CDFIs).

(3) A tax credit to businesses and individuals that donate funds to microenterprise development programs or IDA matched savings and financial education programs, under which the department of economic development would administer tax credits totaling 75 percent of the value of each donation to recognized qualified organizations with an annual statewide maximum for tax credits of \$500,000.00 for contributions.

(4) A policy for collaboration with the Vermont treasurer's office to utilize financial education funding for credit counseling and education.

(5) The feasibility of a first-year tax credit to microenterprises, and a credit or grant to self-employed persons for first-time employee hiring to ease the workers' compensation burden.

(6) The most effective strategy to link the department of education with other public and private efforts to develop and support microbusiness.

(7) The most effective means for reporting to the house committee on commerce and economic development, the house committee on human services, and other committees as appropriate, to ensure sufficient oversight by the legislature over whether funding is serving low income Vermonters and meeting stated economic development and human service goals.

* * * Entrepreneurs' Seed Capital Fund * * *

Sec. 25. 10 V.S.A. chapter 14A is amended to read:

CHAPTER 14A. THE VERMONT ENTREPRENEURS'

SEED CAPITAL FUND

§ 290. DEFINITIONS

For purposes of this chapter:

(1) "Follow-on investment" means any investment in a Vermont firm following the initial investment.

(2) "Fund manager" means the investment management firm responsible for creating the fund, securing capital commitments, and implementing the fund's investment strategy, consistent with the requirements of this section. The fund manager shall be paid a fee which reflects a percentage of the fund's

capital under management and a performance-fee share based on the fund's economic performance, as determined by the authority.

(3) "Seed capital" means first, nonfamily, nonfounder investment in the form of equity or convertible securities issued by a firm which had, in the 12 months preceding the date of the funding commitment, annual gross sales of less than \$3,000,000.00.

§ 291. VERMONT ENTREPRENEURS' SEED CAPITAL FUND;

AUTHORIZATION; LIMITATIONS

(a) The Vermont economic development authority shall cause to be formed a private investment equity fund to be named "the ~~Vermont~~ entrepreneurs' seed capital fund" or "the fund" ~~is authorized~~ for the purpose of increasing the amount of investment capital provided to new Vermont firms or to existing Vermont firms for the purpose of expansion. The authority may contract with one or more persons for the operation of the fund as fund manager. Such contract shall contain the terms and conditions pursuant to which the fund shall be managed to meet the fund's objective of providing seed capital to Vermont firms. The terms of the contract shall require that, if the fund manager does not meet the investment criteria specified in the contract, the fund manager may not be awarded the performance fee established under subdivision (c)(2) of this section.

(b) ~~The Vermont seed capital fund shall be formed as either a business corporation or a limited partnership pursuant to Title 11 and shall be subject to all the following:~~

~~(1) The Vermont seed capital fund shall not invest in any firm in which a total of more than a 25 percent any interest in that firm is held by an investor of the Vermont seed capital fund combined with any interest held in the firm or by the spouse or dependent, children, or other relative of the investor.~~

~~(2) The fund shall invest at least 40 percent of its total capital in initial investment in firms which had in the 12 months preceding the date of the funding commitment annual gross sales of less than \$1,000,000.00 and may reserve the remainder of its capital for follow-on investments in these businesses, as appropriate.~~

~~(3) Before the fund makes any investments, the fund shall:~~

~~(A) If organized as a corporation, have and thereafter maintain a board of nine directors to be elected by the shareholders.~~

~~(B) If organized as a partnership, have and maintain a board of three five advisors who shall be appointed by the authority as follows: two shall be~~

appointed by the authority, two shall be appointed by the fund manager, and one shall be appointed jointly by the authority and the fund manager. The board of advisors shall represent solely the economic interest of the state with respect to the management of the fund and shall have no civil liability for the financial performance of the fund. The board of advisors shall be advised of investments made by the fund and shall have access to all information held by the fund with respect to investments made by the fund.

~~(3)(4)~~ The ~~Vermont seed capital~~ fund, within 120 days after the close of each fiscal year of its operations, shall issue a report that includes an audited financial statement certified by an independent certified public accountant. The report also shall include a compilation of the firm data required by subsection (d) of this section. These data shall be reported in a manner that does not disclose competitive or proprietary information, as determined by the authority. This report shall be distributed to the governor and the ~~legislative council~~ senate committee on economic development, housing and general affairs and the house committee on commerce and economic development and made available to the public. The report shall include a discussion of the fund's impact on the Vermont economy and employment.

~~(4)(5)~~ The ~~Vermont seed capital~~ fund shall not make distributions of more than 75 percent of its net profit to its investors during its first five years of operation.

~~(5)(6)~~ No person shall be allocated more than ~~40~~ 20 percent of the available tax credits. For the purposes of determining allocation, the attribution rules of Section 318 of the Internal Revenue Code in effect as of the effective date of this chapter shall apply.

~~(6)(7)~~ The capitalization of the fund is not limited under this section; however, only the first \$5 \$7,150,000.00 of capitalization of the Vermont seed capital fund raised from Vermont taxpayers on or before January 1, 2014 ~~2020~~, shall be eligible for partial tax credits as specified in 32 V.S.A. § 5830b.

~~(7)(8)~~ All investments and related business dealings using funds that qualify for partial tax credits under 32 V.S.A. § 5830b shall be subject to the following restrictions:

(A) The investments shall be restricted to Vermont firms, which for the purposes of this chapter means that their Vermont apportionment equals or exceeds 50 percent, using the apportionment rules under 32 V.S.A. § 5833, and they maintain headquarters and a principal facility in Vermont. Any funds invested in Vermont firms shall be used for the purpose of enhancing their Vermont investments operations. Investment shall be restricted to firms that export the majority of their products and services outside the state or add

substantial value to products and materials within the state. In its investments, the fund shall give priority to new firms and existing firms that are developing new products, and shall take into consideration any impact on in-state competition and also whether the investment will encourage economic activity that would not occur but for the fund investment.

(B) Each ~~Vermont seed capital~~ fund investment in any one firm, in any 12-month period shall be limited to a maximum of ten percent of the ~~Vermont seed capital~~ fund's capitalization and, for the life of the fund, to a maximum of 20 percent of the fund's total capitalization.

(C) At least two-thirds of the monies invested by the ~~Vermont seed capital~~ fund and qualifying for a tax credit under 32 V.S.A. § 5830b shall at all times be invested in the form of equity or convertible securities. —This provision shall not prohibit unless the fund manager determines it is reasonable and necessary to pursue temporarily the generally accepted business practice of earning interest on working funds deposited in relatively secure accounts such as savings and money market funds.

(c) Any firm receiving monies from the fund must report to the fund manager the following information regarding its activities in the state over the calendar year in which the investment occurred:

(1) The total amount of private investment received.

(2) The total number of persons employed as of December 31.

(3) The total number of jobs created and retained, which also shall indicate for each job the corresponding job classification, hourly wage and benefits, and whether it is part-time or full-time.

(4) Total annual payroll.

(5) Total sales revenue.

(d) The authority, in consultation with the fund manager, shall establish reasonable standards and procedures for evaluating potential recipients of fund monies. The authority shall make available to the general public a report of all firms that receive fund investments and also indicate the date of the investment, the amount of the investment, and a description of the firm's intended use of the investment. This report shall be updated at least quarterly.

(e) Information and materials submitted by a business receiving monies from the fund shall be available to the auditor of accounts in connection with the performance of duties under 32 V.S.A. § 163; provided, however, that the auditor of accounts shall not disclose, directly or indirectly, to any person any proprietary business information.

Sec. 26. REPEAL

10 V.S.A. § 292 (providing for the initial organization of the Vermont seed capital fund) is repealed.

Sec. 27. 32 V.S.A. § 5830b is amended to read:

§ 5830b. TAX CREDITS; ~~VERMONT~~ ENTREPRENEURS' SEED
CAPITAL FUND

(a) The initial capitalization of the ~~Vermont entrepreneurs'~~ seed capital fund ~~comprising a maximum \$5 million, as established in 10 V.S.A. § 291, up to \$7,150,000.00~~ raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020, shall entitle those taxpayers to a credit against the tax imposed by sections 5822, 5832, 5836, or 8551 of this title and by 8 V.S.A. § 6014. The credit may be claimed for the taxable year in which a contribution is made and each of the four succeeding taxable years. The amount of the credit for each year shall be the lesser of four percent of the taxpayer's contribution or 50 percent of the taxpayer's tax liability for that taxable year prior to the allowance of this credit; provided, however, that in no event shall the aggregate credit allowable under this section for all taxable years exceed 20 percent of the taxpayer's contribution to the initial ~~\$5 million~~ \$7,150,000.00 capitalization of the ~~Vermont seed capital~~ fund. The credit shall be nontransferable except as provided in subsection (b) of this section.

(b) If the taxpayer disposes of an interest in the ~~Vermont seed capital~~ fund within four years after the date on which the taxpayer acquired that interest, any unused credit attributable to the disposed-of interest is disallowed. This disallowance does not apply in the event of an involuntary transfer of the interest, including a transfer at death to any heir, devisee, legatee, or trustee, or in the event of a transfer without consideration to or in trust for the benefit of the taxpayer or one or more persons related to the taxpayer as spouse, descendant, parent, grandparent, or child.

* * * Technology Loan Program * * *

Sec. 28. 10 V.S.A. chapter 12, subchapter 12 is added to read:

Subchapter 12. Technology Loan Program

§ 280aa. FINDINGS AND PURPOSE

(a) Technology-based companies are a vital source of innovation, employment, and economic growth in Vermont. The continued development and success of this increasingly important sector of Vermont's economy is dependent upon the availability of flexible, risk-based capital. Because the

primary assets of technology-based companies sometimes consist almost entirely of intellectual property, such companies frequently do not have access to conventional means of raising capital, such as asset-based bank financing.

(b) To support the growth of technology-based companies and the resultant creation of high-wage employment in Vermont, a technology loan program is established under this subchapter.

§ 280bb. TECHNOLOGY LOAN PROGRAM

There is created a technology (TECH) loan program to be administered by the Vermont economic development authority. The program shall seek to meet the working capital and capital-asset financing needs of technology-based companies. The Vermont economic development authority shall establish such policies and procedures for the program as are necessary to carry out the purposes of this subchapter. The authority's lending criteria shall include consideration of in-state competition and whether a company has made reasonable efforts to secure capital in the private sector.

* * * Downtown and Village Center Tax Credits * * *

Sec. 29. 32 V.S.A. § 5930ee is amended as follows:

§ 5930ee. LIMITATIONS

Beginning in fiscal year ~~2008~~ 2010 and thereafter, the state board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) The total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~\$1,600,000.00~~ \$1,700,000.00.

* * *

* * * Licensed Lender Study * * *

Sec. 30. STUDY ON THE APPLICATION OF VERMONT'S LICENSED-LENDER REQUIREMENTS TO CERTAIN COMMERCIAL LENDING PRACTICES

(a) The commissioner of banking, insurance, securities, and health care administration shall convene a work group to recommend amendments to Vermont's licensed-lender laws, chapter 73 of Title 8, for the purpose of facilitating limited instances of high-risk, secured commercial lending by specialized persons such as venture capital firms, individuals, and partnerships. The work group shall consider proposals such as a limited exemption or an

expedited registration process that permits capital investments in and secure commercial loans to technology firms, in a responsible manner.

(b) Members of the work group shall include representatives from the Vermont Bankers Association, the Vermont Bar Association, the department of economic development, the Vermont economic development authority, and the entrepreneurial industry sector of Vermont.

(c) The commissioner shall report the work group's recommendations to the senate committees on economic development, housing and general affairs and on finance and the house committee on commerce and economic development no later than January 1, 2010.

* * * Minimum Wage * * *

Sec. 31. 21 V.S.A. § 384 is amended to read:

§ 384. ~~PROHIBITION OF EMPLOYMENT; WAGES~~

(a) An employer shall not employ an employee at a rate of less than \$7.25, and, beginning January 1, 2007, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than \$3.65 an hour, and beginning January 1, 2008, and on each January 1 thereafter, this basic tip wage rate shall be increased at the same percentage rate as the minimum wage rate. For the purposes of this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the United States government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the United States government.

(b) Notwithstanding subsection (a) of this section, an employer shall not pay an employee less than one and one-half times the regular wage rate for any work done by the employee in excess of 40 hours during a workweek. However, this subsection shall not apply to:

(1) Employees of any retail or service establishment. A "retail or service establishment" means an establishment 75 percent of whose annual

volume of sales of goods or services, or of both, is not for resale and is recognized as retail sales or services in the particular industry.

(2) Employees of an establishment which is an amusement or recreational establishment, if:

(A) it does not operate for more than seven months in any calendar year, or

(B) during the preceding calendar year its average receipts for any six months of that year were not more than one-third of its average receipts for the other six months of the year.

(3) Employees of an establishment which is a hotel, motel, or restaurant.

(4) Employees of hospitals, public health centers, nursing homes, maternity homes, therapeutic community residences, and residential care homes as those terms are defined in Title 18, provided:

(A) the employer pays the employee on a biweekly basis; and

(B) the employer files an election to be governed by this section with the commissioner; and

(C) the employee receives not less than one and one-half times the regular wage rate for any work done by the employee:

(i) in excess of eight hours for any workday; or

(ii) in excess of 80 hours for any biweekly period.

(5) Those employees of a business engaged in the transportation of persons or property to whom the overtime provisions of the Federal Fair Labor Standards Act do not apply, but shall apply to all other employees of such businesses.

(6) Those employees of a political subdivision of this state.

(7) State employees, who ~~shall be~~ are covered by the U.S. Federal Fair Labor Standards Act.

(c) However, an employer may deduct from the rates required in subsections (a) and (b) of this section the amounts for board, lodging, apparel, rent, or utilities paid or furnished or other items or services or such other conditions or circumstances as may be usual in a particular employer-employee relationship, including gratuities as determined by the wage order made under this subchapter.

* * * State Contracts: Compliance with State and Federal Laws * * *

Sec. 32. WORKERS' COMPENSATION; STATE CONTRACTS;

COMPLIANCE WITH DAVIS-BACON

(a) The agencies of administration and transportation shall establish procedures to assure that state contracting procedures and contracts are designed to minimize the incidents of miscoding of employees in NCCI job codes and misclassification of the status of workers as independent contractors rather than employees by state contractors on projects with a total project cost of more than \$250,000.00 by requiring those contractors to provide, at a minimum, all the following:

(1) Detailed information including information relating to past violations, convictions, suspensions, and any other information related to past performance and likely compliance with proper coding and classification of employees requested by the applicable agency. This information shall be included with the project bid.

(2) A list of subcontractors on the job along with lists of the subcontractor's subcontractors and by whom those subcontractors are insured for workers' compensation purposes. For purposes of this subsection and subdivision (3) of this subsection, subcontractors do not include entities that provide supplies only and no labor to the overall contract or project.

(3) For construction and transportation projects over \$250,000.00, a payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information and similar information for the subcontractors regarding their subcontractors shall also be provided to the department of labor and to the department of banking, insurance, securities, and health care administration, upon request.

(4) For all other state contracts not otherwise covered under subdivision (3) of this subsection, the information required under subdivision (3) shall only be required upon request of the agencies or departments.

(5) Any contract provisions or procedures designed to minimize instances of misclassification through enhanced reporting and greater transparency may be flexibly designed to account for the size of the contract, contractor, and subcontractor.

(b) The agencies shall require by rule or by procedure that any contractor that violates classification requirements shall be prohibited or restricted from

bidding on future state contracts for a period of time that corresponds to the seriousness of the classification violation. The rules or procedures shall also provide for an appeal process from any such prohibition or restriction consistent with existing law.

(c) The agencies shall assure that any state contract funded in whole or in part with American Recovery and Reinvestment Act of 2009 (ARRA) monies shall comply with the payment of Davis-Bacon wages when required by ARRA. However, in the event the applicable Davis-Bacon wages in any county have not been updated in the previous three years, the minimum state required wage for a state contract subject to Davis-Bacon wages under ARRA shall be that of the Vermont county that has most recently updated its applicable Davis-Bacon wages, provided this provision does not result in the loss of ARRA funds and is not otherwise contrary to federal law.

Sec. 33. ARRA AND UNEMPLOYMENT INSURANCE

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, authorizes the federal government to transfer up to \$13,918,000.00 into Vermont's unemployment insurance (UI) trust fund for UI modernization incentive payments.

(b) Vermont already qualifies for one-third of its allotted incentive payments because the state allows for the use of an alternative base period in determining UI eligibility. In order to qualify for the remaining two-thirds of its allotted incentive payments, Vermont's UI program must meet two of four expanded-coverage requirements.

(c) The state already meets one expanded-coverage requirement: namely, coverage of part-time workers. It is the intent of the general assembly to adopt one additional expanded-coverage requirement, namely the training program specified in Sec. 34 of this act, and to apply to the secretary of the United States Department of Labor for certification of UI modernization so that the state may receive its remaining allotment of incentive payments.

Sec. 34. 21 V.S.A. § 1423b is added to read:

§ 1423b. EXTENDED BENEFITS; APPROVED TRAINING PROGRAMS

(a) An individual who is otherwise eligible for benefits under this chapter, but who has exhausted his or her maximum benefit amount under section 1340 of this chapter shall be entitled to an additional 26 weeks of benefits in the same amount as the weekly benefit amount established in the individual's most recent benefit year if the individual is enrolled in and making satisfactory progress in a state-approved training program as defined in subsection (b) of this section.

(b) A state-approved training program is any training program or job training program that meets all of the following criteria:

(1) It is authorized by the Workforce Investment Act of 1998, Pub. L. No. 105-220.

(2) It is designed to assist individuals who have been separated from a declining occupation or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment.

(3) It is designed to train the individual for entry into a high-demand occupation.

Sec. 35. 10 V.S.A. § 330 is added to read:

§ 330. THE FARM-TO-PLATE INVESTMENT PROGRAM; CREATION;
GOALS; TASKS; METHODS

(a) Creation.

(1) The sustainable jobs fund program in consultation with the Vermont sustainable agriculture council shall establish the Vermont farm-to-plate investment program to fulfill the goals and carry out the tasks described in this section.

(2) If at least \$100,000.00 in funding is not made available for the purpose of this section, the sustainable jobs fund program is encouraged but no longer required to fulfill the provisions of this section.

(b) Goals. The goals of the farm-to-plate investment program are to:

(1) Increase economic development in Vermont's food and farm sector.

(2) Create jobs in the food and farm economy.

(3) Improve access to healthy local foods.

(c) Tasks.

(1) By June 30, 2010, the Vermont farm-to-plate investment program shall create a strategic plan for agricultural economic development, which may be periodically reviewed and updated, based upon the following:

(A) Inventory Vermont's food system infrastructure by gathering existing data, studies, and analysis about the components of Vermont's food system, including:

(i) The types of foods produced in Vermont, the number of producers of each type of food, the amount of each type of food produced, and the financial viability of each food-producing sector.

(ii) The types of food processors in Vermont, how much food produced in Vermont is purchased by Vermont processors, and the financial viability of the food processing sector in Vermont.

(iii) The current and potential markets in which Vermont food producers and processors can sell their products.

(iv) The extent of existing agricultural lands that could be expanded and the resources available to expand Vermont's food production.

(v) The potential for new farmers and food processors to enter the local food economy, the methods for new farmers to acquire land and other farm infrastructure, and the availability and barriers to farm and processing labor.

(vi) The potential for entirely new local products and the barriers to farmers and processors entering new markets.

(B) Identify gaps in the infrastructure and distribution systems and identify ways to address these gaps.

(2) The Vermont farm-to-plate investment program shall seek grant funding to support farm-to-table direct marketing, including farmers' markets and community-supported agriculture operations and to support regional community food hubs.

(3) As an ongoing task, the farm-to-plate investment program shall use the information gathered for the strategic plan to identify methods and the funding necessary to strengthen the links among producers, processors, and markets, including:

(A) Support of the work of existing farm-to-school programs to increase the purchase of local foods by Vermont schools, with a particular emphasis on procurement of nutrient-dense animal foods.

(B) Collaborating with the agency of agriculture, food and markets and the department of buildings and general services to increase procurement of local foods in accordance with 6 V.S.A. § 4601.

(C) Collaborating with the agency of agriculture, food and markets and the sustainable agriculture council to increase procurement of local foods by businesses and institutions.

(D) Supporting initiatives that improve direct marketing of foods from the farm to the consumer.

(E) Informing agricultural lenders of the information collected under subdivision (c)(1) of this subsection in order to facilitate availability of agricultural financing.

(d) Methods. To accomplish the goals and carry out the ongoing tasks stated in this section, the Vermont farm-to-plate investment program may:

(1) Create an advisory panel with representatives from the agricultural and business communities.

(2) Hire or assign staff.

(3) Seek and accept funds from private and public entities.

(4) Utilize technical assistance, loans, grants, or other means approved by the board.

(e) In fiscal year 2010, the amount of \$100,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to be used solely for the farm-to-plate investment program established under this section.

Sec. 36. 10 V.S.A. § 329 is amended to read:

§ 329. ANNUAL REPORT

Prior to January 31 of each year, the corporation formed under section 328 of this title shall submit a report concerning its activities to the governor and the legislative committees on commerce, general affairs, natural resources, ways and means, finance, institutions, and appropriations. The report shall include the following information:

* * *

(5) A summary of work completed in the farm-to-plate investment program, including progress toward meeting the program goals, information regarding any advisory panel meetings, an accounting of all revenues and expenses related to the program, and recommendations regarding future program activity. The report shall also include information regarding the status of state government procurement of local foods.

* * * Municipal Full Faith and Credit for Bonds * * *

Sec. 37. 24 V.S.A. § 1898(b) is amended to read:

(b) A municipality shall have power to issue from time to time general obligation and bonds, revenue bonds ~~from time to time~~, or revenue bonds also backed by the municipality's full faith and credit in its discretion to finance the undertaking of any improvements wholly or partly within such district. If revenue bonds are issued, such bonds shall be made payable, as to both principal and interest, solely from the income proceeds, revenues, tax increments and funds of the municipality derived from, or held in connection with its undertaking and carrying out of improvements under this chapter. So long as any such bonds of a municipality are outstanding the local governing body may deduct, in any one or more years from any net increase in the aggregate taxable valuation of land and improvements in all areas covered by their district the amount necessary to produce tax revenues equal to the current debt service on such bonds, assuming the previous year's total tax rate and full collection. Only the balance, if any, of such net increase shall be taken into account in computing the sums which may be appropriated for other purposes under applicable tax rate limits. But all the taxable property in all areas covered by the district, including the whole of such net increase, shall be subject to the same total tax rate as other taxable property, except as may be otherwise provided by law. Such net increase shall be computed each year by subtracting, from the current aggregate valuation of the land and improvements in all areas covered by the district, the sum of the aggregate valuations of land and improvements in each such area on the date the district was approved under this section. An area shall be deemed to be covered as a district until the date all the indebtedness incurred by the municipality to finance the applicable improvements have been paid. Notwithstanding any provisions in this chapter to the contrary, any provision of a municipal charter of any municipality which specifies a different debt limit, or which requires a greater vote to authorize bonds, or which prescribes a different computation of appropriations under tax rate limits, or which is otherwise inconsistent with this subsection, shall apply.

Sec. 38. SMALL-SCALE HYDROELECTRIC; FINDINGS

The general assembly finds and declares that:

(1) The generation of renewable power within Vermont is critical to the economic development, energy independence, and financial security of the state.

(2) Section 401 of the federal Clean Water Act, 33 U.S.C. § 1341, requires any applicant for a federal permit that may involve a discharge to navigable waters to obtain certification from the state that the permitted activity does not violate the state's water quality standards.

(3) As set forth in 10 V.S.A. § 1004, the secretary of natural resources is

the agent that the U.S. Environmental Protection Agency delegated to conduct Clean Water Act § 401 certifications in the state of Vermont.

(4) The secretary of natural resources should be required to adopt procedures establishing an application process for certification of hydroelectric projects in a timely manner that allows for the predictable and affordable development of small-scale hydroelectric power projects.

Sec. 39. 10 V.S.A. § 1006 is added to read:

§ 1006. CERTIFICATION OF HYDROELECTRIC PROJECTS;

APPLICATION PROCESS

(a) As used in this section:

(1) "Bypass reach" means that area in a waterway between the initial point where water has been diverted through turbines or other mechanical means for the purpose of water-powered generation of electricity and the point at which water is released into the waterway below the turbines or other mechanical means of electricity generation.

(2) "Conduit" means any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar constructed water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(3) "Hydroelectric project" means a facility, site, or conduit planned or operated for the generation of water-powered electricity that has a generation capacity of no more than 1 megawatt and does not create a new impoundment.

(4) "Impoundment" means "riverine impoundment" as defined in the Vermont water quality standards adopted pursuant to chapter 47 and section 6025(d)(3) of this title.

(b) On or before December 15, 2009, the agency of natural resources, after opportunity for public review and comment, shall adopt by procedure an application process for the certification of hydroelectric projects in Vermont under Section 401 of the federal Clean Water Act.

(c) The application process adopted by the agency of natural resources under subsection (b) of this section may include an application form for a federal Clean Water Act Section 401 certification for a hydroelectric project that meets the requirements of the Vermont water pollution control permit rules. The application form may require information addressing:

(1) a description of the proposed hydroelectric project and the impact of the project on the watershed;

(2) the preliminary terms and conditions that an applicant shall be subject to if a federal Clean Water Act Section 401 certification is issued for a proposed hydroelectric project; and

(3) time frames for the agency of natural resources review of and response to an application for a federal Clean Water Act Section 401 certification of a hydroelectric project.

(d) In adopting the Clean Water Act Section 401 certification application process required by subsection (b) of this section, the agency may, consistent with its authority to waive certifications under 33 U.S.C. § 1341(a)(1), adopt an expedited certification process for:

(1) hydroelectric projects when data provided by an applicant provide reasonable assurance that the project will comply with the state water quality standards;

(2) hydroelectric projects utilizing conduits; hydroelectric projects without a bypass reach; and hydroelectric projects with a de minimis bypass reach, as defined by the agency of natural resources; and

(3) previously certified hydroelectric projects operating in compliance with the terms of a Clean Water Act Section 401 certification as demonstrated by existing administrative, monitoring, reporting, or enforcement data.

Sec. 40. AGENCY OF NATURAL RESOURCES REPORT ON APPLICATION PROCESS FOR CERTIFICATIONS OF HYDROELECTRIC PROJECTS

On or before January 15, 2010, the agency of natural resources shall submit to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, the house committee on fish, wildlife and water resources, and the house and senate committees on natural resources and energy a copy of the application process required under 10 V.S.A. § 1006 for the certification of hydroelectric projects.

Sec. 41. STORMWATER; IMPAIRED WATERS; EXTENSION OF SUNSET

Sec. 10 of No. 140 of the Acts of the 2003 Adj. Sess. (2004), as amended by Sec. 8 of No. 154 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 3 of No. 43 of the Acts of 2007, is further amended to read:

Sec. 10. SUNSET

(a) Sec. 2 of this act (interim permitting authority for regulated stormwater runoff), except for subsection 1264a(e) of Title 10, shall be repealed on

January 15, ~~2010~~ 2012.

(b) Sec. 4 of this act (local communities implementation fund) shall be repealed on September 30, 2012.

(c) Sec. 6 of this act (stormwater discharge permits during transition period) shall be repealed on January 15, ~~2010~~ 2012.

Sec. 42. [Omitted]

Sec. 43. ALTERNATIVE GUIDANCE FOR STORMWATER

PERMITTING; WIND FACILITIES

To facilitate responsible development of renewable energy projects in high-elevation settings, the Vermont department of environmental conservation shall consult with project developers and interested stakeholders and, by January 15, 2010 or in the process currently under way to update the Vermont stormwater management manual, whichever occurs first, amend its rules or the stormwater management manual, pursuant to chapter 25 of Title 3, to include alternative guidance for operational-phase stormwater permitting of renewable energy projects located in high-elevation settings. Such alternative guidance shall include consideration of measures that minimize the extent and footprint of stormwater-treatment practices so as to preserve vegetation and trees and limit disturbances; that reflect the fragile ecosystems, shallow soils, and sensitive streams found in high-elevation settings; and that reflect the temporary nature and infrequent use of construction and access roads to such projects.

* * * Telecommunications Permitting * * *

Sec. 44. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR ~~MULTIPLE~~

COMMUNICATIONS FACILITIES

(a) Notwithstanding any other provision of law, if the applicant ~~in a single application~~ seeks approval for the construction or installation ~~within three years of three or more~~ telecommunications facilities ~~as part of an interconnected network~~ that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

(b) For the purposes of this section:

(1) ~~“Telecommunications facility” means any a communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes and any associated support structure extending more than 50 feet above the ground that is proposed for construction or installation which is primarily for communications purposes and which supports facilities that transmit and receive communications signals for commercial, industrial, municipal, county, or state purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure.~~

(2) ~~Telecommunications facilities are “part of an interconnected network” if those facilities would allow one or more communications services to be provided throughout a contiguous area of coverage created by means of the proposed facilities or by means of the proposed facilities in combination with other facilities already in existence. An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.~~

(c) Before the public service board issues a certificate of public good under this section, it shall find that, ~~in the aggregate:~~

(1) ~~the~~ The proposed facilities facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, with due consideration having been given to the relevant criteria specified in subsection 1424a(d) and subdivisions 6086(a)(1) through (8) and (9)(K) of Title 10; ~~and.~~

(2) ~~unless~~ Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located.

(d) When issuing a certificate of public good under this section, the board shall give due consideration to all conditions in an existing state or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.

(e) No less than 45 days prior to filing a petition for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the secretary of the agency of natural resources; the commissioner of the department of public service and its director for public advocacy; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. Upon motion or otherwise, the public service board shall direct that further public or personal notice be provided if the board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(f) Unless the public service board identifies that an application raises a substantial significant issue, the board shall issue a final determination on an application filed pursuant to this section within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If the board rules that an application raises a substantial significant issue, it shall issue a final determination on an application filed pursuant to this section within 180 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 180 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(g) Nothing in this section shall be construed to prohibit an applicant from executing a letter of intent or entering into a contract before the issuance of a certificate of public good under this section, provided that the obligations under that letter of intent or contract are made subject to compliance with the requirements of this section.

(h) An applicant using the procedures provided in this section shall not be required to obtain a ~~local zoning~~ permit or a permit amendment or other approval under the provisions of chapter 117 of Title 24 or chapter 151 of Title 10 for the facilities subject to the application or to a certificate of public good issued pursuant to this section. Ordinances adopted pursuant to subdivision 2291(19) of Title 24 or a municipal charter that would otherwise apply to the construction or installation of facilities subject to this section are preempted. Disputes over jurisdiction under this section shall be resolved by the public service board, subject to appeal as provided by section 12 of this title. An applicant that has obtained or been denied a permit or permit amendment under the provisions of Title 24 or chapter 151 of Title 10 for the

construction of a telecommunications facility may not apply for approval from the board for the same or substantially the same facility, except that an applicant may seek approval for a modification to such a facility.

(i) Effective July 1, ~~2010~~ 2011, no new applications for certificates of public good under this section may be considered by the board.

(j)(1) Minor applications. The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings required by any provision other than subdivision (2) of this subsection if the board finds that such facilities will be of limited size and scope, and the petition does not raise a significant issue with respect to the substantive criteria of this section. If an applicant requests approval of multiple telecommunications facilities in a single application under this section, the board may issue a certificate of public good in accordance with the provisions of this subsection for all or some of the telecommunications facilities described in the petition.

(2)(A) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition, and provide notice and a copy of the petition, proposed certificate of public good, and proposed findings of fact to the commissioner of the department of public service and its director for public advocacy, the secretary of the agency of natural resources, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. The applicant shall give written notice of the proposed certificate to the landowners of record of property adjoining the project site or sites unless the board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the board within 21 days of the notice on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the board finds that a petition raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

(B) Any waiver or modification of notice to adjoining landowners under this subsection shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such landowners would constitute a significant administrative burden without corresponding public benefit.

(C) If the board accepts a request to consider an application under the procedures of this subsection, then unless the public service board subsequently determines that an application raises a significant issue, the board shall issue a final determination on an application filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 45 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(D) If the board denies a request to consider an application under the procedures of this subsection, a filing made under this subsection that the board has found to be complete shall be deemed to satisfy notice requirements of subsection (e) of this section, and the periods stated under subsection (f) of this section shall run from the date of the board's denial of such request.

(k) The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall seek to simplify the application and review process as appropriate and may by rule or order waive the requirements of this section that the board determines are not applicable to telecommunications facilities of limited size or scope. Determination by the board that a petition raises a substantial issue with regard to one or more substantive criteria of this section shall not prevent the board from waiving other substantive criteria that it has determined are not applicable to such a telecommunications facility.

Sec. 45. 24 V.S.A. § 4412(8)(C) is amended to read:

(C) The regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal ~~bylaw~~ review approval under this chapter when and to the extent jurisdiction is assumed by the public service board according to the provisions of that section.

Sec. 46. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

* * *

(l) A district commission may reject an application under this chapter that misrepresents any material fact and may after notice and opportunity for hearing award reasonable attorney's fees and costs to any party or person who

may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 47. 24 V.S.A. § 4455 is added to read:

§ 4455. REVOCATION

On petition by the municipality and after notice and opportunity for hearing, the environmental court may revoke a municipal land use permit issued under this chapter, including a permit for a telecommunications facility, on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

Sec. 48. 24 V.S.A. § 4470a is added to read:

§ 4470a. MISREPRESENTATION; MATERIAL FACT

An administrative officer or appropriate municipal panel may reject an application under this chapter, including an application for a telecommunications facility, that misrepresents any material fact. After notice and opportunity for hearing in compliance with section 809 of Title 3, an appropriate municipal panel may award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 49. 30 V.S.A. § 202c is amended to read:

§ 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

(a) The general assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the state improved communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d of this title to:

- (1) Strengthen the state's role in telecommunications planning.
- (2) Support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data.
- (3) Support the availability of modern mobile wireless telecommunications services along the state's travel corridors and in the state's communities.

(4) Provide for high-quality, reliable telecommunications services for Vermont businesses and residents.

(5) Provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses.

(6) Support competitive choice for consumers among telecommunications service providers.

(7) Support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the state.

(8) Support, to the extent practical and cost-effective, deployment of broadband infrastructure that:

(A) Uses the best commercially available technology.

(B) Does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

Sec. 50. 30 V.S.A. § 8060 is amended to read:

§ 8060. LEGISLATIVE FINDINGS AND PURPOSE

(a) The general assembly finds that:

(1) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(2) Private entities have brought mobile telecommunications and broadband services to many households, businesses and locations in the state, but significant gaps remain.

(3) A new level of creative and innovative strategies (including partnerships and collaborations among and between state entities, nonprofit organizations, municipalities, the federal government, and the private sector) is necessary to extend and complete broadband coverage in the state, and to ensure that Vermont maintains a telecommunications infrastructure that allows residents and businesses to compete fairly in the national and global economy.

(4) When such partnerships and collaborations fail to achieve the goal of providing high-quality broadband access and service to all areas and households, or when some areas of the state fall behind significantly in the

variety and quality of services readily available in the state, it is necessary for an authority of the state to support and facilitate the construction of infrastructure and access to broadband service through financial and other incentives.

(5) Small broadband enterprises now offering broadband service in Vermont have limited access to financial capital necessary for expansion of broadband service to unserved areas of the state. The general assembly recognizes these locally based broadband providers for their contributions to date in providing broadband service to unserved areas despite the limitations on their financial resources.

(6) The universal availability of adequate mobile telecommunications and broadband services promotes the general good of the state.

(7) Vermonters should be served by broadband infrastructure that, to the extent practical and cost-effective, uses the best commercially available technology and does not involve widespread installation of technology that becomes outmoded within a short period after installation.

(b) Therefore, it is the goal of the general assembly to ensure:

(1) that all residences and business in all regions of the state have access to affordable broadband services not later than the end of the year 2010; and that this goal be achieved in a manner that, to the extent practical and cost-effective, does not negatively affect the future installation of the best commercially available broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

(2) the ubiquitous availability of mobile telecommunication services including voice and high-speed data throughout the state by the end of the year 2010.

(3) the investment in telecommunications infrastructure in the state which will support the best available and economically feasible service capabilities.

(4) that telecommunications and broadband infrastructure in all areas of the state is continuously upgraded to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband services needed by persons, businesses, and institutions in the state.

(5) the most efficient use of both public and private resources through state policies by encouraging the development of open access telecommunications infrastructure that can be shared by multiple service providers.

Sec. 51. 30 V.S.A. § 8077 is amended to read:

§ 8077. ESTABLISHMENT OF MINIMUM TECHNICAL SERVICE
CHARACTERISTIC OBJECTIVES

(a) The department of public service, shall, as part of the state telecommunications plan prepared pursuant to section 202d of this title, identify minimum technical service characteristics which ought to be available as part of broadband services commonly sold to residential and small business users throughout the state. For the purposes of this chapter, "broadband" means high speed Internet access. The department shall consider the performance characteristics of broadband services needed to support current and emerging applications of broadband services. The department shall review and update the minimum characteristics established under this section no less than every three years starting in 2009. In the event such review is conducted separately from an update of the state telecommunications plan pursuant to subsection 202d(f) of this title, the department shall issue revised minimum characteristics as an amendment to the plan.

(b) The authority shall give priority in its activities toward projects which expand the availability of broadband services that meet the minimum technical services characteristics established by the state telecommunications plan.

(c) Until the department of public service adopts a revision to the state telecommunications plan minimum service characteristics under subsection (a) of this section, the authority shall give priority to the expansion of broadband services which deploy equipment capable of a data transmission rate of not less than three megabits per second and offer a service plan with a data transmission rate of not less than 1.5 megabits per second in at least one direction to unserved areas.

* * * Act 250 * * *

Sec. 52. 10 V.S.A. § 6001(3)(D) is amended to read:

(D) The word "development" does not include:

(i) The construction of improvements for farming, logging or forestry purposes below the elevation of 2,500 feet.

(ii) The construction of improvements for an electric generation or

transmission facility that requires a certificate of public good under section 30 V.S.A. § 248 or, a natural gas facility as defined in subdivision 30 V.S.A. § 248(a)(3), or a telecommunications facility issued a certificate of public good under 30 V.S.A. § 248a.

(iii) [Repealed.]

(iv) The construction of improvements for agricultural fairs that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

(v) The construction of improvements for the exhibition or showing of equines at events that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

(vi) The construction of improvements for any one of the actions or abatements authorized in subdivision (I) of this subdivision (vi):

(I) (aa) A remedial or removal action for which the secretary of natural resources has authorized disbursement under section 1283 of this title.

(bb) Abating a release or threatened release, as directed by the secretary of natural resources under section 6615 of this title.

(cc) A remedial or removal action directed by the secretary of natural resources under section 6615 of this title.

(dd) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under section 6615b of this title.

(ee) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under subchapter 3 of chapter 159 of this title.

(II) The exemption provided by this subdivision shall not apply to subsequent development.

Sec. 53. 10 V.S.A. § 6081(d) is amended to read:

(d) For purposes of this section, the following construction of improvements to preexisting municipal, county, or state projects shall not be considered to be substantial changes, ~~regardless of the acreage involved~~, and shall not require a permit as provided under subsection (a) of this section:

(1) ~~essential~~ municipal, county, or state wastewater treatment facility enhancements that do not expand the capacity of the facility by more than 40 25 percent, excluding the extension of a wastewater collection system or an expansion of the service-area boundaries of a wastewater treatment facility.

(2) ~~essential~~ municipal ~~waterworks~~, county, or state water supply enhancements that do not expand the capacity of the facility by more than 40 25 percent.

(3) ~~essential~~ public school reconstruction or expansion that does not expand the student capacity of the school by more than 40 25 percent.

(4) ~~essential~~ municipal, county, or state building ~~renovations or reconstruction or expansion~~ that does not expand the floor space of the building by more than 40 25 percent.

(5) construction of improvements to preexisting municipal, county, or state roads and bridges, provided such construction receives funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

Sec. 54. SUNSET

Effective July 1, 2011, each occurrence of "25" in 10 V.S.A. § 6081(d) ~~and (e)~~ is amended to "10". Also effective July 1, 2011, 10 V.S.A. § 6081(d)(5) (exemption for ARRA-funded road and bridge improvements) shall cease to be effective. However, the construction of improvements commenced prior to July 1, 2011 shall not require a permit by operation of this section if such construction was exempt under Sec. 53 of this act.

* * * Utility Relocations: ARRA * * *

Sec. 55. 19 V.S.A. § 1607 is added to read:

§ 1607. FEDERAL REIMBURSEMENT FOR CERTAIN UTILITY RELOCATIONS

(a) As a result of appropriations for infrastructure enhancement and development contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, and other federal transportation-aid programs, significant highway construction projects are expected to be constructed in the near future.

(b) To ensure that projects are not delayed or canceled because of the inability of utilities and municipalities to pay for utility relocation costs and to ensure that available federal funds are utilized on shovel-worthy projects, it is the intent of the general assembly to reimburse utilities with infrastructure,

including municipally owned drinking water facilities and municipally owned wastewater infrastructure, up to 80 percent of the approved relocation costs, if the relocation is necessitated by a highway construction project funded by ARRA or other federal transportation-aid programs.

(c) Eligible relocation costs under subsection (b) of this section shall be reimbursed by the state agency or other entity primarily responsible for managing or directing the construction project on the condition that federal stimulus funds or other federal funds are available and eligible to pay for the relocation costs.

(d) The state and municipalities shall not be obligated to pay to utilities the state or local share of a federally funded project.

(e) The state shall not be obligated to pay the state or local share to a municipality for the relocation of municipal drinking water and municipal wastewater infrastructure.

* * * Indirect Source Permits * * *

Sec. 56. 10 V.S.A. § 556(i) is added to read:

(i) Notwithstanding any provisions of this section, section 5-503 of the air pollution control regulations, as adopted through April 27, 2007 (indirect source permits) is hereby repealed.

Sec. 57. 10 V.S.A. § 8019 is added to read:

§ 8019. ENVIRONMENTAL TICKETING

(a) The secretary and the board each shall have the authority to adopt rules for the issuance of civil complaints for violations of their respective enabling statutes or rules adopted under those statutes that are enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4. Any proposed rule under this section shall include both the full and waiver penalty amounts for each violation. The maximum civil penalty for any violation brought under this section shall not exceed \$3,000.00 exclusive of court fees.

(b) A civil complaint issued under this section shall preclude the issuing entity from seeking an additional monetary penalty for the violation specified in the complaint when any one of the following occurs: the waiver penalty is paid, judgment is entered after trial or appeal, or a default judgment is entered. Notwithstanding this preclusion, the agency and the board may issue additional complaints or initiate an action under chapter 201 of this title, including a monetary penalty when a violation is continuing or is repeated, and may also bring an enforcement action to obtain injunctive relief or remediation and, in such additional action, may recover the costs of bringing the additional action

and the amount of any economic benefit the respondent obtained as a result of the underlying violation in accordance with subdivisions 8010(b)(7) and (c)(1) of this title.

(c) The secretary or board chair and his or her duly authorized representative shall have the authority to amend or dismiss a complaint by so marking the complaint and returning it to the judicial bureau or by notifying the hearing officer at the hearing.

(d) Subsequent to the issuance of a civil complaint under this section and the conclusion of any hearing and appeal regarding that complaint, the following shall be considered part of the respondent's record of compliance calculating a penalty under section 8010 of this title:

(1) The respondent's payment of the full or waiver penalty stated in the complaint.

(2) The respondent's commission of a violation after the hearing before the judicial bureau on the complaint.

(3) The respondent's failure to appear or answer the complaint resulting in the entry of a default judgment.

(4) A finding, after appeal, that the respondent committed a violation.

Sec. 58. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

(17) Violations of the statutes listed in 10 V.S.A. § 8003, any rules or permits issued under those statutes, and any assurances of discontinuance or orders issued under chapter 201 of Title 10, provided that a rule has been adopted and a civil complaint issued concerning such a violation under 10 V.S.A. § 8019.

* * *

(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 ~~that~~:

(1) ~~m~~Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to section 1979 of Title 24. 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. 59. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

* * *

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the state or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the department of motor vehicles, the agency of natural resources, or the natural resources board and presented by the issuing officer or other person shall be admissible without testimony by a representative of the department of motor vehicles, the agency of natural resources, or the natural resources board.

* * *

(e) A state's attorney may dismiss or amend a complaint, except that dismissal or amendment of a complaint subject to subdivision 1102(b)(17) of this title shall be governed by 10 V.S.A. § 8019(c).

(f) The supreme court shall establish rules for the conduct of hearings under this chapter.

Sec. 60. 4 V.S.A. § 1107 is amended to read:

§ 1107. APPEALS

(a) A decision of the hearing officer may be appealed to the district court, except for a decision in a proceeding under subdivision 1102(b)(17) of this title. The proceeding before the district court shall be on the record, or at the option of the defendant, de novo. The defendant shall have the right to trial by jury. An appeal shall stay payment of a penalty and the imposition of points.

(b) ~~If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state and the state's attorney, grand juror or municipal attorney shall represent the municipality~~ A decision of the hearing

officer in a proceeding under subdivision 1102(b)(17) of this title may be appealed to the environmental court created under chapter 27 of this title. The proceedings before the environmental court shall be on the record. The defendant shall not have a right to a jury trial. An appeal shall stay the payment of a penalty.

(c) If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state, and the state's attorney, grand juror, or municipal attorney shall represent the municipality. In an appeal to the environmental court from a decision under subdivision 1102(b)(17) of this title, an attorney from the agency of natural resources or the natural resources board shall represent the state.

(d) No appeal as of right exists to the supreme court. On motion made to the supreme court by a party, the supreme court may allow an appeal to be taken to it from the district court or environmental court.

Sec. 61. 20 V.S.A. § 2063 is amended to read:

§ 2063. CRIMINAL HISTORY RECORD FEES; CRIMINAL HISTORY
RECORD CHECK FUND

* * *

(b) Requests made by criminal justice agencies for criminal justice purposes or other purposes authorized by state or federal law shall be exempt from all record check fees. The following types of requests shall be exempt from the Vermont criminal record check fee:

* * *

(5) Requests made by environmental enforcement officers employed by the agency of natural resources.

* * *

Sec. 62. PERMIT EXPEDITING; FEDERAL STIMULUS

(a) Notwithstanding any other provision of law, the following shall apply to an application for a permit, certificate, or other approval to the agency of natural resources, the agency of transportation, an appropriate municipal panel under 24 V.S.A. chapter 117, or a district environmental commission under 10 V.S.A. chapter 151 with respect to a project for municipal, county, or state purposes that will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5:

(1) The application shall be given priority over any other pending application.

(2) An appropriate municipal panel shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 45 days after the adjournment of the hearing, and failure of the panel to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

(3) A district commission shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 90 days after the adjournment of the hearing, and failure of the commission to issue a decision within this period shall be deemed approval and shall be effective on the 91st day.

(b) This section shall be repealed on July 1, 2012.

Sec. 63. EXPIRED PERMITS; FEDERAL STIMULUS

A permit, certificate, or approval that, by operation of law or other means, has lapsed or expired because the project subject to the permit, certificate, or approval has not been constructed shall be deemed effective if all of the following apply:

(1) The project subject to the permit, certificate, or other approval will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

(2) The permit, certificate, or other approval was issued within the five-year period preceding the date this section is enacted by the agency of natural resources, the agency of transportation, a municipality or appropriate municipal panel under 24 V.S.A. chapter 117, a district commission under 10 V.S.A. chapter 151, or an appellate court or other tribunal on appeal from such an agency, municipality, panel, or commission.

(3) No change is proposed to the project as approved by the permit, certificate, or other approval.

Sec. 64. 32 V.S.A. § 5930a(a) is amended as follows:

(a) There is created an economic incentive review board a Vermont economic progress council which shall be attached to the department of economic development for administrative support, including an executive director who shall be appointed by the governor with the advice and consent of the senate, who shall be knowledgeable in subject areas of the board's council's jurisdiction, and hold the status of an exempt state employee, and administrative staff employed in the state classified service. The board council shall consist of 11 members, nine of whom shall be residents of the state appointed by the governor with the advice and consent of the senate. The governor shall appoint residents to the board council who are knowledgeable

and experienced in the subjects of community development and planning, education funding requirements, economic development, state fiscal affairs, property taxation, or entrepreneurial ventures, and shall make appointments to the ~~board~~ council insofar as possible as to provide representation to the various geographical areas of the state and municipalities of various sizes. Members of the ~~board~~ council appointed by the governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms. All ~~board~~ council members' terms shall be four-year terms upon the expiration of their initial terms and ~~board~~ council members may be reappointed to serve successive terms. All terms shall commence on April 1 of each odd-numbered year. The governor shall select a chair from among the ~~board's~~ council's members. In addition the ~~board~~ council shall include one member selected by the speaker of the house, who shall be a member of the house; and one member selected by the committee on committees of the senate, who shall be a member of the senate. Legislative members shall be voting members. There shall also be two regional members from each region of the state; one shall be designated by the regional development corporation of the region and one shall be designated by the regional planning commission of the region. Regional members shall be nonvoting members and shall serve during consideration by the ~~board~~ council of applications from their respective regions. For attendance at meetings and for other official duties, appointed members shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that members who are members of the legislature shall be entitled to compensation for services and reimbursement for expenses as provided in section 406 of Title 2. A regional member who does not otherwise receive compensation and reimbursement for expenses from his or her regional development or planning organization shall also be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

Sec. 65. ~~REPEAL AND TRANSITION~~

(a) Sec. 64 of this act shall take effect upon passage, at which time the economic incentive review board shall be renamed the Vermont economic progress council. The council shall have the responsibilities and authority of the economic incentive review board with respect to administering and monitoring the Vermont employment growth incentives (VEGI) program and the tax increment financing program and property tax allocations under Secs. 2a through 2h of No. 184 of the Acts of the 2005 Adj. Sess.(2006). The legislative council is directed to make necessary revisions to the Vermont Statutes Annotated to reflect the changes made in Secs. 64 and 65 of this act.

Sec. 66. FINDINGS AND PURPOSE; VERMONT VILLAGE
GREEN RENEWABLE PILOT PROGRAM

The general assembly finds all of the following:

(1) The use of fossil fuels for heat and power contributes to emissions of greenhouse gases and climate change.

(2) Fossil fuel prices in recent years have been highly volatile, and significant potential exists for those prices to reach rates that are equal to or greater than the exceptionally high prices seen within the last few years.

(3) Payments for fossil fuels by Vermonters involve the movement of significant sums of money outside the state and the country to pay for heating fuel, draining Vermont's economy.

(4) The state of Vermont seeks to ensure that Vermonters obtain a greater measure of control over the environmental impacts of energy use and energy costs.

(5) The state of Vermont seeks to increase its efforts to limit its emissions of greenhouse gases.

(6) Community energy infrastructure that uses renewable fuels can reduce the environmental impacts of energy use and provide a community with the opportunity to obtain heat and potentially power at stable prices that reduce the economic risks associated with fossil fuels. Local energy purchases recirculate money in the Vermont economy and can provide businesses with competitive energy rates.

(7) The state of Vermont seeks to establish incentives for communities to host energy generation that is renewable and efficiently utilized and that provides heat and potentially power to groups of commercial, industrial, or residential uses, or combinations of such uses, within the community.

Sec. 67. 30 V.S.A. chapter 93 is added to read:

CHAPTER 93. VERMONT VILLAGE GREEN RENEWABLE
PILOT PROGRAM

§ 8100. DEFINITIONS

In this chapter:

(1) "Board" means the public service board created under section 3 of this title.

(2) "Certification" or "certified," except when part of the phrase "third party certified," refers to certification of a Vermont village green renewable project by the department under subsection 8101(b) of this title.

(3) "Combined heat and power " or "CHP" shall have the meaning stated in 10 V.S.A. § 6523(b), except that:

(A) CHP excludes facilities using fossil fuel.

(B) CHP using woody biomass as a fuel must achieve, for that fuel, no less than a 50-percent net annual efficiency of energy utilized and, during the heating season, a minimum energy conversion efficiency of 70 percent considering all energy inputs and outputs at normal load.

(4) "Department" means the department of public service created under section 1 of this title.

(5) "District heating" means a system for distributing heat generated in a centralized location within a host community to multiple residential, commercial, or industrial uses within that community or a combination of such uses. The source of heat may be a dedicated heat-only facility using renewable energy as a fuel or waste heat from electrical generation that uses renewable energy as a fuel to form a CHP system.

(6) "District power" means a system for distributing electricity generated in a centralized location within a host community to multiple residential, commercial, or industrial uses in that community or a combination of such uses. The electricity must be produced using renewable energy as a fuel source and may include CHP.

(7) "Host community" means the municipality in which a Vermont village green renewable project is to be located.

(8) "Renewable energy" shall have the meaning stated in 10 V.S.A. § 6523(b)(4), except that renewable energy using woody biomass as a fuel must achieve, for that fuel, no less than a 50-percent net annual efficiency of energy utilized and, during the heating season, a minimum energy conversion efficiency of 70 percent considering all energy inputs and outputs at normal load.

(9) "Vermont village green renewable project" means district heating, either with or without district power, to serve a downtown development district designated as such pursuant to 24 V.S.A. § 2793 or a growth center designated as such pursuant to 24 V.S.A. § 2793c. As long as the end uses served by the project are within such a district or center, the generation of heat and power may be outside the district or center.

§ 8101. PILOT PROGRAM; CERTIFICATION

(a) The Vermont village green renewable pilot program is created to consist of no more than two Vermont village green renewable projects, one each in the city of Montpelier and in the town of Randolph. Another municipality may seek certification under this chapter in the event either the city of Montpelier or the town of Randolph or both decline to seek or are denied certification.

(b) On application of a host community, the department may certify a Vermont village green renewable project under this chapter on finding each of the following:

(1) The host community proposes a Vermont village green renewable project.

(2) The host community has submitted an application to the board that includes each of the following:

(A) A description and map of the proposed Vermont village green renewable project, showing its location within the host community.

(B) A complete description of the existing industrial, commercial, or residential uses to be served by the Vermont village green renewable project, of how the project will serve those uses, and of the billing, payment, and customer service arrangements.

(C) A letter submitted by the host community in support of the application and, if the host community has a town plan, the letter shall confirm that the proposed project is consistent with that plan.

(D) A letter issued by the appropriate regional planning commission indicating that the regional impacts of the proposed project and selected site have been considered and that the project conforms with the applicable regional plan.

(E) A letter from the Vermont downtown development board, as described under 24 V.S.A. § 2792(f), that the development board has been notified of the Vermont village green renewable project.

(3) The Vermont village green renewable project is consistent with the purposes of the clean energy development fund as established in 10 V.S.A. § 6523.

(4) The host community will invest in the Vermont village green renewable project the incentive created under section 8102 of this title and has provided a plan that demonstrates that such investment will be made.

(5) The Vermont village green renewable project, if it uses woody biomass as a fuel, will use procurement standards, management practices, and a supply chain that are third party certified using a performance-based audit.

(6) The Vermont village green renewable project will comply with all applicable national ambient air quality standards and air pollution control regulations of the agency of natural resources. If, during 2009, the U.S. Environmental Protection Agency proposes updated emissions standards applicable to wood-fueled boilers to be used in connection with the project, the project shall comply with such proposed standards.

(7) The Vermont village green renewable project meets all applicable requirements of this chapter.

(c) Notwithstanding any other provision of law, certification under this section shall not be subject to the provisions of 3 V.S.A. chapter 25 and shall not be subject to appeal.

(d) A host community does not need to obtain certification unless it seeks its Vermont village green renewable project to be eligible for incentives under section 8102 of this title or rates for electricity as provided under subsection 8104(b) of this title. Certification shall not be required to qualify for net metering under section 219a of this title.

§ 8102. INCENTIVES; CUSTOMER CONNECTIONS

Notwithstanding any other provision of law, the clean energy development fund created under 10 V.S.A. § 6523 shall provide at least \$100,000.00 in incentives to customers who will connect to a certified Vermont village green renewable project. Any such incentive shall be applied by the customer to the cost of constructing the customer's connection to the project.

§ 8103. HEAT AVAILABILITY

All of the heat generated by a Vermont village green renewable project shall be made available to the commercial, industrial, and residential users identified in the host community's application to the board under subsection 8101(b) of this title.

§ 8104. RATES FOR ELECTRICITY

(a) All or a portion of the electricity generated by a Vermont village green renewable project, if it includes district power, shall be made available to the commercial, industrial, and residential users identified in the host community's application to the board under subsection 8101(b) of this title.

(b) If a Vermont village green renewable project includes district power and does not qualify or opt for treatment as a net metering system under section 219a of this title:

(1) On petition of the host community, the board after notice and opportunity for hearing shall create a rate class for the commercial, industrial, and residential uses served by the project, the rates for which class at a minimum shall be consistent with the following principle: An end user shall pay the same share of the distribution utility's fixed costs as a similar end user not served by the project.

(2) Excess electricity may be sold to the distribution utility at the market rate or by contract.

§ 8105. REPORTING

(a) A host community for which a Vermont village green renewable project has been certified under this chapter shall file a report to the board and the commissioner of public service by December 31 of each year following certification. The report shall contain such information as is required by the board and the commissioner. The report shall include at a minimum sufficient information for the commissioner of public service to submit the report required by subsection (b) of this section.

(b) Beginning March 1, 2010, and annually thereafter, the commissioner of public service shall submit a report to the senate committees on economic development, housing and general affairs, on finance, and on natural resources and energy, the house committees on ways and means, on commerce and economic development, and on natural resources and energy, and the governor which shall include an update on progress made in the development of the Vermont village green renewable projects authorized under this chapter. The report also shall include an analysis of the costs and benefits of the projects as well as any recommendations consistent with the purposes of this chapter.

Sec. 68. LETTER OF INTENT; VERMONT VILLAGE GREEN

RENEWABLE PILOT PROGRAM

No later than July 1, 2010, the City of Montpelier and the Town of Randolph shall each issue a letter of intent to the department of public service stating whether or not the city or the town, respectively, intends to seek certification under 30 V.S.A. § 8101.

* * * VOSHA Service of Process * * *

Sec. 69. 21 V.S.A. § 225(a) is amended to read:

(a) If, upon inspection or investigation the commissioner or the director, or the agent of either of them, finds that an employer has violated a requirement of the VOSHA Code, the commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the superior court. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. By rule the commissioner shall prescribe procedures for issuance of a notice in lieu of a citation with respect to de minimus violations which have no direct or immediate relationship to safety or health, and for hearing interested parties before a civil penalty is assessed.

* * * Workers' Comp. Info. Sharing * * *

Sec. 69a. 21 V.S.A. § 1314(e)(1) is amended to read:

(e)(1) Subject to such restrictions as the board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The commissioner may also make information available to colleges, universities, and public agencies of the state for use in connection with research projects of a public service nature, and to the Vermont economic progress council with regard to the administration of subchapter 11E of chapter 151 of Title 32; but no person associated with those institutions or agencies may disclose that information in any manner which would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commissioner.

* * *

Sec. 70. STUDY; SPECIAL COMMITTEE ON MOBILE HOME RENT-TO-OWN AGREEMENTS

(a) There is created a special committee on mobile home rent-to-own agreements, the organization of which shall be as follows:

(1) The committee shall hold its first meeting no later than June 30, 2009 at a place and time agreed to by a majority of the members. The commissioner of the department of housing and community affairs, or his or

her designee, shall chair the first meeting, at which the committee shall elect a chair and vice chair and shall establish a schedule for accomplishing its duties under this act.

(2) Following its first meeting, the committee shall provide bi-monthly progress reports to the chairs of the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs, and shall submit its final report to those committees on or before January 15, 2010.

(3) The staff of the legislative council shall provide technical and clerical support to the committee. Legislative member shall be entitled to a per diem and expenses as provided in 2 V.S.A. § 406.

(b) The committee shall consist of the following individuals:

(1) The commissioner of the department of housing and community affairs or designee.

(2) The commissioner of the department of banking, insurance, securities, and health care administration or designee.

(3) A representative of the banking industry with experience in real estate transactions recommended by the Vermont Bankers Association, Inc.

(4) A member representing the interests of Vermont town clerks who shall be appointed collaboratively by the Vermont League of Cities and Towns, Inc. and the Vermont Municipal Clerks' & Treasurers' Association.

(5) Two members representing the interests of mobile home tenants, one of whom shall be appointed by Vermont Legal Aid, and one of whom shall be appointed by the Champlain valley office of economic opportunity.

(6) A member representing the interests of mobile home park owners who shall be appointed by the Vermont Apartment Owners Association, LLC.

(7) The chair of the house committee on general, housing and military affairs, or designee, and the senate committee on economic development, housing and general affairs, or designee.

(c) The committee shall take such testimony and review such reports or other information to examine and develop proposals to address the following issues, and any additional issues it deems necessary, to accomplish its duties under this act:

(1) The historical and current practice of mobile home purchases on a "rent-to-own" basis, including:

(A) The prevalence of purchases on a rent-to-own basis.

(B) Whether rent-to-own purchases occur pursuant to written agreement, the form and content of those agreements, whether those agreements comply with current law, and whether a standard agreement unique to rent-to-own purchases of mobile homes should be adopted.

(C) The extent to which rent-to-own sellers and purchasers are aware of, and follow, notice and documentation requirements, including bills of sale, UCC filings, tax filings, and related recording requirements, and whether these requirements are sufficient to create an adequate public record of ownership.

(D) The extent to which rent-to-own purchasers utilize counsel or other resources when entering into agreements to purchase a mobile home.

(2) The current framework regulating foreclosure of interests in mobile homes and whether and how that framework sufficiently addresses rent-to-own purchases.

(3) The treatment of mobile homes as personal property, with emphasis on whether such treatment causes legal, financial, or other uncertainty with respect to ownership, and any potential resolution of these issues.

* * * Necessity Proceedings * * *

Sec. 71. 19 V.S.A. § 507 is amended to read:

§ 507. HEARING AND ORDER OF NECESSITY

~~(a) At the time and place appointed for the hearing, the court, consisting of the superior judge signing the order or the other superior judge as may be assigned and, if available within the meaning of 4 V.S.A. § 112, the assistant judges of the county in which the hearing is held~~ board shall hear all persons interested and wishing to be heard. If any person owning or having an interest in the land to be taken or affected appears and objects to the necessity of taking the land included within the survey or any part of the survey, then the court board shall require the agency of transportation to proceed with the introduction of evidence of the necessity of the taking. The burden of proof of the necessity of the taking shall be upon the agency of transportation and shall be established by a fair preponderance of the evidence, and the exercise of reasonable discretion upon the part of the agency shall not be presumed. The ~~court board~~ board may cite in additional parties including other property owners whose interest may be concerned or affected and shall cause to be notified, the legislative body of all adjoining cities, towns, villages, or other municipal corporations affected by any taking of land or interest in land based on any ultimate order of the ~~court board~~ board. The ~~court board~~ board shall make findings of fact and file them and any party in interest may appeal under the rules of appellate procedure adopted by the supreme court conclusions of law. The ~~court board~~ board

shall, by its order, determine whether the necessity of the state requires the taking acquisition of the land and rights as set forth in the petition and may find from the evidence that another route or routes are preferable in which case the agency shall proceed in accordance with section 502 of this title and this section and may modify or alter the proposed taking acquisitions in such respects as to the court board may seem proper.

~~(b) By its order, the court may also direct the agency of transportation to install passes under the highway as specified in this chapter for the benefit of the large modern farm properties, the fee title of which is owned by any party to the proceedings, where a reasonable need is shown by the owner. The court may consider evidence relative to present and anticipated future highway traffic volume, future land development in the area, and the amount and type of acreage separated by the highway in determining the need for an underpass of larger dimensions than a standard cattle pass of reinforced concrete, metal or other suitable material which provides usable dimensions five feet wide by six feet three inches high. Where a herd of greater than fifty milking cows is consistently maintained on the property, the court may direct that the dimensions of the larger underpass shall be eight feet in width and six feet three inches in height to be constructed of reinforced concrete, and the owner of the farm property shall pay one fourth of the difference in overall cost between the standard cattle pass and the larger underpass. Where the owner of the farm property desires an underpass of dimensions greater than eight feet in width and six feet three inches in height, the underpass may be constructed if feasible and in accordance with acceptable design standards, and the total additional costs over the dimensions specified shall be paid by the owner. The provisions of this section shall not be interpreted to prohibit the agency of transportation and the property owner from determining the specifications of a cattle pass or underpass by mutual agreement at any time, either prior or subsequent to the date of the court's order. The owner of a fee title shall be interpreted to include lessees of so-called lease land.~~

Sec. 72. 19 V.S.A. § 508 is amended to read:

§ 508. STIPULATION OF NECESSITY

(a) A person or municipality owning or having an interest in lands or rights to be taken or affected, a municipality in which the land is to be taken or affected, and other interested persons may stipulate as to the necessity of the taking.

(b)(1) The stipulation shall be an affidavit sworn to before a person authorized to take acknowledgments, and, in the case of a municipality, shall be executed by a majority of its legislative body. The stipulation shall be in a

form approved by the attorney general and shall include but not be limited to the following:

- (1)(A) a recital that the person or persons executing the stipulation have examined the applicable plan and survey of the lands or rights to be taken;
- (2)(B) an explanation of the legal and property rights affected; and
- (3)(C) that the right of the person to adequate compensation is not affected by executing the stipulation.

(2) The stipulation shall be invalid unless within two years of the date of the stipulation an order of necessity is granted.

Sec. 73. 19 V.S.A. § 509 is amended to read:

§ 509. PROCEDURE

(a) The stipulation shall be filed with the ~~appropriate superior court~~ board, together with the petition for an order of necessity. Notice of the hearing on the petition shall be published in accordance with section 506 of this title. Other interested persons who have not stipulated to necessity shall be notified and served in accordance with section 506 of this title. The ~~court~~ board may also cite in additional parties in accordance with section 507 of this title.

(b) If a person claiming to be affected or concerned files a notice of objection to a proposed finding of necessity prior to the date of the hearing, the ~~court~~ board shall at the hearing determine if the person has an interest in lands or rights to be ~~taken~~ acquired such as to be entitled to object to the proposed finding of necessity, and, if ~~he~~ the person is so affected or concerned, whether there is necessity for the ~~taking~~ proposed acquisitions, in accordance with section 507 of this title. Nothing in this section shall prohibit an interested person from consenting to necessity. The ~~court~~ board may continue the hearing to allow proper preparation by the agency of transportation and interested parties.

(c) If all interested persons and municipalities stipulate as to the necessity of the taking, the ~~court~~ board may immediately issue an order of necessity.

(d) Interested persons or municipalities who do not consent to necessity are entitled to a necessity hearing in accordance with the provisions of this chapter.

(e) A copy of the order finding necessity shall be mailed by the agency to each person and municipality who consented by stipulation to necessity, by certified mail, return receipt requested.

(f) The stipulation of necessity shall not affect the rights of the person with regard to fixing the amount of compensation to be paid in accordance with

sections 511-514 of this title. However, the agency of transportation board may enter into an agreement for purchase of lands or rights affected, provided the agreement is conditioned upon the issuance of an order of necessity.

Sec. 74. 19 V.S.A. § 510 is amended to read:

§ 510. APPEAL FROM ORDER OF NECESSITY JUDICIAL REVIEW

(a) If the state, municipal corporation or any owner affected by the order of the ~~court~~ board is aggrieved by the order, an appeal may be taken to the ~~supreme~~ superior court pursuant to subsection 5(c) of this title. In the event an appeal is taken according to these provisions from an order of necessity, its effect may be stayed by the superior court or the supreme court where the person requesting the stay establishes:

- (1) that he or she has a likelihood of success on the merits;
- (2) that he or she will suffer irreparable harm in the absence of the requested stay;
- (3) that other interested parties will not be substantially harmed if a stay is granted; and
- (4) that the public interest supports a grant of the proposed stay.

(b) If no stay is granted or, if a stay is granted, upon final disposition of the appeal, a copy of the order of the court shall be recorded within 30 days in the office of the clerk of each town in which the land affected lies.

(c) Thereafter for a period of one year, the agency of transportation may request the transportation board to institute proceedings for the condemnation of the land included in the survey as finally approved by the ~~court board~~ without further hearing or consideration of any question of the necessity of the taking. ~~In no event shall title to or possession of the appealing landowner's property pass to the state until there is a final adjudication of the issue of the necessity and propriety of the proposed taking.~~

(b)(d) If the agency of transportation is delayed in requesting the transportation board to institute condemnation proceedings within the one-year period by court actions or federal procedural actions, the time lost pending final determination shall not be counted as part of the one-year necessity period.

Sec. 75. 19 V.S.A. § 520 is added to read:

§ 520. MUNICIPALITIES; USE OF CHAPTER 5 PROCEDURES

When the construction, reconstruction, alteration, or repair of a town highway involves the acquisition of private lands or rights in private land, the

legislative body of the municipality may elect to follow the procedures outlined in chapter 5 of this title to acquire private lands or rights in land for state highways. In such event, the legislative body of the municipality shall carry out the functions of the agency and the board.

* * * Miscellaneous Tax Amendments * * *

Sec. 76. INCREASING THE NUMBER OF COMPLIANCE

PERSONNEL IN THE DEPARTMENT OF TAXES

(a) In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department \$535,000.00 in fiscal year 2010 for the purpose of hiring nine full-time limited service employees to augment the department's compliance division. The department shall use the funds so appropriated to hire four tax field examiners, two desk audit examiners, one collector, one desk audit supervisor, and either one attorney or a second collector.

(b) In addition to any other funds appropriated to the department of taxes in fiscal year 2011, there is appropriated from the general fund to the department \$935,000.00 in fiscal year 2011 for the purpose of retaining the nine full-time limited service employees hired pursuant to subsection (a) of this section and hiring six additional full-time limited service employees to further augment the department's compliance division. The department shall use the additional funds so appropriated to hire four tax field examiners and two desk audit examiners.

(c) It is the intent of the legislature to further augment the department's compliance efforts in fiscal year 2012 by appropriating additional funds for fiscal year 2012 for the purpose of retaining the 15 full-time limited service employees hired pursuant to subsections (a) and (b) of this section and hiring five additional limited service employees.

(d) The positions created pursuant to subsections (a) and (b) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(e) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

Sec. 77. 20 V.S.A. § 3815(c) is added to read:

§ 3815. DOG, CAT, AND WOLF-HYBRID SPAYING AND NEUTERING PROGRAM

* * *

(c) The agency of agriculture, food and markets is authorized to promulgate an emergency administrative rule by August 1, 2009, the purpose of which shall be that only a dog, cat, or wolf-hybrid acquired for no compensation shall be eligible for funding from the animal spaying and neutering program established under this section. The rule shall provide consideration for the financial ability of the funding applicant to pay for the requested service. For the purposes of this subsection, a nominal fee or donation required for adoption of a dog, cat, or wolf-hybrid shall not constitute compensation paid for the animal.

* * * Increased Penalties for Misclassification * * *

Sec. 78. 8 V.S.A. § 3661(c) is added to read:

(c) An employer who makes a false statement or representation that results in a lower workers' compensation premium, after notice and opportunity for hearing before the commissioner, may be assessed an administrative penalty of not more than \$20,000.00 in addition to any other appropriate penalty.

Sec. 79. 21 V.S.A. § 708(b) is amended to read:

(b) ~~Action by the commissioner of banking, insurance, securities, and health care administration. An employer who willfully makes a false statement or representation for the purpose of obtaining a lower workers' compensation premium, after notice and opportunity for hearing before the commissioner of banking, insurance, securities, and health care administration may be assessed an administrative penalty of not more than \$5,000.00 in addition to any other appropriate penalty. In addition to any other remedy provided by law, the commissioner of banking, insurance, securities, and health care administration may pursue the collection of the administrative penalty imposed by this section in Washington superior court. When the department of labor has sufficient~~
reason to believe that an employer has made a false statement or representation for the purpose of obtaining a lower workers' compensation premium, the department shall refer the alleged violation to the commissioner of banking, insurance, securities, and health care administration for enforcement pursuant to 8 V.S.A. § 3661(c).

* * * Compliance Statements * * *

Sec. 80. 21 V.S.A. § 690 is amended to read:

§ 690. CERTIFICATE, FORM; COPY OF POLICY

(a) An employer subject to the provisions of this chapter who has workers' compensation insurance coverage pursuant to section 687 or 689 of this title shall file with the commissioner a certificate of the insurance in a form prescribed by the commissioner. The certificate shall include the policy number, effective date, date of expiration, operations covered and such other information the commissioner requests. The certificate shall be signed by a duly authorized representative of the insurance or guarantee company that issued the insurance coverage. Upon request, the insurance or guarantee company shall file with the commissioner a copy of the contract or policy of insurance issued.

(b)(1) In addition to any other authority provided to the commissioner pursuant to this chapter, the commissioner may issue a written request to a ~~contractor engaged in the business of nonresidential building or construction~~ an employer subject to the provisions of this chapter to provide a workers' compensation compliance statement on a form provided by the commissioner. For the purposes of this subsection, a ~~contractor~~ an employer includes subcontractors and independent contractors. The form shall require all the following information sorted by job site:

(A) The number of employees employed during the entire current workers' compensation policy term or the previous year if no policy was in effect or partially in effect prior to the request and the effective dates of the term of any policies in effect.

(B) The total number of hours for which compensation was paid.

(C) ~~Designation of the hours that were the basis of the appropriate National Council on Compensation Insurance (NCCI) classification code~~ A list of all subcontractors and 1099 workers and their function on the job site for the period in question.

(D) The name of the workers' compensation insurance carrier, the policy number, and the agent, if any.

(E) As an attachment, the insurance policy declaration pages, including how much payroll the policy is covering and a designation of the hours that provide the basis of the appropriate National Council on Compensation Insurance classification code.

(2) Any ~~contractor~~ employer who fails to comply with this subsection or falsifies information on the compliance statement may be assessed an administrative penalty of not more than \$5,000.00 for each week during which the noncompliance or falsification occurred and any costs and attorney fees

required to enforce this subsection. The commissioner may also seek injunctive relief in Washington superior court.

(3) A compliance statement shall be a public record, and the commissioner shall provide a copy of a compliance statement to any person on request. An insurance company provided with a compliance statement may investigate the information in the statement. Based on evidence that a ~~contractor~~ an employer is not in compliance with this chapter, the commissioner shall request a compliance statement or an amended compliance statement from the ~~contractor~~ employer, investigate further, and take appropriate enforcement action. ~~No contractor shall be required to provide more than one workers' compensation compliance statement per year, unless the commissioner explains the need for each additional statement.~~

(4) In the event the commissioner receives a request for an employer to provide a compliance statement but finds no evidence of noncompliance with this chapter, the commissioner shall provide timely notification of the findings to the requesting party.

Sec. 81. CURRENT USE FOR FISCAL YEAR 2011

In response to current economic conditions, there is a need in the fiscal year 2011 budget to adjust the use value appraisal program to achieve \$1,600,000.00 in savings or in increased revenues. Multiple strategies will be considered to achieve this goal, with recommendations to be discussed by the joint fiscal committee at their November 2009 meeting.

* * * Tax Increment Financing * * *

Sec. 82. MILTON; TAX INCREMENT FINANCING DISTRICT

(a) For purposes of the tax increment financing district created in Milton:

(1) The following types of financing, in addition to those included in 24 V.S.A. § 1891(7), shall include conventional bank loans; certificates of participation, approved by the state treasurer; lease-purchase, approved by the state treasurer; and revenue-anticipation notes, approved by the state treasurer.

(2) The education tax increment may be retained for up to 20 years beginning with the initial date of the creation of the district or on the date of the first debt incurred, at the discretion of Milton. The assessed valuation of all taxable real property within the district, as defined in 24 V.S.A. § 1895, shall be recertified if Milton chooses to begin retaining the education tax increment more than five years beyond the initial creation of the district.

(3) The legal voters of Milton may authorize the selectboard to pledge the credit of Milton for all debt obligations pursuant to 24 V.S.A. § 1897(a) in more than one vote.

(b) The provisions of this section shall be retroactive to July 1, 2008.

Sec. 83. BURLINGTON TAX INCREMENT FINANCING

(a) The authority of the City of Burlington to incur indebtedness for its currently-existing tax increment financing district is hereby extended for five years beginning January 1, 2010.

(b) The City of Burlington shall submit to the joint fiscal committee at least ten days prior to its September 2009 meeting a business plan and projection of new incremental education property tax revenue growth to be financed by any indebtedness authorized under subsection (a) of this section, and a proposal for implementation of a payment to the education fund in lieu of tax increment which would approximate 25 percent of the new incremental education property tax revenue and the mechanism for payment by the City to the education fund, including payment dates.

(c) If the joint fiscal committee approves a formula for implementation of a payment to the education fund in lieu of tax increment (the increased revenue generated by the incremental grand list value), and if the City of Burlington incurs new indebtedness under subsection (a) of this section for its currently-existing tax increment financing district, then the city shall pay to the education fund the approved payment in lieu of tax increment as required under the plan approved by the joint fiscal committee.

Sec. 84. VERMONT OPPORTUNITY REDEVELOPMENT SITE IN SPRINGFIELD

(a) The town of Springfield may apply to the secretary of commerce and community development for certification of a redevelopment area known as the "J&L site," which shall include the J&L building and the portion of the underlying parcel allocable to the building site, and the secretary, upon certification, shall also certify the "redevelopment period," which shall be the seven years beginning with the year of certification of the site.

(b) The site certified under subsection (a) of this section shall be deemed approved by the Vermont Economic Progress Council (VEPC), and subject to such reporting as VEPC shall require, for education property tax stabilization; and the education property tax liability of the site shall remain at its 2009 level for the redevelopment period.

(c) During the redevelopment period, a qualified business or a qualified redeveloper who pays wages and salaries for services performed within the certified site shall be eligible for an income tax credit equal to three percent of the total wages and salaries paid during the taxable year for services performed within the certified site.

(d) Materials and trade fixtures purchased for incorporation into redevelopment of the certified site by the qualified redeveloper during the redevelopment period shall be exempt from sales and use tax, and a purchaser shall apply to the commissioner of taxes for a sales tax exemption certificate, which shall be presented to vendors in order to obtain the tax exemption.

(e) For purposes of this section:

(1) "Qualified business" means any business that intends to locate in or expand into the redevelopment area and will employ at least 10 new full-time employees in positions that are not retail sales within a year of approval; and will pay wages and benefits to all full-time employees that meet or exceed the prevailing compensation level for that particular employment.

(2) "Qualified redeveloper" means any taxpayer that purchases and redevelops the certified site for sale or lease to a qualified business.

(f) Beginning January 15, 2011, the secretary of commerce and community development shall report to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development the status of the Springfield redevelopment site.

Sec. 85. 10 V.S.A. § 1974(3) is added to read:

(3) An existing building, structure, or campground located on a subdivided lot when the building, structure, or campground is located 500 feet or more from the closest point of the new property boundary line, unless the wastewater system or potable water supply is a failed system or a failed supply at the time of subdivision.

Sec. 86. 13 V.S.A. § 4014 is amended to read:

§ 4014. PURCHASE OF FIREARMS IN CONTIGUOUS OTHER STATES

Residents of the state of Vermont may purchase rifles and shotguns in a another state, contiguous to the state of Vermont provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such

purchase in the state of Vermont and in the ~~contiguous~~ state in which the purchase is made.

Sec. 87. 13 V.S.A. § 4015 is amended to read:

§ 4015. PURCHASE OF FIREARMS BY NONRESIDENTS

Residents of a state ~~contiguous to~~ other than the state of Vermont may purchase rifles and shotguns in the state of Vermont, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the state in which such persons reside.

* * * Professional Regulation * * *

Sec. 88. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXCEPTIONS

This chapter does not prohibit:

* * *

(9) The providing of care for the sick in accordance with the tenets of any church or religious denomination by its adherents if the individual does not hold himself or herself out to be a registered nurse, licensed practical nurse, or licensed nursing assistant and does not engage in the practice of nursing as defined in this chapter.

* * * General Permitting * * *

Sec. 89. GENERAL PERMITS; INTENT

It is the intent of the general assembly that general permitting authority of the agency of natural resources be used for classes or categories of discharges, emissions, disposal, facilities, or activities that present low risk to the environment and public health.

Sec. 90. 10 V.S.A. chapter 165 is added to read:

CHAPTER 165. GENERAL PERMIT AUTHORITY

§ 7500. PURPOSE AND DEFINITIONS

(a) This chapter is intended to provide for the protection of human health and the environment while allowing the secretary to utilize general permits as appropriate to streamline permitting processes and gain administrative efficiencies.

(b) When used in this chapter:

(1) "Agency" means the agency of natural resources.

(2) "Commissioner" means the commissioner of the department or the commissioner's duly authorized representative.

(3) "Department" means the department of environmental conservation.

(4) "General permit" means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire state or a region of the state. For a class or category to be eligible to be placed under a general permit under this chapter, the class or category must meet each of the following:

(A) The discharges, emissions, disposal, facilities, or activities must share the same or substantially similar qualities.

(B) Those qualities must be such that the requirements of statute and rule applicable to the discharges, emissions, disposal, facilities, or activities can be met and human health and the environment protected by imposition of the same or substantially similar permit conditions on the class or category.

(5) "Individual permit" means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.

(6) "Secretary" means the secretary of the agency or the secretary's duly authorized representative.

§ 7501. GENERAL PERMITS

(a) When the secretary deems it to be appropriate and consistent with the purpose of this chapter, the secretary may issue a general permit under the following chapters of this title: chapter 23 (air pollution control) for stationary source construction permits; chapter 37 (water resources management) for aquatic nuisance control permits authorizing chemical treatment by the agency of natural resources, a department within that agency, or an appropriate federal agency; chapter 56 (public water supply) for construction permits; and chapter 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications.

(b) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and conditions may include providing for specific emission or effluent limitations

and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

(c) This chapter is in addition to any other authority granted to the agency or department.

(d) The secretary may adopt rules to implement this chapter.

§ 7502. ISSUANCE OF GENERAL PERMITS; PUBLIC PARTICIPATION

(a) When, under section 7501 of this title, the secretary determines to issue a general permit, the secretary shall prepare a proposed general permit and shall provide for public notice of the permit in a manner designed to inform interested and potentially interested persons of the proposed general permit.

(1) Notice of the proposed general permit shall be circulated within each geographic area to which the permit would apply and shall include at least all of the following:

(A) Written notice to the clerk of each municipality within the geographic area.

(B) Written notice to each affected Vermont state agency and such other government agencies as the secretary deems appropriate.

(C) Publication of notice of the proposed permit in a newspaper or newspapers that circulate generally within each geographic area to which the permit would apply.

(D) Posting of notice and a copy of the proposed general permit prominently on the web page of the department.

(E) Mailing of notice and a copy of the proposed general permit to any individual, group, or organization upon request.

(F) Mailing of notice and a copy of the proposed general permit to the chairs of the house committees on commerce and economic development, on fish, wildlife and water resources, and on natural resources and energy, and the senate committees on economic development, housing and general affairs and on natural resources and energy. With this mailing, the secretary shall also include a brief summary of any scientific information on which the proposed rule is based. If the secretary proposes to amend a general permit previously issued under this chapter, the secretary further shall include an annotated text showing changes from the existing permit.

(G) The inclusion in any notice issued under this subsection of a summary of the proposed general permit, including a summary of the activities

to which it would apply and its terms and conditions; the deadlines by which comments are to be submitted and a public information meeting requested; the procedure for submitting comments and requesting a public information meeting; the contact information for the agency or department concerning the proposed permit; and a statement of how a copy of the proposed general permit may be obtained.

(2) The secretary shall provide a period of not less than 30 days following the date of publication in a newspaper or newspapers of general circulation during which any person may submit written comments on the proposed general permit.

(b) The secretary shall provide an opportunity for any person, state, province, or country potentially affected by the proposed general permit to request a public informational meeting with respect to the proposed permit.

(1) The deadline for any request under this subsection shall be no earlier than the deadline for submitting written comments set under subdivision (a)(2) of this section. The secretary shall hold an informational meeting if there is a significant public interest in holding a meeting.

(2) The secretary shall provide public notice of any informational meeting in at least the same manner as public notice of the proposed general permit was given under subsection (a) of this section, except that the secretary need not set a new comment deadline or provide, with the notice of the meeting, a copy of the proposed general permit to any person or entity to which the secretary has already provided a copy.

(3) Any person shall be permitted to submit oral or written statements and data concerning the proposed general permit at the informational meeting.

(4) All statements, comments, and data presented at the meeting shall be retained by the secretary and considered in the formulation of the secretary's determinations regarding the final general permit.

(c) Whether or not requested, the secretary may hold a public informational meeting on a proposed general permit at any time prior to final decision on and issuance of the general permit. The provisions of subdivisions (b)(2) through (4) of this section shall apply to such a meeting.

(d) The secretary may finally adopt a general permit following consideration of any written comments submitted on the general permit and any statements, comments, and data presented at a public information meeting on the permit. Where the secretary decides, in finally adopting a proposed general permit, to overrule substantial arguments and considerations raised for or against the original proposal, the secretary's final adoption of the general

permit shall include a responsiveness summary stating the reasons for the secretary's decision.

(e) On final adoption of a general permit, the secretary shall provide notice of the permit's final adoption and an accompanying responsiveness summary in at least the same manner as notice of the proposed general permit was issued under subdivision (a)(1) of this section, except that the secretary need not set or include further deadlines for comment or requesting an informational meeting.

§ 7503. AUTHORIZATION UNDER A GENERAL PERMIT

(a) Any person wishing to discharge, emit, dispose, or operate a facility or engage in activity subject to a general permit under this chapter shall file an application for authorization under the general permit on a form provided by the secretary. Each application shall be accompanied by a fee as specified by section 2822 of Title 3.

(b) For each application under this section, the applicant shall provide notice, on a form provided by the secretary, to the clerk of the municipality in which the discharge, emission, disposal, facility, or activity is located, to the local and regional planning commissions, and to the owners of land adjoining the site of the proposed discharge, emission, disposition, or facility operation. The applicant shall provide a copy of this notice to the secretary, with such confirmation as the secretary deems adequate to demonstrate that the clerk, planning commissions, and adjoining landowners have received the notice. Following receipt of that confirmation, the secretary shall provide an opportunity of at least ten working days for written comment regarding whether the application complies with the terms and conditions of the general permit under which coverage is sought.

(c) The secretary may grant an application for authorization to discharge, emit, dispose, operate a facility, or engage in activity to which a general permit under this chapter applies only after determining that each of the following applies:

(1) The filings required in subsections (a) and (b) of this section are complete.

(2) The discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit.

(d) The secretary may:

(1) Allow a transfer from one person or entity to another of an authorization to discharge, emit, dispose, operate a facility, or engage in

activity under a general permit issued under this chapter.

(2) Require notification to the secretary for changes to a discharge, emission, disposal, facility, or activity for which authorization has been issued under a general permit under this chapter.

(3) Under the procedures specified in subsection 814(c) of Title 3, revoke or suspend authorization to discharge, emit, dispose, operate a facility, or engage in activity under a general permit issued under this chapter.

§ 7504. REQUIRING AN INDIVIDUAL PERMIT

The secretary may require any applicant for or permittee authorized under a general permit issued under this chapter to apply for an individual permit. Any interested person may petition the secretary to take action under this section. The secretary may require an individual permit if any one of the following applies:

(1) The discharge, emission, disposal, facility, or activity is a significant contributor of pollution as determined by consideration of each of the following factors:

(A) The location of the discharge with respect to waters of the state of Vermont.

(B) The size and scope of the applicant's or permittee's activities or operation.

(C) The quantity and nature of the pollutants.

(D) Other relevant factors.

(2) The permittee is not in compliance with the terms and conditions of a general permit issued under this chapter.

(3) The application does not qualify for a general permit issued under this chapter.

(4) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of wastes or pollutants applicable to the discharge, emission, disposal, facility, or activity.

(5) Federal requirements have been adopted that conflict with one or more provisions of a general permit issued under this chapter.

§ 7505. REQUIRING AUTHORIZATION UNDER A GENERAL PERMIT

The secretary may require that a discharge, emission, disposal, facility, or activity for which issuance or reissuance of an individual permit is sought be subject to a general permit issued under this chapter if the secretary finds that

the discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit and that authorization of the discharge, emission, disposal, facility, or activity under a general permit will protect human health and the environment.

Sec. 91. REPORT AND SUNSET

(a) On April 1, 2011, and again on April 1, 2014, the secretary of natural resources shall submit a report to the senate committees on natural resources and energy and on economic development, housing and general affairs, the house committees on natural resources and energy and on commerce and economic development, and the governor regarding the implementation, compliance, and enforcement of general permits under chapter 165 of Title 10. The secretary's report shall include at least each of the following:

(1) The number of persons seeking coverage under each general permit issued under this chapter.

(2) The number of site visits completed by agency of natural resources personnel to review applications for coverage under and compliance with a general permit issued under this chapter.

(3) The number of and disposition of enforcement actions brought by the agency of natural resources to enforce the requirements of a general permit issued under this chapter.

(b) Chapter 165 of Title 10 shall sunset on July 1, 2014; however, the sunset shall not affect any permit granted prior to July 1, 2014 under chapter 165 of Title 10.

Sec. 92. APPROPRIATION; ARRA; STATE ENERGY PROGRAM,

ENERGY EFFICIENCY, AND CONSERVATION BLOCK GRANTS

In fiscal year 2010, funds under the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, consisting of \$21,999,000.00 state energy program funds and \$9,593,500.00 energy efficiency and conservation block grant (EECBG) program funds are appropriated to the department of public service in Sec.B.235 of H.441 (2009). These funds shall be transferred and deposited into the clean energy development fund created under 10 V.S.A. § 6523. These funds shall be administered and disbursed as set forth in 10 V.S.A. § 6523 with respect to ARRA funds received by the clean energy development fund.

*** Clean Energy Development Fund ***

Sec. 93. 10 V.S.A. § 6523 is hereby amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

(a) Creation of fund.

(1) There is established the Vermont clean energy development fund to consist of all of the following:

(A) ~~the~~ The proceeds due the state under the terms of the memorandum of understanding between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered under public service board docket 6812; together with the proceeds due the state under the terms of any subsequent memoranda of understanding entered before July 1, 2005 between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc.; ~~and~~

(B) \$21,999,000.00 in funds received by the state under the appropriation contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, to the state energy program authorized under 42 U.S.C. § 6321 et seq.

(C) \$9,593,500.00 received by the state under ARRA from the United States Department of Energy through the energy efficiency and conservation block grant (EECBG) program.

(D) ~~any~~ Any other monies that may be appropriated to or deposited into the fund.

(2) Balances in the fund ~~shall be held for the benefit of ratepayers~~, shall be expended solely for the purposes set forth in this subchapter, and shall not be used for the general obligations of government. 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 in the fund. This fund is established in the state treasury pursuant to subchapter 5 of chapter 7 of Title 32.

(b) Definitions. For purposes of this section, the following definitions shall apply:

(1) "Clean energy resources" means electric power supply and demand-side resources, or thermal energy or geothermal resources, that are ~~either~~ "combined heat and power facilities," "cost-effective energy efficiency resources," or "renewable energy" resources.

* * *

(4) "Emerging energy-efficient technologies" means technologies that

are both precommercial but near commercialization and that have already entered the market but have less than five percent of current market share; that use less energy than existing technologies and practices to produce the same product or otherwise conserve energy and resources, regardless of whether or not they are connected to the grid; and that have additional non-energy benefits such as reduced environmental impact, improved productivity and worker safety, or reduced capital costs.

(5) "Renewable energy" has the meaning established under 30 V.S.A. § 8002(2), and shall include the following: solar photovoltaic and solar thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer methane recovery; low emission, advanced biomass power, and combined heat and power technologies using biomass fuels such as wood, agricultural or food wastes, energy crops, and organic refuse-derived waste, but not municipal solid waste; advanced biomass heating technologies and technologies using biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources, and emerging energy-efficient technologies, for the long-term benefit of Vermont ~~electric customers~~ consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The general assembly expects and intends that the public service board, public service department, and the state's power and efficiency utilities will actively implement the authority granted in Title 30 to acquire all reasonably available cost-effective energy efficiency resources and for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

~~(1) This fund shall be administered by the department of public service to facilitate the development and implementation of clean energy resources.~~

~~(2) The department shall assure an open public process in the administration of the fund for the purposes established in this subchapter.~~

~~(3) By January 15 of each year, commencing in 2007, the department of public service shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce a report detailing the revenues collected and the expenditures made under this subchapter, together with recommended principles to be followed in the allocation of funds and a proposed five year plan for future expenditures from the fund.~~ (4) Projects for funding may include, and in the case of subdivision (2)(E)(ii) of this subsection shall include

continuous funding for as long as funds are available, the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) small scale renewable energy in Vermont residences, institutions, and businesses;

(i) generally; and

(ii) through the small-scale renewable energy incentive program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings; and

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies; and

(J) effective projects that are not likely to be established in the absence of funding under the program.

~~(5)(2)~~ If during a particular year, the department clean energy development board determines that there is a lack of high value projects eligible for funding, as identified in the five-year plan, or as otherwise identified, the department clean energy development board may consult with the public service board, and shall consider transferring funds to the energy efficiency fund established under the provisions of 30 V.S.A. § 209(d). Such a transfer may take place only in response to an opportunity for a particularly cost-effective investment in energy efficiency, and only as a temporary supplement to funds collected under that subsection, not as replacement funding.

~~(6)~~ (3) The A sum of \$20,000.00 equal to the cost of the business solar energy income tax credits authorized in subsections 5822(d) and 5930z(a) of Title 32 shall be transferred annually from the clean energy development fund to the general fund to support the cost of the solar energy income tax credits.

(e) Management of fund.

~~(1)(A) There is created the clean energy development fund advisory committee board, which shall consist of the commissioner of public service, or a designee, and the chairs of the house and senate committees on natural resources and energy, or their designees. the following nine directors:~~

~~(A) Three at-large directors appointed by the speaker of the house;~~

~~(B) Three at-large directors appointed by the president pro tempore of the senate.~~

~~(C) Two at-large directors appointed by the governor.~~

~~(D) The state treasurer, ex officio.~~

~~(B) There is created the clean energy development fund investment committee, which shall consist of seven persons appointed by the clean energy development fund advisory committee.~~

~~(2) The commissioner of public service shall:~~

~~(A) by no later than October 30, 2006:~~

~~(i) develop a five year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process;~~

~~(ii) develop an annual operating budget;~~

~~(iii) develop proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive programs and strategies); and~~

~~(iv) submit the plans, budget, and program designs to the clean energy development fund advisory committee for review and to the clean energy development fund investment committee for approval;~~

~~(B) adopt rules by no later than January 1, 2007 to carry out the program approved under this subdivision;~~

~~(C) explore pursuing joint investments in clean energy projects with other state funds and private investors to increase the effectiveness of the clean energy development fund;~~

~~(D) acting jointly with the members of the clean energy development fund investment committee, make decisions with respect to specific grants and investments, after the plans, budget, and program designs have been approved by the clean energy development fund investment committee. This subdivision (D) shall be repealed upon the effective date of rules adopted under~~

~~subdivision (2)(B) of this subsection.~~

~~(3) During fiscal years after FY 2006, up to five percent of amounts appropriated to the public service department from the fund may be used for administrative costs related to the clean energy development fund and after FY 2007, another five percent of amounts appropriated to the public service department from the fund not to exceed \$300,000.00 in any fiscal year shall be transferred to the secretary of the agency of agriculture, food, and markets for agricultural and farm-based energy project development activities.~~

(3) A quorum of the clean energy development board shall consist of five directors. The directors of the board shall select a chair and vice chair.

(4) In making appointments of at-large directors to the clean energy development board, the appointing authorities shall give consideration to citizens of the state with knowledge of relevant technology, regulatory law, infrastructure, finance, and environmental permitting. The at-large directors of the board shall serve terms of four years beginning July 1 of the year of appointment. However, one at-large director appointed by the speaker and one at-large director appointed by the president pro tempore shall serve an initial term of two years. Any vacancy occurring among the at-large directors shall be filled by the respective appointing authority and shall be filled for the balance of the unexpired term. A director may be reappointed.

(5) Except for those directors of the clean energy development board otherwise regularly employed by the state, the compensation of the directors shall be the same as that provided by subsection 1010(a) of Title 32. All directors of the clean energy development board, including those directors otherwise regularly employed by the state, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(6) At least every three years, the clean energy development board shall commission a detailed financial audit by an independent third party of the fund and the activities of the fund manager, which shall make available to the auditor its books, records, and any other information reasonably requested by the board or the auditor for the purpose of the audit.

(7) In performing its duties, the clean energy development board may utilize the legal and technical resources of the department of public service or, alternatively, may utilize reasonable amounts from the clean energy development fund to retain qualified private legal and technical service providers. The department of public service shall provide the clean energy development board and its fund manager with administrative services.

(8) By January 15 of each year, commencing in 2010, the clean energy development board shall provide to the house and senate committees on natural

resources and energy, the senate committee on finance, and the house committee on commerce and economic development a report detailing the revenues collected and the expenditures made under this subchapter.

(9) The clean energy development board is authorized, to the extent allowable under ARRA, to utilize up to 10 percent of ARRA funds received for the purpose of administration. Half of this amount shall be allocated to the treasurer to retain permanent, temporary, or limited service positions or contractors to administer such funds and the other half of this amount shall be allocated to the oversight of specific projects receiving ARRA funding through the clean energy development fund.

(10) At least quarterly, the clean energy development board shall hold a public meeting to review and discuss the status of the fund, fund projects, the performance of the fund manager, any reports, information, or inquiries submitted by the fund manager or the public, and any additional matters the clean energy development board deems necessary to fulfill its obligations under this section.

(f) Clean energy development fund manager. The clean energy development fund shall have a fund manager who shall be a state employee retained and supervised by the board and housed within the office of the treasurer.

(g) Bonds. The clean energy development board may explore use of the fund to establish one or more loan-loss reserve funds to back issuance of bonds by the state treasurer otherwise authorized by law, including clean renewable energy bonds, that support the purposes of the fund.

(h) All ARRA funds placed in the clean energy development fund shall be disbursed, administered, and accounted for in a manner that ensures rapid deployment of the funds, is consistent with all requirements of ARRA, including requirements for administration of funds received and for transparency and accountability. These funds shall be maintained in a separate account specifically restricted to ARRA funds within the clean energy development fund. These funds shall be for the following, provided that no single project directly or indirectly receives a grant in more than one of these categories:

(1) The Vermont small-scale renewable energy incentive program currently administered by the renewable energy resource center, for use in residential and business installations. These funds may be used by the program for all forms of renewable energy as defined by 30 V.S.A. § 8002(2), including biomass and geothermal heating. The disbursement to this program shall seek to promote continuous funding for as long as funds are available.

(2) Grant and loan programs for renewable energy resources, including thermal resources such as district biomass heating that may not involve the generation of electricity.

(3) Grants and loans to thermal energy efficiency incentive programs, community-scale renewable energy financing programs, certification and training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(4) \$2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. For the purpose of this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process. On or before January 15, 2011, the treasurer shall report to the general assembly on the status of this program, including each award made and, for each such award, the expected energy savings or generation and the actual energy savings or generation achieved.

(5) \$2 million to the Vermont housing and conservation board (VHCB) to make grants and deferred loans to nonprofit organizations for weatherization and renewable energy activities allowed by federal law, including assistance for nonprofit owners and occupants of permanently affordable housing.

(6) \$2 million to the Vermont telecommunications authority (VTA) to make grants for installation of small-scale wind turbines and associated towers on which telecommunications equipment is to be collocated and which are developed in association with the VTA.

(7) \$880,000.00 to the 11 regional planning commissions (\$80,000.00 to each such commission) to conduct energy efficiency and energy conservation activities that are eligible under the EECBG program.

(8) Of the funds authorized for use in subdivisions (5)-(7) of this subsection, to the extent permissible under ARRA, up to five percent may be spent for administration of the funds received.

(9) The clean energy development board is authorized, to the extent allowable under ARRA, to utilize up to 10 percent ARRA funds received for the purpose of administration. One-half of this amount shall be allocated to the treasurer to retain permanent, temporary, or limited service positions or contractors to administer such funds, and the other half of this amount shall be

allocated to the oversight of specific projects receiving ARRA funding through the clean energy development fund.

(i) The treasurer shall consult with the other directors of the clean energy development fund board and the commissioner of public service and adopt rules pursuant to 3 V.S.A. chapter 25 to carry out this section. The treasurer shall adopt an initial set of rules under this subsection no later than July 15, 2009 and may use the emergency rulemaking process provided under 3 V.S.A. § 844 to do so. In adopting the initial set of rules, the treasurer shall consult with any at-large board directors who have been appointed, the chief recovery officer, and the commissioner of public service. Any rules adopted by the treasurer under this subsection shall comply with all of the following:

(1) The rules shall contain those provisions necessary to assure compliance with requirements for any funds received by the fund through ARRA.

(2) The rules shall support efforts to coordinate applications for competitive or other funding opportunities under ARRA from various entities within Vermont.

(3) The rules shall provide reasonable opportunities for small businesses to participate in competitive or other funding opportunities.

(j) The governor shall have the authority within 30 days of approval or adoption to disapprove a project, program, or other activity approved by the clean energy development board to be funded by the clean energy development fund if the source of the funds is ARRA; and any rules adopted under subsection (i) of this section. The governor may at any time waive his or her authority to disapprove any project, program, or other activity or rule under this subsection.

Sec. 94. APPLICATION

Sec. 93 of this act shall supersede and replace any other provisions of law enacted in this legislative session to amend 10 V.S.A. § 6523.

Sec. 95. TRANSITION; POSITION TRANSFER

(a) It is the intent of the general assembly that the seven members of the clean energy development fund investment committee appointed prior to the effective date of this act shall be eligible for appointment as directors of the clean energy development fund board for a full term or until the terms of their original appointments expire.

(b) All at-large directors of the clean energy development fund board shall

be appointed within 21 days of passage of this act, and the board shall assume supervision of the clean energy development fund on the initial adoption of rules under 10 V.S.A. § 6523(i) or August 1, 2009, whichever is earlier. Until such time, the clean energy development fund advisory and investment committees enabled under prior law shall continue to exist, and they and the commissioner of public service shall continue to have all authorities as under prior law with respect to the clean energy development fund.

(c) Upon the effective date of this act, the fund manager currently retained for the clean energy development fund shall be deemed the fund manager retained by the clean energy development board pursuant to 10 V.S.A. § 6523(f). Upon assumption of supervision of the fund by the clean energy development board pursuant to subsection (b) of this section, the position occupied by that fund manager shall be transferred to the board and become subject to the board's supervision.

Sec. 96. GENERAL OBLIGATION BONDS FOR CLEAN RENEWABLE ENERGY PROJECTS

(a) The capital debt affordability advisory committee (CDAAC), in addition to submitting its fiscal year 2010 recommendation pursuant to 32 V.S.A. § 1001(c), shall consider, in the context of the size and affordability of net state tax-supported indebtedness and the receipt of federal funds under the American Recovery and Reinvestment Act of 2009 (ARRA) which may be used for tax-exempt renewable energy bonds, the issuance of additional general obligation bonds for clean renewable energy projects. The proceeds from these additional bonds, if any, shall be used to pay for projects authorized pursuant to 10 V.S.A. § 6523.

(b) By September 30, 2009, the CDAAC shall submit to the governor, the members of the joint fiscal committee, and the chairs of the house committee on corrections and institutions and the senate committee on institutions an estimate of the amount of additional long-term net tax-supported debt, in addition to the \$69,995,000.00 in general obligation debt previously recommended for fiscal year 2010 for debt issuance to support the state's capital budget, that prudently may be authorized for additional bonds to support clean renewable energy projects.

(c) The general assembly hereby authorizes for fiscal year 2010 the issuance of general obligation bonds to be dedicated to projects that meet the requirements of 10 V.S.A. § 6523, provided that the total amount issued does not exceed the CDAAC recommendation to be submitted by September 30, 2009, and provided that the total amount is approved by the joint fiscal committee and the governor.

(d) The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized in accordance with this section consistent with the underlying nature of the projects to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the department of public service pursuant to 32 V.S.A. § 954(b).

(e) There is hereby created a clean energy bond fund which shall be a subfund of the clean energy development fund established in 10 V.S.A. § 6523. Monies in the clean energy bond fund shall be used to support projects in accordance with 10 V.S.A. § 6523. It is the intent of the general assembly that debt service for bonds authorized by this section shall be paid from principal and interest paid into the clean energy bond fund by entities receiving loans from the fund. It is also the intent of the general assembly that the treasurer may establish a loan-loss reserve fund to support the bond issuance.

(f) There is appropriated in fiscal year 2010 from the general fund to the treasurer for deposit into the Vermont clean energy bond fund the additional amount recommended by CDAAC and approved by the joint fiscal committee and the governor pursuant to subsection (c) of this section.

Sec. 97. 32 V.S.A. § 5822(d) is amended to read:

(d) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits. A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided, further that, for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project. Any unused business solar energy investment tax credit under this section may be carried forward for no more than five years following the first year in which the credit is claimed.

Sec. 98. 32 V.S.A. § 5930z is amended to read:

§ 5930z. PASS-THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS

(a) A taxpayer of this state shall be eligible for a credit against the tax imposed under section 5832 of this title in an amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided, further that for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.

Sec. 99. 32 V.S.A. § 5822(d) is amended to read:

(d) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits. ~~A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project is not eligible to claim the business solar energy tax credit for that project.~~ Any unused business solar energy investment tax credit under this section may be carried forward for no more than five years following the first year in which the credit is claimed.

Sec. 100. REPEAL

32 V.S.A. § 5930z (related to business solar energy investment tax credits for corporations) is repealed for investments made on or after January 1, 2011.

Sec. 101. TRANSITION RULES

(a) A taxpayer who claimed the 76-percent business solar energy investment tax credit component of the federal investment tax credit pursuant to 32 V.S.A. § 5822(d) prior to January 1, 2011 shall be entitled to carry forward the unused portion of the credit for up to five years.