

# Journal of the Senate

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THURSDAY, APRIL 23, 2009

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Message from the House No. 63

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

**H. 297.** An act relating to approval of the adoption of the charter of the Morristown Corners Water Corporation.

In the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to the following House bill:

**H. 34.** An act relating to automated external defibrillators.

And has severally concurred therein.

The House has considered Senate proposal of amendment to the following House bill:

**H. 186.** An act relating to authorizing the department of fish and wildlife to administer polygraph examinations to applicants for law enforcement positions.

And has severally concurred therein.

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 30.** Joint resolution relating to weekend adjournment.

And has passed the same in concurrence.

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**Rules Suspended; Bill Committed****H. 445.**

Pending entry on the Calendar for notice, on motion of Senator Ayer, the rules were suspended and House bill entitled:

An act relating to capital construction and state bonding.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Institutions, Senator Ayer moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Institutions *intact*,

Which was agreed to.

**Recess**

On motion of Senator Ayer the Senate recessed until the fall of the gavel.

**Called to Order**

At ten o'clock and forty minutes the Senate was called to order by the President.

**Rules Suspended; Proposal of Amendment; Third Reading Ordered****H. 438.**

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to the state's transportation program.

Was taken up for immediate consideration.

Senator Mazza, for the Committee on Transportation, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. TRANSPORTATION PROGRAM**

(a) The state's proposed fiscal year 2010 transportation program appended to the agency of transportation's proposed fiscal year 2010 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) the term "agency" means the agency of transportation;

(2) the term "secretary" means the secretary of transportation;

(3) the table heading “As Proposed” means the transportation program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the term “change” or “changes” in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading;

(4) the term “bonding” refers to the net proceeds of transportation bonds which were included in the agency’s proposed fiscal year 2010 transportation program;

(5) the term “ARRA funds” refers to federal funds allocated to the state by the American Recovery and Reinvestment Act of 2009;

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

## Sec. 2. TIB FUNDS

All spending of TIB funds authorized by this act with respect to an agency program and all appropriations of TIB funds shall be limited to eligible projects as defined in 19 V.S.A. § 11f(b) and shall further be limited in amounts to the monies deposited in the transportation infrastructure bond fund during the fiscal year in which the spending is authorized and the appropriation is made.

\* \* \* Paving \* \* \*

## Sec. 3. PROGRAM DEVELOPMENT – PAVING

(a) Spending authority in the paving statewide preventive maintenance program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Construction	500,000	0	-500,000
Total	500,000	0	-500,000
<u>Source of funds</u>			
State	500,000	0	-500,000
Total	500,000	0	-500,000

(b) Including the change in subsection (a) of this section, total spending authority in the paving program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	2,405,000	2,405,000	0

ROW	0	0	0
Construction	66,229,802	65,729,802	-500,000
Total	68,634,802	68,134,802	-500,000
<u>Source of funds</u>			
State	13,018,034	9,925,295	-3,092,739
TIB funds	0	2,592,739	2,592,739
Federal	55,616,768	55,616,768	0
Total	68,634,802	68,134,802	-500,000

\* \* \* Roadway \* \* \*

Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

(a) Spending authority for the Cabot-Danville US 2 FEGC F 028-3(26)C/1 roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Construction	4,000,000	2,500,000	-1,500,000
Other	0	0	0
Total	4,000,000	2,500,000	-1,500,000
<u>Source of funds</u>			
State	200,000	0	-200,000
TIB funds	0	125,000	125,000
Federal	3,800,000	2,375,000	-1,425,000
Total	4,000,000	2,500,000	-1,500,000

(b) Spending authority for the Morristown VT 100 STP F 029-1(2) roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	200,000	200,000	0
ROW	500,000	2,000,000	1,500,000
Construction	0	0	0
Other	200,000	200,000	0
Total	900,000	2,400,000	1,500,000
<u>Source of funds</u>			
State	182,440	0	-182,440
TIB funds	0	482,440	482,440

Federal	717,560	1,917,560	1,200,000
Total	900,000	2,400,000	1,500,000

(c) Spending authority for the Winooski NH 089-3(65) roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	100,000	0
ROW	0	0	0
Construction	1,000,000	1,000,000	0
Other	0	0	0
Total	1,100,000	1,100,000	0
<u>Source of funds</u>			
State	110,000	0	-110,000
TIB funds	0	10,000	10,000
Federal	990,000	1,090,000	100,000
Total	1,100,000	1,100,000	0

(d) Spending authority for the Derby IM 091-3(45) roadway border crossing project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	287,500	0	-287,500
Total	287,500	0	-287,500
<u>Source of funds</u>			
State	287,500	0	-287,500
Federal	0	0	0
Total	287,500	0	-287,500

(e) Including the changes made in subsections (a) through (d) of this section, total spending authority in the roadway program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	5,446,892	5,446,892	0
ROW	7,115,000	8,615,000	1,500,000
Construction	43,752,270	42,252,270	-1,500,000
Other	1,087,500	800,000	-287,500
Total	57,401,662	57,114,162	-287,500
<u>Source of funds</u>			
State	2,749,362	500,000	-2,249,362
Bonding	4,390,980	0	-4,390,980
TIB funds	0	6,477,842	6,477,842
Federal	48,710,890	48,585,890	-125,000
Local	1,550,430	1,550,430	0

Total	57,401,662	57,114,162	-287,500
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\*\*\* State Bridge \*\*\*

Sec. 5. PROGRAM DEVELOPMENT – STATE BRIDGE

(a) Spending authority in the state bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	3,550,576	3,550,576	0
ROW	1,181,202	1,181,202	0
Construction	19,002,022	19,002,022	0
Total	23,733,800	23,733,800	0
<u>Source of funds</u>			
State	0	4,219,920	4,219,920
Bonding	5,186,420	0	-5,186,420
TIB funds	0	966,500	966,500
Federal	18,547,380	18,547,380	0
Total	23,733,800	23,733,800	0

\*\*\* Interstate Bridge \*\*\*

Sec. 6. PROGRAM DEVELOPMENT – INTERSTATE BRIDGE

(a) Spending authority in the interstate bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	607,500	607,500	0
ROW	26,000	26,000	0
Construction	5,315,000	5,315,000	0
Other	0	0	0
Total	5,948,500	5,948,500	0
<u>Source of funds</u>			
State	0	594,850	594,850
Bonding	594,850	0	-594,850
TIB funds	0	0	0
Federal	5,353,650	5,353,650	0
Total	5,948,500	5,948,500	0

\*\*\* Town Bridge \*\*\*

Sec. 7. TOWN HIGHWAY BRIDGE

(a) Spending authority in the town highway bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	1,663,952	1,663,952	0

ROW	588,278	588,278	0
Construction	18,418,870	18,418,870	0
Total	20,671,100	20,671,100	0
<u>Source of funds</u>			
State	1,540,899	500,000	-1,040,899
Bonding	1,500,000	0	-1,500,000
TIB funds	0	2,540,899	2,540,899
Federal	16,273,728	16,273,728	0
Local	1,356,473	1,356,473	0
Total	20,671,100	20,671,100	0

\*\*\* Bridge Maintenance \*\*\*

#### Sec. 8. BRIDGE MAINTENANCE

Spending authority in the bridge maintenance program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	410,000	410,000	0
ROW	21,500	21,500	0
Construction	17,192,200	17,192,200	0
Total	17,623,700	17,623,700	0
<u>Source of funds</u>			
State	6,844,140	2,979,620	-3,864,520
TIB funds	0	234,020	234,020
Federal	10,779,560	10,779,560	0
ARRA funds	0	3,630,500	3,630,500
Total	17,623,700	17,623,700	0

\*\*\* Buildings \*\*\*

#### Sec. 9. TRANSPORTATION BUILDINGS

(a) Spending authority for the transportation buildings Berlin project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	0	-100,000
ROW	200,000	0	-200,000
Construction	650,000	0	-650,000
Total	950,000	0	-950,000
<u>Source of funds</u>			
State	190,000	0	-190,000
Federal	760,000	0	-760,000
Total	950,000	0	-950,000

(b) The agency shall study alternatives for the siting of the materials testing lab and report to the house and senate committees on transportation by January 15, 2010.

\* \* \* Department of Motor Vehicles \* \* \*

Sec. 10. DEPARTMENT OF MOTOR VEHICLES

Spending authority for the department of motor vehicles is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	17,063,642	16,913,642	-150,000
Operating Expenses	8,176,673	8,176,673	0
Grants	50,000	50,000	0
Total	25,290,315	25,140,315	-150,000
<u>Source of funds</u>			
State	23,807,821	23,657,821	-150,000
Federal	1,482,494	1,482,494	0
Total	25,290,315	25,140,315	-150,000

\* \* \* Rail \* \* \*

Sec. 11. RAIL

(a) Spending authority for passenger rail service (Amtrak contract) is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	3,300,000	3,700,000	400,000
Total	3,300,000	3,700,000	400,000
<u>Source of funds</u>			
State	3,300,000	3,700,000	400,000
Total	3,300,000	3,700,000	400,000

(b) Spending authority for rail property lease and encroachment management is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	300,000	212,761	-87,239
Total	300,000	212,761	-87,239
<u>Source of funds</u>			
State	300,000	212,761	-87,239
Federal	0	0	0
Total	300,000	212,761	-87,239

\* \* \* Finance and Management \* \* \*

Sec. 12. FINANCE AND MANAGEMENT



Spending authority for the finance and management division is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal services	10,071,137	10,071,137	0
Operating expenses	2,538,262	2,438,262	-100,000
Total	12,609,399	12,509,399	-100,000
Source of funds			
State	12,109,399	12,009,399	-100,000
Federal	500,000	500,000	0
Total	12,609,399	12,509,399	-100,000

\* \* \* Town Highway State Aid \* \* \*

Sec. 13. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General state aid to town highways. An annual appropriation to class 1, 2 and 3 town highways shall be made. ~~This appropriation shall increase or decrease over the previous year's appropriation by the same percentage as any increase or decrease in the transportation agency's total appropriations funded by transportation fund revenues, excluding the town highway appropriations for that year.~~ The funds appropriated shall be distributed to towns as follows:

(1) six percent of the state's annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the state;

(2) forty-four percent of the state's annual town highway appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the state;

(3) fifty percent of the state's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the state;

(4) moneys apportioned under subdivisions (1), (2), and (3) shall be distributed to each town in quarterly payments beginning July 15 in each year;

(5) each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the state, in a civil action brought by the attorney general, for making any unauthorized expenditures from money apportioned to the town under this section.

(b) As used in this subsection, the term "forecast" refers to a consensus forecast of transportation fund revenue for a fiscal year approved pursuant to 32 V.S.A. § 305a; the term "January baseline forecast" refers to a forecast approved in the January immediately preceding a fiscal year; and the term "distribution" refers to a quarterly distribution of town highway state aid during that fiscal year.

(1) If the forecast for a fiscal year as it is updated does not at any time vary from the January baseline forecast by 1 percent or more either higher or lower than the January baseline forecast, the town highway state aid appropriated under subsection (a) of this section shall be disbursed to towns in four equal installments commencing on July 15 of the fiscal year.

(2) If a forecast varies by more than 1 percent from the January baseline forecast, either higher or lower, the next scheduled distribution after the approval of the forecast shall be adjusted so that the sum of all prior distributions and the pending distribution is increased or decreased by the same proportion as the percentage change in the current forecast relative to the January baseline forecast; and the appropriation shall be adjusted accordingly.

~~(b)~~(c) Supplemental state aid for multilane class 1 town highways. There shall be an annual appropriation for supplemental aid to municipalities having class 1 town highways with more than two lanes. The agency shall distribute this aid on the basis of its measurement of the additional class 1 town highway lanes. The secretary may adopt rules to govern apportionment of supplemental aid.

~~(e)~~(d) State aid for town highway bridges. There shall be an annual appropriation for town bridge engineering services and for aid in maintaining or constructing bridges having a span of six feet or more on class 1, 2, and 3 town highways. Annually the agency shall distribute these funds according to a program plan based upon applications submitted by the towns. With the approval of the agency, funds may be used for alternatives which eliminate the need for a bridge or bridges, including, but not limited to, construction or reconstruction of highways, purchase of parcels of land that would be

landlocked by closure of a bridge or bridges, payment of damages for loss of highway access and substitution of other means of access.

~~(d)~~(e) State aid for nonfederal disasters. There shall be an annual appropriation for emergency aid in repairing, building, or rebuilding class 1, 2, or 3 town highways and bridges damaged by natural or man-made disasters. Eligibility for use of emergency aid under this appropriation shall be subject to the following criteria:

(1) The secretary of transportation shall determine that the disaster is of such magnitude that state aid is both reasonable and necessary to preserve the public good;

(2) The disaster shall not qualify for major disaster assistance from the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 et seq., or from the Federal Highway Administration (FHWA) under the 23 C.F.R. Part 668 emergency relief program for federal-aid highways;

(3) Towns shall be eligible for reimbursement for repair or replacement costs of either up to 90 percent of the eligible repair or replacement costs or the eligible repair or replacement costs, minus an amount equal to 10 percent of the overall total highway budget, minus the town's winter maintenance budget, whichever is greater;

(4) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the agency of transportation; and

(5) Such additional criteria as may be adopted by the agency of transportation through rulemaking under 3 V.S.A. chapter 25.

~~(e)~~(f) State aid for town highway structures. There shall be an annual appropriation for grants to municipalities for maintenance, including actions to extend life expectancy, and construction of bridges, culverts, and other structures, including causeways and retaining walls, intended to preserve the integrity of the traveled portion of class 1, 2, and 3 town highways. Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of \$3,490,000.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to

new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects. Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

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

~~(j)~~(h) Annual town plan. Within 60 days of adoption of the town's municipal budget, the selectboard of each town shall forward to the agency on forms provided by the agency a plan for the maintenance and construction of all highways under the selectboard's control for the following year. The plan shall be made with the advice of the district transportation administrator.

\* \* \* ARRA Funding of Town Projects \* \* \*

#### Sec. 14. ARRA FUNDING OF TOWN PROJECTS

Any town transportation project which as a matter of state law requires a local match shall retain the local match requirement regardless of the state's use of ARRA funds to fund the project.

\* \* \* Passenger Rail Equipment \* \* \*

Sec. 15. PASSENGER RAIL EQUIPMENT

In consultation with the joint fiscal office, the agency shall examine the alternatives and relative costs and benefits and service implications available to the state with respect to the purchase of passenger rail equipment to be used in place of the existing Amtrak equipment employed in the Vermonter and Ethan Allen services, including the purchase of refurbished equipment. The agency shall deliver a report of its analysis to the house and senate committees on transportation on or before January 15, 2010.

\* \* \* Public Transit \* \* \*

Sec. 16. PUBLIC TRANSIT

From the funds allocated to the public transit general capital program, \$100,000 in federal funds shall be held by the agency of transportation in reserve to cover shortfalls in the funding of the elders and persons with disabilities program (E&D) that occur as a result of unanticipated demand for non-Medicaid transportation services. Transit agencies that have grant agreements with the agency for the provision of E&D services shall be eligible to receive disbursements from the reserve. The agency shall develop a written policy to govern the evaluation and prioritization of applications for disbursements from the reserve to ensure access to the reserve funds is limited to transit agencies that have administered appropriately constrained E&D programs. The agency shall notify all transit agencies with grant agreements for the provision of E&D services of the policy no later than July 1, 2009, and all disbursements from the reserve shall be in accordance with the policy.

\* \* \* ARRA Funds \* \* \*

Sec. 17. FEDERAL ECONOMIC RECOVERY FUNDS

(a) Division A – Title XII of the American Recovery and Reinvestment Act (ARRA) of 2009 allocates federal funds to the state for transportation-related projects. The allocation is subject to a requirement that 50 percent of a portion of the allocation be obligated by the state within a 120-day time period, and that the remaining funds be obligated by February 2010. To the extent the state needs to obligate ARRA funds to satisfy the February 2010 deadline, subject to the approval of the joint transportation oversight committee, the secretary is authorized to obligate ARRA funds:

(1) to eligible projects in the fiscal year 2010 transportation program;  
and

(2) to additional town highway projects that meet federal eligibility and readiness criteria.

(b) To the extent ARRA funds are proposed under subsection (a) of this section to be obligated to projects in place of previously authorized state funds or non-ARRA federal funds, the agency shall, subject to the approval of the joint transportation oversight committee, reallocate the authorized funds to advance other projects in the fiscal year 2010 transportation programs in the order of their priority ranking. If the secretary determines that such funds would be more efficiently spent advancing a lower-ranking project due to permitting, right-of-way, or other practical constraints that impede the advancement of a higher ranking project, the secretary may reallocate funds from the higher ranking to the lower ranking project.

(c) To the extent ARRA funds have been obligated and appropriated under other authority to projects in the fiscal year 2009 transportation program to projects in place of previously authorized and appropriated state funds or non-ARRA federal funds, the agency is authorized to reallocate the authorized funds to advance other projects in the fiscal year 2009 transportation program.

(d) The agency shall submit its proposal regarding the obligation of ARRA funds under subsection (a) of this section and its proposal regarding the reallocation of funds under subsection (b) of this section to the joint transportation oversight committee for approval. The agency shall in addition report to the committee on any reallocation of funds executed under authority of subsection (c) of this section.

(e) Up to \$66,369,500 of ARRA funds are authorized for expenditure by the agency in fiscal year 2010 to fund the spending approved by the joint transportation oversight committee under subsection (d) of this section. The agency shall report on the expenditure of ARRA funds to the joint transportation oversight committee at the committee's regular and specially scheduled 2009 meetings.

(f) All reports from the agency to the joint transportation oversight committee (JTOC) required under this section when the legislature is not in session shall take place at meetings of the committee called by the chair.

#### Sec. 18. APPLYING FOR AMERICAN RECOVERY AND REINVESTMENT ACT FUNDS

The agency shall apply for a grant of rail infrastructure discretionary ARRA funds to cover, in whole or in part, the cost of upgrading the state's western rail corridor for intercity passenger rail service to and from Burlington, Rutland, Bennington and Albany, New York. In applying for a grant, the agency shall consider all possible all sources of non-federal match dollars which could be

included in and would thereby strengthen the application. The grant application shall state that priority will be given to the improvements necessary to extend intercity passenger rail service to downtown Burlington and that projects would be constructed as described in the 2006 State Rail & Policy Plan.

\* \* \* Joint Transportation Oversight Committee Chairs \* \* \*

Sec. 19. 19 V.S.A. § 12b(a) is amended to read:

(a) There is created a joint transportation oversight committee composed of the chairs of the house and senate committees on appropriations, the house and senate committees on transportation, the house committee on ways and means, and the senate committee on finance. The committee shall be chaired alternately by the chairs of the house and senate committees on transportation, and the two year term shall run concurrently with the biennial session of the legislature. The chair of the house committee on transportation shall chair the committee during the 2009–2010 legislative session.

\* \* \* Motor Fuel Transportation Infrastructure Assessments \* \* \*

Sec. 20. 23 V.S.A. § 3003(a) is amended to read:

(a) A tax of ~~25 cents per gallon~~ and \$0.25, a fee of ~~one cent per gallon~~ is imposed on each gallon of fuel \$0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a diesel fuel transportation infrastructure assessment in the amount of two percent of the wholesale price exclusive of all federal and state taxes is imposed upon on each gallon of diesel fuel:

- (1) sold or delivered by a distributor; or
- (2) used by a user.

Sec. 20a. 23 V.S.A. § 3003(d)(1) is amended to read:

(d)(1) For users, the following uses shall be exempt from ~~taxation~~ the tax and diesel fuel transportation infrastructure assessment imposed under this chapter and be entitled to a credit for any tax paid for such uses under section 3020 of this title.

Sec. 20b. 23 V.S.A. § 3106(a) is amended to read:

(a) Except for sales of motor fuels between distributors licensed in this state, which sales shall be exempt from the tax and from the motor fuel transportation infrastructure assessment, in all cases not exempt from the tax under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the commissioner a tax of \$0.19 ~~per~~ upon each gallon of motor fuel sold by the distributor, and a motor fuel transportation infrastructure assessment in the amount of two percent of

the wholesale price exclusive of all federal and state taxes upon each gallon of motor fuel sold by the distributor. The distributor shall also pay to the commissioner a tax and a motor fuel transportation infrastructure assessment in the same amount amounts upon each gallon of motor fuel used within the state by him or her.

Sec. 21. 19 V.S.A. § 11f is added to read:

§ 11f. TRANSPORTATION INFRASTRUCTURE BOND FUND

(a) There is created a special account within the transportation fund known as the transportation infrastructure bond fund to consist of funds raised from the motor fuel transportation infrastructure assessments levied pursuant to 23 V.S.A. §§ 3003(a) and 3106(a). Interest from the fund shall be credited annually to the fund, and the amount in the account shall carry forward from year to year.

(b)(1) Monies in the fund may be used:

(A) to pay principal, interest, and related costs on transportation infrastructure bonds issued pursuant to section 972 of Title 32; and

(B) to pay for:

(i) the rehabilitation, reconstruction, or replacement of state bridges, culverts, roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 10 years;

(ii) the rehabilitation, reconstruction, or replacement of municipal bridges, culverts, and highways which, after such work, have an estimated minimum remaining useful life of 10 years; and

(iii) up to \$100,000.00 per year for operating costs associated with administering the capital expenditures.

(2) However, in any fiscal year, no payments shall be made under this subsection unless the amount needed to pay for the following items for that fiscal year, to the extent required by the terms of any trust agreement applicable to the transportation infrastructure bonds, is either in the fund and available to pay for those items, or the items have been paid: debt service due on the bonds for that fiscal year; any associated reserve or sinking funds; and any associated costs of the bonds as defined in subsection 972(b) of Title 32.

(c) The assessments for motor fuel transportation infrastructure assessments paid pursuant to 23 V.S.A. §§ 3003(a) and 3106(a) shall not be reduced below the rates in effect at the time of issuance of any transportation infrastructure bond until the principal, interest, and all costs which must be paid in order to retire the bond have been paid.



\* \* \* Transportation Infrastructure Bonds \* \* \*

Sec. 22. 32 V.S.A. chapter 13, subchapter 4 is added to read:

Subchapter 4. TRANSPORTATION INFRASTRUCTURE BONDS

§ 972. TRANSPORTATION INFRASTRUCTURE BONDS

(a) The treasurer may issue bonds pursuant to this subchapter from time to time in amounts authorized by the general assembly in its annual transportation bill. Bonds issued under this section shall be referred to as “transportation infrastructure bonds.”

(b) Principal and interest on the bonds and associated costs shall be paid from the transportation infrastructure bond fund established in 19 V.S.A. § 11f. Associated costs of bonds include sinking fund payments; reserves; redemption premiums; additional security, insurance, or other form of credit enhancement required or provided for in any trust agreement entered to secure bonds; and related costs of issuance.

(c) Funds raised from bonds issued under this section may be used to pay for:

(1) the rehabilitation, reconstruction, or replacement of state bridges and culverts; and

(2) the rehabilitation, reconstruction, or replacement of municipal bridges and culverts; and

(3) the rehabilitation, reconstruction, or replacement of state roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 30 years or more;

(d) Pursuant to section 953 of this title, interest and the investment return on the bonds shall be exempt from taxation in this state.

(e) Bonds issued under this section shall be legal investments for all persons without limit as to the amount held, regardless of whether they are acting for their own account or in a fiduciary capacity. The bonds shall likewise be legal investments for all public officials authorized to invest in public funds.

§ 973. ISSUANCE OF BONDS

(a) Transportation infrastructure bonds may be issued at one time or in a series from time to time in any form permitted by law, in such manner and on such terms and conditions as the state treasurer may determine to be in the best interests of the state, except that the state treasurer shall determine the following with the approval of the governor:

(1) date of issuance;

(2) place of payment;

(3) rate of interest (which may be fixed or variable) or the manner of determining such rate of interest;

(4) original stated value;

(5) investment returns or manner of determining the investment returns;

(6) maturity value, time of maturity, and provisions with respect to redemption prior to maturity;

(7) whether to issue the bonds at par, premium, or discount;

(8) sinking fund and reserve requirements;

(9) amount and manner of issuance; and

(10) other particulars as to the form of such bonds within the limitations of this subchapter.

(b) The state treasurer shall determine the annual payment schedule for the bonds, including debt service and sinking fund payments, if any, as he or she may deem to be in the best interests of the state. However, any bond issued under this subchapter shall mature not later than 30 years after the date of issuance. Installments on the bonds need not be payable in substantially equal or diminishing amounts. The last bond payment shall be made not later than 30 years after the date of issuance.

(c) The state treasurer may determine at the time of issuance to apply all or a portion of any net premium to the costs of issuance, other related financing costs, or the payment of the principal or interest to come due. If net premium is applied to costs of issuance, the amount of the premium shall not be included in the net proceeds of the issue. Net premium not applied to costs of issuance shall be included in the net proceeds of the issue and may be used for any of the authorized purposes of the bond proceeds.

(d) The principal, interest, investment returns, and maturity value of transportation infrastructure bonds shall be payable in lawful money of the United States or of the country in which the bonds are sold.

(e) Transportation infrastructure bonds shall be registered pursuant to section 981 of this title.

#### § 974. SECURITY DOCUMENTS

(a) The state treasurer is authorized to secure bonds authorized under this subchapter by a trust agreement which pledges or assigns monies in the transportation infrastructure bond fund; by additional security, insurance, or other forms of credit enhancement which may be secured with the bonds on a parity or subordinate basis or by both.

(b) Any trust agreement or credit enhancement agreement entered into pursuant to this section shall be valid and binding from the time of the agreement without any physical delivery or further act and without any filing or recording under the Uniform Commercial Code or otherwise, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, irrespective of whether such parties have notice thereof.

(c) Any trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the state treasurer, including provisions relating to the establishment of reserves; the issuance of additional or refunding bonds, whether or not secured on a parity basis; the application of receipts, monies, or funds pledged pursuant to the agreement; and other matters deemed necessary or desirable by the state treasurer for the security of the bonds, and may also regulate the custody, investment, and application of monies.

(d) For payment of principal, interest, investment returns, and maturity value of transportation infrastructure bonds, the full faith and credit of the state is hereby pledged. However:

(1) if pledging of full faith and credit of the state is not necessary to market a transportation infrastructure bond in the best interest of the state, the treasurer shall enter into an agreement which establishes that the full faith and credit of the state is not pledged for payment of principal, interest, investment returns, and maturity value of the bond. In determining whether to pledge the full faith and credit of the state, the state treasurer shall consider the anticipated effect of such a pledge on the credit standing of the state, the marketability of

the transportation infrastructure bond, and other factors he or she deems appropriate; and

(2) the treasurer shall only use other revenues to pay for debt service and associated costs as defined in section 972 of this title on transportation infrastructure bonds to which the full faith and credit of the state has been pledged in the event that monies in the transportation infrastructure bond fund are insufficient to pay for it.

#### § 975. PROCEEDS

(a) Proceeds from the sale of bonds may be expended for the authorized purposes of the bonds; including the expenses of preparing, issuing, and marketing the bonds; any notes issued under section 976 of this title; and amounts for any reserves. However, no purchasers of the bonds shall be bound to see to the proper application of the proceeds thereof.

(b) The treasurer may pay for the interest on, principal of, investment return on, maturity value of, and associated costs as defined in subsection 972(b) of this title of bonds issued under this subchapter from the transportation infrastructure bond fund as they fall due without further order or authority.

(c) The general assembly shall appropriate the amount necessary to pay the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on transportation infrastructure bonds then outstanding in the annual appropriations bill and the principal and interest on, investment return and maturity value of, and sinking fund installments on the transportation infrastructure bonds as may come due before appropriations for payment have been made shall be paid from the transportation infrastructure bond fund, or with respect to bonds to which the full faith and credit of the state has been pledged and in accordance with subdivision 974(d)(2) of this title, from the general fund or other applicable fund.

#### § 976. ANTICIPATION OF PROCEEDS

(a) Pending the issue of transportation infrastructure bonds, the state treasurer with the approval of the governor may use any available cash in the transportation infrastructure bond fund for the purposes for which the bonds were authorized, and shall restore the borrowed funds from the proceeds of the bonds.

(b) The state treasurer, with the approval of the governor, may borrow upon notes of the state sums of money in anticipation of the proceeds of the bonds. Notes issued under this subsection shall be issued on such terms and at such times as the treasurer and governor may determine, and shall mature not more than three years from the date of issuance, provided that notes issued for a

shorter period may be refunded from time to time by the issue of other such notes maturing within the required period of three years.

(c) The authority granted under this section is in addition to and not in limitation of any other authority.

#### § 977. REFUNDING BONDS

The state treasurer with the approval of the governor is hereby authorized to issue transportation infrastructure bonds in order to refund all or any portion of outstanding transportation bonds at any time after the issuance of the bonds to be refunded pursuant to subsections 961(b), (c), and (d) of this title.

#### § 978. PLEDGE

The general assembly hereby pledges and covenants with holders of the bonds issued under this subchapter that the state will fulfill the terms of any agreement made with the holders of transportation infrastructure bonds and will not in any way impair the rights or remedies of the holders of the bonds until the bonds, interest, and all costs associated with the bonds are fully paid.

#### § 979. AUTHORITIES

In addition to the provisions of this subchapter, the following provisions of this title shall apply to transportation infrastructure bonds:

(1) sections 953, 956, 958, and 960;

(2) subsection 954(c), except that transfers shall be made only among projects to be funded with transportation infrastructure bonds; and

(3) section 957, except that consolidation may be only among transportation infrastructure bonds, and the bonds shall be the lawful obligation of the transportation infrastructure bond fund and not of the remaining revenues of the state unless the treasurer has agreed to pledge the full faith and credit of the state pursuant to subdivision 974(e)(2) of this title.

#### Sec. 23. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

The state treasurer is authorized to issue transportation infrastructure bonds pursuant to 32 V.S.A. § 972 for the purpose of funding future appropriations only as approved by the general assembly.

Sec. 24. 32 V.S.A. § 1001(b) is amended to read:

(b)(1) Committee duties. The committee shall review annually the size and affordability of the net state tax-supported indebtedness, and submit to the governor and to the general assembly an estimate of the maximum amount of new long-term net state tax-supported debt that prudently may be authorized

for the next fiscal year. The estimate of the committee shall be advisory and in no way bind the governor or the general assembly.

(2) The committee shall conduct ongoing reviews of the amount and condition of bonds, notes, and other obligations of instrumentalities of the state for which the state has a contingent or limited liability or for which the state legislature is permitted to replenish reserve funds, and, when deemed appropriate, recommend limits on the occurrence of such additional obligations to the governor and to the general assembly.

(3) The committee shall conduct ongoing reviews of the amount and condition of the transportation infrastructure bond fund established in 19 V.S.A. § 11f and of bonds and notes issued against the fund for which the state has a contingent or limited liability.

Sec. 25. 32 V.S.A. § 1001a is amended to read:

§ 1001a. REPORTS

The capital debt affordability advisory committee shall prepare and submit, consistent with 2 V.S.A. § 20(a), a report on:

(1) general obligation debt, pursuant to subsection 1001(c) of this title; and

(2) how many, if any, transportation infrastructure bonds have been issued and under what conditions.

\* \* \* Motor Vehicle Fees \* \* \*

Sec. 26. 23 V.S.A. § 114(a)(14) is amended to read:

(a) The commissioner shall be paid the following fees for miscellaneous transactions:

\* \* \*

(14) Certified copy three-year operating record ~~10.00~~ 11.00

Sec. 27. 23 V.S.A. § 115(a) is amended to read:

(a) Any Vermont resident may make application to the commissioner and be issued an identification card which is attested by the commissioner as to true name, correct age, and any other identifying data as the commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the commissioner may require. The commissioner shall require payment of a fee of ~~\$15.00~~ \$17.00 at the time application for an identification card is made.

Sec. 28. 23 V.S.A. § 304(b) and (c) are amended to read:

(b) The authority to issue special motor vehicle number plates or receive applications or petitions for special number plates for safety organizations and service organizations shall reside with the commissioner. Determination of compliance with the criteria contained in this subsection shall be within the discretion of the commissioner. Series of number plates for safety and service organizations which are authorized by the commissioner shall be issued in order of approval, subject to the operating considerations in the department as determined by the commissioner. The commissioner shall issue special number plates marked with initials, letters, or combination of numerals and letters, in the following manner:

(1) Except as otherwise provided, at the request of the registrant of any motor vehicle, upon application and upon payment of an annual fee of ~~\$35.00~~ \$38.00 in addition to the annual fee for registration. He or she may not issue two sets of special number plates bearing the same initials or letters unless the plates also contain a distinguishing number. Special number plates are subject to reassignment if not renewed within 60 days of expiration of the registration.

(2) For the purposes of this subdivision, “safety organizations” shall include groups which have at least 100 instate members in good standing and provide police and fire protection, rescue squads, national guard, together with those organizations required to respond to public emergencies. It shall include amateur radio operators licensed by the U.S. Federal Communications Commission. For purposes of this subdivision, “service organization” includes any group which (i) has as a primary purpose, service to the community through specific programs for the improvement of public health, education, or environmental awareness and conservation, and are not limited to social activities; (ii) has nonprofit status under Section 501(c)(3) or (10) of the United States Internal Revenue Code, as amended; (iii) is registered as a nonprofit corporation with the office of the secretary of state; and (iv) except for a military veterans group, has at least 100 instate members in good standing. “Service organization” also includes congressionally chartered and noncongressionally chartered United States military service veterans groups.

(A) At the request of the leader of a safety organization or service organization, upon application and payment of a fee of ~~\$10.00~~ \$15.00 for each set of plates in addition to the annual fee for registration, special plates indicating membership in one of the “safety organizations” or “service organizations” may be issued to registrants of vehicles registered at the pleasure car rate and of trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, who are members of these organizations. The applicant must provide a written

statement from the appropriate official of the organization, authorizing the issuance of the plates.

(B) At the time that an organization requests the plates, it shall deposit ~~\$1,000.00~~ \$2,000.00 with the commissioner. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and the balance shall be deposited in the transportation fund. For ~~each set~~ the first 100 sets of plates issued, ~~\$10.00~~ \$15.00 of this deposit shall be deemed to be the safety organization or service organization special plate fee for each authorized applicant. Five hundred dollars of this deposit shall be retained by the department to recover costs of developing the organization plate. When the initial deposit of ~~\$1,000.00~~ \$1,500.00 is depleted, applicants shall be required to pay the ~~\$10.00~~ \$15.00 fee as provided for in subdivision (1) of this subsection. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and shall remit the balance to the transportation fund. No organization shall charge its members any additional fee or premium charge for the authorization, right or privilege to display these special number plates. This provision shall not prevent any organization from recovering up to ~~\$1,000.00~~ \$1,500.00 from applicants for the special plates.

(C) After consulting with representatives of the safety or service organization, the commissioner shall determine the design of the special plates, on the basis that the primary purpose of motor vehicle number plates is vehicle identification. An organization applying for a special plate under this subsection shall present the commissioner with a name and emblem that is not obscene, offensive or confusing to the general public and does not promote, advertise or endorse a product, brand, or service provided for sale, or promote any specific religious belief or political party. The organization's name and emblem must not infringe or violate trademarks, trade names, service marks, copyrights, or other proprietary or property rights and the organization must have the right to use the name and emblem. The organization shall designate an officer or member to act as the principal contact and to submit a distinctive emblem for use on a special number plate, if authorized. An organization may have only one design, regardless of the number of individual organizational units within the state that may provide the same or substantially similar services. Nothing herein shall be construed as authorizing any individual



squad, department, or unit to request a unique or specially designed plate different than the plate designed by the commissioner.

\* \* \*

(c) The commissioner shall issue registration numbers 101 through 9999 which shall be known as reserved registration numbers for pleasure cars or motor trucks that are registered at the pleasure car rate in the following manner:

(1) A person holding a registration number between 101 and 9999 may retain the number for the ensuing registration period, provided application is made prior to or within 60 days of the expiration of the registration.

(2) If the registrant does not renew the registration, the number may be reassigned to a member of the immediate family if application is made within 60 days of the expiration of the registration. As used herein, "immediate family" means the spouse, household member, grandparents, parents, siblings, children, or grandchildren of the registrant.

(3) The commissioner shall restrict the issuance of these registrations to residents of this state and may restrict issuance to applicants who do not already have such a registration issued to them.

(4) A person holding a registration number between 101 and 9999 on a pleasure car may also have the same number on a truck that is registered at the pleasure car rate, and vice versa.

(5) An application for a reserved registration number shall be accompanied by an annual fee of \$38.00 in addition to the registration fee.

Sec. 29. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds, on vehicles registered to state agencies under section 376 of this title and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the

operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of ~~\$20.00~~ \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of ~~\$20.00~~ \$23.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources and energy a report detailing, over a three-year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.

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

(1) ~~\$10.00~~ \$11.00 to the transportation fund.

(2) ~~\$5.00~~ \$6.00 to the department of fish and wildlife for deposit into the nongame wildlife account created in 10 V.S.A. § 4048.

(3) ~~\$5.00~~ \$6.00 to the department of fish and wildlife for deposit into the watershed management account created in 10 V.S.A. § 4050.

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

(1) ~~\$9.00~~ \$10.00 to the department of fish and wildlife for deposit into the nongame wildlife account created in 10 V.S.A. § 4048.

(2) ~~\$9.00~~ \$10.00 to the department of fish and wildlife for deposit into the watershed management account created in 10 V.S.A. § 4050.

(3) ~~\$2.00~~ \$3.00 to the transportation fund.

Sec. 30. 23 V.S.A. § 307 is amended to read:

#### § 307. CARRYING OF REGISTRATION CERTIFICATE

A person shall not operate a motor vehicle nor draw a trailer or semi-trailer unless the registration certificate thereof is carried in some easily accessible place in such motor vehicle. In case of the loss, mutilation or destruction of such certificate the owner of the vehicle described therein shall forthwith notify the commissioner and remit a fee of ~~\$12.00~~ \$13.00 whereupon the commissioner shall furnish such owner with a duplicate certificate. A corrected registration certificate shall be furnished by the commissioner upon request and receipt of a fee of ~~\$12.00~~ \$13.00.

Sec. 31. 23 V.S.A. § 323 is amended to read:

§ 323. TRANSFER FEES

A person who transfers the ownership of a registered motor vehicle to another, upon the filing of a new application, and upon the payment of a fee of ~~\$20.00~~ \$22.00 may have registered in his or her name another motor vehicle for the remainder of the registration period without payment of any additional registration fee, provided the proper registration fee of the motor vehicle sought to be registered is the same as the registration fee of the transferred motor vehicle. However, if the proper registration fee of the motor vehicle sought to be registered by such person is greater than the registration fee of the transferred motor vehicle, the applicant shall pay, in addition to such fee of ~~\$20.00~~ 22.00, the difference between the registration fee of the motor vehicle previously registered and the proper fee for the registration of the motor vehicle sought to be registered.

Sec. 32. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

The annual fee for registration of any motor vehicle of the pleasure car type, and all vehicles powered by electricity, shall be ~~\$59.00~~ \$64.00, and the biennial fee shall be ~~\$108.00~~ \$120.00.

Sec. 33. 23 V.S.A. § 364 is amended to read:

§ 364. MOTORCYCLES

The annual fee for registration of a motorcycle, with or without side car, shall be ~~\$36.00~~ \$40.00.

Sec. 34. 23 V.S.A. § 367(a)(1) is amended to read:

(a)(1) The annual fee for registration of tractors, truck-tractors, or motor trucks except truck cranes, truck shovels, road oilers, bituminous distributors, and farm trucks used as hereinafter specified shall be based on the total weight of the truck-tractor or motor truck including body and cab plus the heaviest load to be carried. In computing the fees for registration of tractors, truck-tractors or motor trucks with trailers or semi-trailers attached, except trailers or semi-trailers with a gross weight of less than 6,000 pounds, the fee shall be based upon the weight of the tractor, truck-tractor or motor truck, the weight of the trailer or semi-trailer, and the weight of the heaviest load to be carried by the combined vehicles. In addition to the fee set out in the following schedule, the fee for vehicles weighing between 10,000 and 25,999 pounds inclusive shall be an additional ~~\$29.00~~ \$31.47, the fee for vehicles weighing between 26,000 and 39,999 pounds inclusive shall be an additional ~~\$58.00~~ \$62.93, the fee for vehicles weighing between 40,000 and 59,999 pounds inclusive shall be

an additional ~~\$203.04~~ \$220.30 and the fee for vehicles 60,000 pounds and over shall be an additional ~~\$319.07~~ \$346.19. The fee shall be computed at the following rates per thousand pounds of weight determined as above specified and rounded up to the nearest whole dollar, the minimum fee for registering a tractor, truck-tractor, or motor truck to 6,000 pounds shall be the same as for the pleasure car type:

~~\$12.42~~ \$13.48 when the weight exceeds 6,000 pounds but does not exceed 8,000 pounds.

~~\$14.21~~ \$15.42 when the weight exceeds 8,000 pounds but does not exceed 12,000 pounds.

~~\$15.67~~ \$17.00 when the weight exceeds 12,000 pounds but does not exceed 16,000 pounds.

~~\$16.76~~ \$18.18 when the weight exceeds 16,000 pounds but does not exceed 20,000 pounds.

~~\$17.53~~ \$19.02 when the weight exceeds 20,000 pounds but does not exceed 30,000 pounds.

~~\$17.92~~ \$19.44 when the weight exceeds 30,000 pounds but does not exceed 40,000 pounds.

~~\$18.34~~ \$19.90 when the weight exceeds 40,000 pounds but does not exceed 50,000 pounds.

~~\$18.51~~ \$20.08 when the weight exceeds 50,000 pounds but does not exceed 60,000 pounds.

~~\$19.14~~ \$20.77 when the weight exceeds 60,000 pounds but does not exceed 70,000 pounds.

~~\$19.78~~ \$21.46 when the weight exceeds 70,000 pounds but does not exceed 80,000 pounds.

~~\$20.42~~ \$22.16 when the weight exceeds 80,000 pounds but does not exceed 90,000 pounds.

Sec. 35. 23 V.S.A. § 371(a)(1) is amended to read:

(a)(1) The one-year and two-year fees for registration of a trailer or semi-trailer, except contractor's trailer or farm trailer, shall be as follows:

(A) ~~\$20.00 and \$40.00~~ \$23.00 and \$45.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of less than 1,500 pounds;

(B) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of 1,500 pounds or

more, and is drawn by a vehicle of the pleasure car type;

(C) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer is drawn by a motor truck or tractor, when such trailer or semi-trailer has a gross weight of 1,500 pounds or more, but not in excess of 3,000 pounds;

(D) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer is used in combination with a truck-tractor or motor truck registered at the fee provided for combined vehicles under section 367 of this title. Excepting for the fees, the provisions of this subdivision shall not apply to trailer coaches as defined in section 4 of this title nor to modular homes being transported by trailer or semi-trailer.

Sec. 36. 23 V.S.A. § 463 is amended to read:

§ 463. SALE OF VEHICLE TO GO OUT OF STATE

A registered motor vehicle dealer is authorized to issue an in-transit registration permit for the purpose of movement over the highways of certain motor vehicles otherwise required to be registered when these vehicles are sold in this state to be transported to and registered in another state or province. The commissioner of motor vehicles shall, upon request, provide registered motor vehicle dealers with such numbers of applications and special in-transit number plates for vehicles sold in this state to be transported to and registered in another state or province as shall be necessary. The commissioner is authorized to charge a fee of ~~\$3.00~~ \$5.00 for the processing of the plate application and the issuance of the plate. The dealer, upon the sale of a motor vehicle to be transported to and registered in another state or province shall cause the application to be filled out and transmitted to the commissioner and shall attach to the vehicle the in-transit number plate corresponding to the application. No registered motor vehicle dealer shall sell, exchange, give, or transfer any application or in-transit plate to any person other than the person to whom the dealer sells or exchanges a motor vehicle to be registered in another state or province. The application shall be in a form prescribed and furnished by the commissioner. The special in-transit number plate to be attached to the vehicle will be issued in the form and design as prescribed by the commissioner and shall be valid for a period of 30 days from the date of issue.

Sec. 37. 23 V.S.A. § 608(a) amended to read:

(a) The four-year fee required to be paid the commissioner for licensing an operator of motor vehicles shall be ~~\$40.00~~ \$45.00. The two-year fee required to be paid the commissioner for licensing an operator shall be ~~\$25.00~~ \$28.00 and the two-year fee for licensing a junior operator shall be ~~27.00~~ \$28.00.

Sec. 38. 23 V.S.A. §§ 617(b) and (d) are amended to read:

(b) Notwithstanding the provisions of subsection (a) of this section, any licensed person may apply to the commissioner of motor vehicles for a learner's permit for the operation of a motorcycle in the form prescribed by the commissioner. The commissioner shall require payment of a fee of \$17.00 at the time application is made. After the applicant has successfully passed all parts of the motorcycle endorsement examination, other than a skill test, the commissioner may issue to the applicant a learner's permit which entitles the applicant, subject to section 615(a) of this title, to operate a motorcycle upon the public highways for a period of 120 days from the date of issuance. A motorcycle learner's permit may be renewed only twice upon payment of a \$17.00 fee. If during the original permit period and two renewals, the permittee has not successfully passed the skill test or the motorcycle rider training course, he or she may not obtain another motorcycle learner's permit for a period of 12 months from the expiration of the permit unless he or she has successfully completed the motorcycle rider training course. This section shall not affect section 602 of this title. The fee for the examination shall be \$7.00.

(d) An applicant shall pay ~~\$15.00~~ \$17.00 to the commissioner for each learner's permit that is not a motorcycle learner's permit or a duplicate or renewal thereof.

Sec. 39. 23 V.S.A. § 634(a) is amended to read:

(a) The fee for an examination for a learner's permit shall be ~~\$25.00~~ \$28.00. The fee for an examination to obtain an operator's license when the applicant is required to pass an examination pursuant to section 632 of this title shall be ~~\$15.00~~ \$17.00.

Sec. 40. 23 V.S.A. § 675(a) is amended to read:

(a) Before a suspension or revocation issued by the commissioner of a person's operator's license or privilege of operating a motor vehicle may be terminated or before a person's operator's license or privilege of operating a motor vehicle may be reinstated, there shall be paid to the commissioner a fee of ~~\$65.00~~ \$71.00 in addition to any other fee required by statute. This section shall not apply to suspensions issued under the provisions of chapter 11 of this title nor suspensions issued for physical disabilities or failing to pass reexamination. The commissioner shall not reinstate the license of a driver whose license was suspended pursuant to section 1205 of this title until the commissioner receives certification from the court that the costs due the state have been paid.

Sec. 41. 23 V.S.A. § 1230 is amended to read:

For each inspection certificate issued by the department of motor vehicles,

the commissioner shall be paid ~~\$3.00~~ \$4.00 provided that state and municipal inspection stations that inspect only state or municipally owned and registered vehicles shall not be required to pay a fee.

Sec. 42. 23 V.S.A. § 1392(17) is amended to read:

(17) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more load bearing axles and specially equipped for hauling unprocessed milk, unprocessed forest or unprocessed quarry products shall be allowed to bear a maximum of 99,000 pounds by special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on the state and town highways, subject to the following:

(A) The combination of vehicles must have as a minimum, a distance of 51 feet between extreme axles.

(B) The axle weight provisions of section 1391 of this title and subdivision 1392(6) of this section shall also apply to vehicles permitted under this subdivision.

(C) When determining the fine for a gross overweight violation of this subdivision, the fine for any portion of the first 10,000 pounds over the permitted weight shall be the same as provided in section 1391a of this title, and for overweight violations 10,001 pounds or more over the permitted weight, the fine schedule provided in section 1391a shall be doubled.

(D) The weight permitted by this subdivision shall be allowed for foreign trucks which are registered or permitted for 99,000 pounds in a state or province which recognizes Vermont vehicles for weights consistent with this subdivision.

(E) The provisions of this subdivision shall not apply to operation on the interstate and defense highway system.

(F) The fee for the annual permit as provided in this subdivision shall be ~~\$350.00~~ \$500.00.

(G) For the purposes of this subdivision, the following definitions shall apply:

- (i) unprocessed milk products as defined in 23 V.S.A. § 4(55);
- (ii) unprocessed forest products as defined in 23 V.S.A. § 1392(13);
- (iii) unprocessed quarry products shall be quarried rock in block

or blocks as it would be removed from the quarry.

Sec. 43. 23 V.S.A. §1402(a) and (b) are amended to read:

(a) Overweight, overwidth, indivisible overlength, and overheight permits. Overweight, overwidth, indivisible overlength and overheight permits shall be signed by the commissioner or by his or her agent and a copy shall be kept in the office of the commissioner or in a location approved by the commissioner. Except as provided in subsection (c) of this section, a copy shall also be available in the towing vehicle and must be available for inspection on demand of a law enforcement officer. Before operating a traction engine, tractor, trailer, motor truck or other motor vehicle, the person to whom a permit to operate in excess of the weight, width, indivisible overlength and height limits established by this title is granted shall pay a fee of ~~\$20.00~~ \$35.00 for each single trip permit or ~~\$70.00~~ \$100.00 for a blanket permit, except that the fee for a fleet blanket permit shall be ~~\$70.00~~ \$100.00 for the first unit and ~~\$1.00~~ \$5.00 for each unit thereafter. At the option of a carrier, an annual permit for the entire fleet, to operate over any approved route, may be obtained for ~~\$70.00~~ \$100.00 for the first tractor and ~~\$1.00~~ \$5.00 for each additional tractor, up to a maximum fee of \$1,000.00. The fee for a fleet permit shall be based on the entire number of tractors owned by the applicant. An applicant for a fleet permit may apply for any number of specific routes, each of which shall be reviewed with regard to the characteristics of the route and the type of equipment operated by the applicant. When the weight or size of the vehicle-load are considered sufficiently excessive for the routing requested, the agency of transportation shall, on request of the commissioner, conduct an engineering inspection of the vehicle-load and route, for which a fee of \$300.00 will be added to the cost of the permit if the load is a manufactured home. For all other loads of any size or with gross weight limits less than 150,000 pounds, the fee shall be \$800.00 for any engineering inspection that requires up to eight hours to conduct. If the inspection requires more than eight hours to conduct, the fee shall be \$800.00 plus \$60.00 per hour for each additional hour required. If the vehicle and load weigh 150,000 pounds or more but not more than 200,000 pounds, the engineering inspection fee shall be \$2,000.00. If the vehicle and load weigh more than 200,000 pounds but not more than 250,000 pounds, the engineering inspection fee shall be \$5,000.00. If the vehicle and load weigh more than 250,000 pounds, the engineering inspection fee shall be \$10,000.00. The study must be completed prior to the permit being issued. Prior to the issuance of a permit, an applicant whose vehicle weighs 150,000 pounds or more, or is 15 or more feet in width or height, shall file with the commissioner a special certificate of insurance showing minimum coverage of \$250,000.00 for death or injury to one person, \$500,000.00 for death or injury to two or more persons and \$250,000.00 for



property damage, all arising out of any one accident.

(b) Overlength permits. Except as provided in ~~subsection 1432(f)~~ subsections 1432(c) and (e) of this title, it shall be necessary to obtain an overlength permit as follows:

(1) For vehicles with a trailer or semitrailer which are longer than ~~68 feet but not longer than 72~~ 75 feet ~~off the truck network established in subsection 1432(e) of this title~~ and the distance between the steering axle and the rearmost tractor axle is ~~23~~ 25 feet or less. In such cases, the vehicle may be operated with a single or multiple trip overlength permit issued by the department of motor vehicles at no cost or, for a fee, by an entity authorized under subsection 1400(d) of this title for routes approved by the agency of transportation.

(2) For vehicles with a trailer or semitrailer longer than ~~68 feet but not longer than 72~~ 75 feet ~~off the truck network established in subsection 1432(e) of this title~~ and the distance between the steering axle and the rearmost tractor axle is more than ~~23~~ 25 feet. In such cases, the vehicle may be operated with a single trip overlength permit issued by the department of motor vehicles at no cost for routes approved by the agency of transportation.

(3) For vehicles with a trailer or semitrailer longer than ~~72~~ 75 feet anywhere in the state on highways approved by the agency of transportation. In such cases, the vehicle may be operated with a single trip overlength permit issued by the department of motor vehicles for a fee of ~~\$10.00~~ \$25.00. If the vehicle is 100 feet or more in length, the permit applicant shall file with the commissioner of motor vehicles, a special certificate of insurance showing minimum coverage of \$250,000.00 for death or injury to one person, \$500,000.00 for death or injury to two or more persons and \$250,000.00 for property damage, all arising out of any one accident.

Sec. 44. 23 V.S.A. § 2002(a) is amended to read:

(a) The commissioner shall be paid the following fees:

- (1) For any certificate of title, including a salvage certificate of title, ~~\$28.00~~ \$31.00;
- (2) For each security interest noted upon a certificate of title, including a salvage certificate of title, ~~\$7.00~~ \$9.00;
- (3) For a certificate of title after a transfer, ~~\$28.00~~ \$31.00;
- (4) For each assignment of a security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;
- (5) For a duplicate certificate of title, including a salvage certificate of title, ~~\$28.00~~ \$31.00;
- (6) For an ordinary certificate of title issued upon surrender of a distinctive certificate, ~~\$28.00~~ \$31.00;
- (7) For filing a notice of security interest, ~~\$7.00~~ \$9.00;
- (8) For a certificate of search of the records of the motor vehicle department, for each motor vehicle searched against, \$20.00;
- (9) For filing an assignment of a security interest, ~~\$7.00~~ \$9.00;
- (10) For a certificate of title after a security interest has been released, ~~\$28.00~~ \$31.00;
- (11) For a certificate of title for a motor vehicle granted a veteran by the veterans' administration and exempt from registration fees pursuant to section 378 of this title, no fee;
- (12) For a corrected certificate of title, ~~\$28.00~~ \$31.00.

Sec. 45. 23 V.S.A. § 3802(a) is amended to read:

- (a) The commissioner shall be paid the following fees:
  - (1) for filing an application for a first certificate of title, ~~\$15.00~~ \$19.00;
  - (2) for each security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;
  - (3) for a certificate of title after a transfer, ~~\$15.00~~ \$19.00;
  - (4) for each assignment of a security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;
  - (5) for a duplicate certificate of title, ~~\$15.00~~ \$19.00;
  - (6) for an ordinary certificate of title issued upon surrender of a distinctive certificate, ~~\$15.00~~ \$19.00;
  - (7) for filing a notice of security interest, ~~\$7.00~~ \$9.00;

(8) for a certificate of search of the records of the motor vehicle department for each vessel, snowmobile or all-terrain vehicle searched against, \$20.00;

(9) for filing an assignment of a security interest, ~~\$7.00~~ \$9.00;

(10) for a certificate of clear title after the security interest or interests have been released, ~~\$15.00~~ \$19.00;

(11) for a corrected certificate of title, ~~\$15.00~~ \$19.00.

Sec. 46. 32 V.S.A. § 8903(a), (b), and (d) are amended to read:

(a)(1) There is hereby imposed upon the purchase in Vermont of a motor vehicle by a resident a tax at the time of such purchase, payable as hereinafter provided. The amount of the tax shall be six percent of the taxable cost of a:

pleasure car as defined in 23 V.S.A. § 4;

motorcycle as defined in 23 V.S.A. § 4;

motor home as defined in subdivision 8902(11) of this title; or

vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

(2) For any other motor vehicle it shall be six percent of the taxable cost of the motor vehicle or ~~\$1,680.00~~ \$1,850.00 for each motor vehicle, whichever is smaller, except that pleasure cars which are purchased, leased or otherwise acquired for use in short-term rentals shall be subject to taxation under subsection (d) of this section.

(b)(1) There is hereby imposed upon the use within this state a tax of six percent of the taxable cost of a:

pleasure car as defined in 23 V.S.A. § 4;

motorcycle as defined in 23 V.S.A. § 4;

motor home as defined in subdivision 8902(11) of this title; or

vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

(2) For any other motor vehicle it shall be six percent of the taxable cost of a motor vehicle, or ~~\$1,680.00~~ \$1,850.00 for each motor vehicle, whichever is smaller, by a person at the time of first registering or transferring a registration to such motor vehicle payable as hereinafter provided, except no use tax shall be payable hereunder if the tax imposed by subsection (a) of this section has been paid, or the vehicle is a pleasure car which was purchased,

leased or otherwise acquired for use in short-term rentals, in which case the vehicle shall be subject to taxation under subsection (d) of this section.

(d) There is hereby imposed a use tax on the rental charge of each transaction, in which the renter takes possession of the vehicle in this state, during the life of a pleasure car purchased for use in short-term rentals, which tax is to be collected by the rental company from the renter and remitted to the commissioner. The amount of the tax shall be ~~seven~~ nine percent of the rental charge. Rental charge means the total rental charge for the use of the pleasure car, but does not include a separately stated charge for insurance, or recovery of refueling cost, or other separately stated charges which are not for the use of the pleasure car. In the event of resale of the vehicle in this state for use other than short-term rental, such transaction shall be subject to the tax imposed by subsection (a) of this section.

Sec. 47. 23 V.S.A. § 476 is added to read:

§ 476. MOTOR VEHICLE WARRANTY FEE

A motor vehicle warranty fee of \$5.00 is imposed on the registration of each new motor vehicle in this state not including trailers, tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, mopeds, or the living portion of recreation vehicles, or trucks with a gross vehicle weight over 12,000 pounds.

Sec. 48. 23 V.S.A. § 3204 is amended to read:

§ 3204. REGISTRATION FEES AND DEALER PLATES

(a) Fees. Registration fees for snowmobiles other than as provided for in subsection (b) of this section are ~~\$15.00~~ \$25.00 for residents and ~~\$22.00~~ \$32.00 for nonresidents. Duplicate registration certificates may be obtained upon payment of ~~\$2.00~~ \$5.00.

(b)(1) Dealer; manufacturer and repair plates; fees. Unless exempted pursuant to subsection 3205(d) of this title, any person engaged in the manufacture or sale of snowmobiles shall obtain registration certificates and identifying number plates subject to such rules as may be adopted by the commissioner which shall be valid for the following purposes only: testing; adjusting; demonstrating; temporary use of customers for a period not to exceed 14 days; private business or pleasure use of such person or members of his or her immediate family; and use at fairs, shows or races when no charge is made for such use.

(2) Fees. Fees for dealer registration certificates shall be \$40.00 for the first certificate issued to any person and \$5.00 for any additional certificate issued to the same person within the current registration period. Fees for

temporary number plates shall be \$1.00 for each plate issued.

(c) Temporary registration pending issuance of permanent registration. The commissioner, by rules adopted pursuant to 3 V.S.A. chapter 25, shall provide for the issuance of temporary registrations of snowmobiles pending issuance of the permanent registration. VAST shall be an agent of the commissioner for the issuance of such temporary registrations. The fees for the temporary registrations shall be ~~\$15.00~~ \$25.00 for residents and ~~\$22.00~~ \$32.00 for nonresidents and shall also constitute payment of the registration fee required by subsection (a) of this section. Temporary registrations shall be kept with the snowmobile while being operated and shall authorize operation without the registration decal being affixed for a period not to exceed 60 days from the date of issue.

\* \* \*

Sec. 49. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY

(a) The amount of \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to the agency of transportation. The balance of fees and penalties collected under this subchapter, except interest, are is hereby allocated to the agency of natural resources for use by VAST for development and maintenance of the statewide snowmobile trail program (SSTP), for trails' liability insurance, and an amount equal to \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter; the allocation for snowmobile law enforcement shall be included as a part of the annual expenditure plan required by section 3215 of this chapter. The departments of public safety and fish and wildlife are authorized to contract with VAST to provide these law enforcement services. The agency of natural resources may retain for its use up to \$11,500.00 during each fiscal year to be used for the oversight of the state snowmobile trail program.

\* \* \*

Sec. 50. 23 V.S.A. § 3305(b) is amended to read:

(b) Annually, the owner of each motorboat required to be registered by this state shall file an application for a number with the commissioner of motor vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of ~~\$17.00~~ \$22.00 and a surcharge of \$5.00 for a motorboat in class A; by a fee of ~~\$28.00~~ \$33.00 and a surcharge of \$10.00 for a motorboat in class 1; by a fee of ~~\$55.00~~

\$60.00 and a surcharge of \$10.00 for a motorboat in class 2; by a fee of ~~\$121.00~~ \$126.00 and a surcharge of \$10.00 for a motorboat in class 3. Upon receipt of the application in approved form, the commissioner shall enter the application upon the records of the department of motor vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue. A vessel of less than 10 horsepower used as a tender to a registered vessel shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered vessel with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of \$2.00 to the commissioner. Notwithstanding section 3319 of this chapter, \$5.00 of each registration fee shall be allocated to the transportation fund. The remainder of the fee shall be allocated in accordance with section 3319 of this title.

Sec. 51. 10 V.S.A. § 501 is amended to read:

§ 501. FEES

Subject to the provisions of ~~section~~ subsection 486(c) of this title, an applicant for an official business directional sign or an information plaza plaque shall pay to the travel information council an initial license fee and an annual renewal fee as established by this section.

(1) Initial license fees shall be as follows:

(A) for full-sized or half-sized business directional signs, ~~\$75.00~~ \$175.00 per sign;

(B) for information plaza plaques, \$25.00 per plaque; however, if more than one plaque is requested by a business at the same time, a ten percent discount shall be given on the second and subsequent plaques.

(2) Annual renewal fees shall be as follows: ~~the amount, rounded to the next higher even whole dollar, determined by dividing the estimated cost of maintenance and administration of the official business directional sign and information plaza programs during the following fiscal year by the total number of licensed signs and plaques eligible for renewal during the following fiscal year; except that the renewal fees shall not exceed the following~~

amounts:

(A) for full and half-sized official business directional signs, \$60.00 \$125.00 per sign;

(B) for information plaza plaques, \$25.00 per plaque.

\* \* \* Fine For Overweight Violations on Interstates \* \* \*

Sec. 52. 23 V.S.A. § 1391a(e) is added to read:

(e) A fine of \$1.00 shall be imposed for violations of this section which occur on the interstate highway system, provided operation of the same vehicle and load is legal off the interstate system.

\* \* \* Cancellation of Projects \* \* \*

Sec. 53. CANCELLATION OF PROJECTS

Pursuant to 19 V.S.A. § 10g(f) (legislative approval for cancellation of projects), the general assembly approves cancellation of the following projects:

(1) Town highway bridges:

(A) Albany BRO 1449(23) (BR 30 on TH 25/Poor Farm Road, over Black River) (town has requested termination);

(B) Chester BRO 1442(31) (BR 63 on TH 9/First Avenue, over Williams River) (town has requested termination);

(C) Richford TH3 0305 (BR 28 on TH 18/Noyes Street, over Loveland Brook) (town has requested termination); and

(D) Woodstock BRO 1444(33) (BR 37 on TH 66, over Kedron Brook) (town has requested termination).

(2) Bicycle and pedestrian facilities:

(A) Irasburg STP WALK(16) (installation of sidewalks and curbs along VT 58) (town has requested termination);

(B) Ludlow STP BIKE(44)S (bike/ped path along Black River) (agency has requested termination); and

(C) Ludlow STP WALK ( ) (adaptive re-use of historic truss bridge on bike/ped path, over Black River) (agency has requested termination).

\* \* \* Transportation fund; sales of surplus property \* \* \*

Sec. 54. 19 V.S.A. § 11(8) is amended to read:

(8) other miscellaneous sources including the sale of maps, plans and reports, fees collected by the travel information council ~~and~~, leases for property at state-owned airports and railroads, proceeds from the sale of state surplus property under the provisions of 29 V.S.A. §§ 1556 and 1557, and proceeds from the sale of recycled materials.

Sec. 55. 29 V.S.A. § 1557(b) is amended to read:

(b) Transfer charges and credits shall be made against the appropriation of the respective department or agency. Funds credited shall be classified as special funds, and managed in accordance with subchapter 5 of chapter 7 of Title 32, provided, however, that any funds credited to the agency of transportation shall be transferred to the transportation fund.

\* \* \* Relinquishment of State Highway Segments  
to Municipal Control \* \* \*

Sec. 56. RELINQUISHMENT OF VERMONT ROUTE 15 IN THE  
VILLAGE OF ESSEX JUNCTION

(a) Under the authority of 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the village of Essex Junction to relinquish to the village's jurisdiction a segment of the state highway known as Vermont Route 15 (Pearl Street) in the village of Essex Junction starting at the Essex Junction village boundary, near the intersection with Susie Wilson Road (TH #4), and extending in an easterly direction for 1.004 miles, connecting to existing class 1 town highway TH #1 at a point 0.261 miles west of West Hillcrest Road (TH #551). The relinquishment shall include the Vermont Route 15 approaches to West Street Extension (TH #5). Upon relinquishment, the former state highway shall become a class 1 town highway.

(b) Control of the highway, not including ownership of the lands or easements within the highway right-of-way, shall be relinquished to the village of Essex Junction. The village of Essex Junction shall not sell or abandon any portion of the relinquishment areas or allow any encroachments within the relinquishment areas without written permission of the agency of transportation.



\* \* \* Authority to Sell Salt Shed Property in Montpelier \* \* \*

Sec. 57. AUTHORIZATION TO CONVEY "SALT SHED" PROPERTY IN MONTPELIER

(a) Upon receiving satisfactory evidence of release of any interest of the Washington County Railroad Company, the secretary of transportation, as agent for the state of Vermont, is authorized to convey to Connor Brothers Stonecutters, LLC (Connor) for fair market value a parcel of land in the city of Montpelier between Stone Cutters Way and the Winooski River. Conveyance of this parcel of land, sometimes known as 575 Stone Cutters Way or the "salt shed property," shall include the state's interest in a December 16, 1999 lease, as amended, between the state of Vermont, agency of transportation, joined by Washington County Railroad Company, and the Pyralisk Arts Center, Inc. The secretary, in his or her discretion, may adjust the boundaries of the land to be conveyed to Connor to accommodate the building plans of Connor. Connor shall be responsible for obtaining any necessary survey and subdivision approvals. In determining fair market value for this transfer, the secretary shall consider the undertaking of Connor, either through itself or through others, to provide remediation of hazardous wastes and materials on the subject property pursuant to the so-called "Corrective Action Plan (Salt Shed)" dated April 13, 2005, prepared by The Johnson Company, Inc. for Central Vermont Regional Planning Commission, as amended with Connor's consent from time to time.

(b) The authority granted by this section shall expire on June 30, 2011.

\* \* \* Transportation Enhancement Grants \* \* \*

Sec. 58. ENHANCEMENT GRANTS; FISCAL YEAR 2010

(a) Notwithstanding 19 V.S.A. § 38, the transportation enhancement grant committee shall award grants up to fiscal year 2010 in the amount of federal funds made available to the state under the American Recovery and Reinvestment Act of 2009 (ARRA) which are exclusively reserved for enhancement projects as defined in 23 U.S.C. § 101(a)(35), estimated to be \$3,773,739. The transportation enhancement grant committee shall award grants authorized in this section in a separate grant round before June 30, 2009. The agency shall notify potential applicants of the separate grant round and fix a deadline for the filing of applications of May 15, 2009. All enhancement grant awards authorized in this section shall require a local match in accordance with the same rules that apply to annual enhancement grants.

(b) Any amounts authorized in subsection (a) of this section that are not awarded by the committee by June 30, 2009, up to \$3,773,739, shall be included in the fiscal year 2010 enhancement grant program.

(c) To the extent that any grants awarded using ARRA enhancement funds

cannot be fully obligated by November 30, 2009, and to the extent necessary to satisfy any deadlines for obligation of ARRA enhancement funds, the secretary of transportation is authorized to obligate ARRA federal funds made available to the state which are exclusively reserved for enhancement projects as defined in 23 U.S.C. § 101(a)(35) to eligible projects in the approved fiscal year 2010 transportation program. The following projects are added to program development – bike and pedestrian facilities – candidates list:

Statewide - STP RAMP (1) – Reconstruction of curb ramps on state highway system to comply with ADA requirements.

Statewide - STP NWRT (1) – Rehabilitate aggregate surfaces on rail trails.

\* \* \* Town Highways \* \* \*

Sec. 59. 19 V.S.A. § 305(g) is amended to read:

(g) The agency shall provide each town with a map of all of the highways in that town together with the mileage of each class 1, 2, ~~and 3, and 4~~ highway, as well as each trail, and such other information as the agency deems appropriate.

Sec. 60. 19 V.S.A. § 305(i) is amended to read:

(i)(1) Prior to a vote to discontinue town highways provided in subsection (h) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 30 days prior to the hearing in at least two public places within the municipality and in the town clerk's office. The notice shall include the most recently available map of all town highways prepared by the agency of transportation pursuant to subsection (g) of this section. At least 30 days prior to the hearing, the legislative body shall also deliver the warning and map together with proof of receipt or mail by certified mail, return receipt requested, to each of the following:

(A) The chair of any municipal planning commission in the municipality;

(B) The chair of a conservation commission, established under chapter 118 of Title 24, in the municipality;

(C) The chair of the legislative body of each abutting municipality;

(D) The executive director of the regional planning commission of the area in which the municipality is located; ~~and~~

(E) The commissioner of forests, parks and recreation; and

(F) The secretary of transportation.

(2) The hearing shall be held within the 10 days preceding the meeting at which the legislative body will vote whether to discontinue all town highways as provided in subsection (h) of this section.

\* \* \* Trucks and Buses; Use of Tire Chains \* \* \*

Sec. 61. 23 V.S.A. § 1006c is added to read:

§ 1006c. TRUCKS AND BUSES; CHAINS AND TIRE REQUIREMENTS

(a) The traffic committee may require the use of tire chains or winter tires on specified portions of state highways during periods of winter weather for motor coaches, truck-tractor-semitrailer combinations, and truck-tractor-trailer combinations.

(b) When tire chains or winter tires are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains or winter tires are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

(c) Under chapter 25 of Title 3, the traffic committee may promulgate such rules as are necessary to administer this section and may delegate this authority to the secretary.

Sec. 62. USE OF CHAINS; IMPLEMENTATION

The use of chains shall not be required until signage and designated areas are available for vehicles to affix tire chains before proceeding further. Advanced public notice of these requirements shall be given to interested parties in the most feasible manner possible.

\* \* \* Public Transportation Planning \* \* \*

Sec. 63. 24 V.S.A. § 5089 is amended to read:

§ 5089. PLANNING

~~(a) By January 31, 1996, all public transit systems shall have completed a short range public transit plan. In the meantime, the agency of transportation may continue to provide funding for capital, statewide operating and new services.~~

~~(b) The short range public transit plans must be coordinated with the efforts of the regional planning commission under the transportation plan.~~

~~(c) The agency of transportation's public transit plan for the state shall be updated amended no less frequently than every five years so as to include, and incorporate the public transportation elements of regional plans that have not been disapproved under the provisions of chapter 117 of this title. The~~

development of the state public transit plan shall include consultation with public transit providers, the metropolitan planning organization, and the regional planning commissions and their transportation advisory committees to ensure the integration of transit planning with the transportation planning initiative as well as conformance with chapter 117 of Title 24, (municipal and regional planning and development). Regional plans, together with the agency of transportation's public transit plan shall function to coordinate the provision of public, private nonprofit, and private for-profit regional public transit services, in order to ensure effective local, regional and statewide delivery of services.

(b) Recognizing that the growing demand for new regional and commuter services must be considered within the context of the continuing need for local transit services that meet basic mobility needs, the agency of transportation shall consult annually with the regional planning commissions and public transit providers in advance of the award of available planning funds. The agency shall maintain a working list of both short- and long-term planning needs, goals, and objectives that balances the needs for regional service with the need for local service. Available planning funds shall be awarded in accordance with state and federal law and as deemed necessary and appropriate by the agency following consultation with the regional planning commissions and the public transit providers. The agency shall report annually to the general assembly on planning needs, expenditures, and cooperative planning efforts.

\* \* \* Issuance of a Single Registration Plate \* \* \*

Sec. 64. 23 V.S.A. § 304(a) is amended to read:

(a) The commissioner shall issue to the registrant of a motor vehicle a certificate of registration in the form the commissioner may prescribe, on which shall appear the name of the registrant, his or her address, a brief description of the vehicle registered, and the date of registration. The commissioner shall also assign to each motor vehicle registered a distinctive number and issue a number plate ~~or plates~~ showing the assigned number. The number plate ~~or plates~~ issued shall be of the material, size, shape and color, and with the numerals or letters thereon, the commissioner may determine, and shall be reflectorized in part or in whole. The certificate and number ~~plates~~ plate shall be delivered free of charge by the commissioner to the registrant as soon as may be after receipt and acceptance of application for registration.

Sec. 65. 23 V.S.A. § 305(b) is amended to read:

(b) The commissioner of motor vehicles shall issue a registration certificate and ~~a number plates~~ plate for each motor vehicle owned by the state for a period of five years. ~~Such~~ The motor vehicle shall be considered as properly registered while the ~~plates so issued are attached thereto~~ plate is attached to the rear of the vehicle. The commissioner may replace ~~such~~ number plates when in his or her discretion their condition requires.

Sec. 66. 23 V.S.A. § 310 is amended to read:

§ 310. LOANING OR PERMITTING THE USE OF NUMBER PLATES

A person shall not loan or permit the use of the number ~~plates~~ plate assigned by the commissioner to a motor vehicle owned by ~~such~~ the person.

Sec. 67. 23 V.S.A. § 321 is amended to read:

§ 321. PROCEDURE UPON TRANSFER

Upon the transfer of ownership of any registered motor vehicle its registration shall expire. The person in whose name the transferred vehicle was registered shall immediately return direct to the commissioner the registration certificate assigned to the transferred vehicle, with the date of sale and the name and residence of the new owner endorsed on the back. However, the commissioner may accept any other satisfactory evidence of the above required information. The transferor shall forthwith remove the registration number ~~plates~~ plate from the transferred vehicle and may attach the same to another unregistered motor vehicle owned by him or her. Upon the transfer of ~~a registration plates~~ plate from a motor vehicle, the registration of which has expired as above provided, to another motor vehicle, owned by the transferor, the owner or operator shall not, for a period of 30 days, be subject to a fine for the operation of the latter motor vehicle without the proper registration certificate, provided he or she has, within 24 hours of the transfer, made application, as provided in section 323 of this title, for transfer of the registration number plates. If ~~such~~ the application for transfer is not so received by the commissioner, the number ~~plates~~ plate shall be returned to the commissioner at the end of five days after the transfer of ownership.

Sec. 68. 23 V.S.A. § 324 is amended to read:

§ 324. USE OF OLD NUMBER PLATES

When ownership of a motor vehicle is transferred, the transferor may attach the registration number ~~plates~~ plate to another motor vehicle owned by him or her, and register the same in accordance with the provisions of sections 321, 323, and 325 of this title only if ~~such~~ the transferred vehicle and such other vehicle are both of the pleasure car type, both motor trucks or tractors, both

motor buses, or both motorcycles, except that a pleasure car registration and a truck registration shall be mutually transferable on payment of the difference in registration fees.

Sec. 69. 23 V.S.A. § 511 is amended to read:

§ 511. MANNER OF DISPLAY

A motor vehicle operated on any highway shall have ~~displayed in a conspicuous place either one or two number plates as the commissioner of motor vehicles may require~~ one number plate displayed on the rear of the vehicle. ~~Such~~ The number ~~plates~~ plate shall be furnished by the commissioner of motor vehicles, showing the number assigned to ~~such~~ the vehicle by the commissioner. ~~If only one number plate is furnished, the same shall be securely attached to the rear of the vehicle. If two are furnished, one shall be securely attached to the rear and one to the front of the vehicle.~~ The number ~~plates~~ plate shall be kept entirely unobscured, the numerals and the letters thereon shall be plainly legible at all times. ~~They~~ It shall be kept horizontal, shall be so fastened as not to swing, excepting however, there may be installed on a motor truck or truck tractor a device which would, upon contact with a substantial object, permit the rear number plate to swing toward the front of the vehicle, provided ~~such~~ the device automatically returns the number plate to its original rigid position after contact is released, and the ground clearance of the lower edges ~~thereof~~ shall be established by the commissioner pursuant to the provisions of chapter 25 of Title 3. A person shall not operate a motor vehicle unless the number plates are plate is displayed as provided in this section.

Sec. 70. 23 V.S.A. § 514(a) is amended to read:

(a) In case of the loss of a number plate, the owner of the motor vehicle to which it was assigned shall forthwith notify the commissioner of motor vehicles of ~~such~~ the loss, and he or she shall furnish ~~such~~ the owner with a new plate. The fees charged shall be \$10.00 for each plate. ~~The owner of a motor vehicle who has lost one number plate may operate his or her vehicle with one number plate attached thereto, until a new plate is furnished him or her, provided he or she has notified the commissioner of motor vehicles as required in this section.~~

## \* \* \* Special Registration Plates \* \* \*

Sec. 71. 23 V.S.A. § 304c is amended to read:

§ 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING BRIGHT SPACES FOR BRIGHT FUTURES FUND

(a) The commissioner shall, upon application, issue “building bright spaces for bright futures fund,” hereinafter referred to as “the bright futures fund,” registration plates for use only on vehicles registered at the pleasure car rate, ~~and on trucks registered for less than 26,001 pounds, on plates registered to state agencies under section 376 of this title,~~ and excluding vehicles registered under the International Registration Plan. ~~Plates so acquired~~ The plate shall be mounted on the ~~front and~~ rear of the vehicle. The commissioner of motor vehicles shall utilize the graphic design recommended by the commissioner of social and rehabilitation services for the special plates to enhance the public awareness of the state’s interest in supporting children’s services. Applicants shall apply on forms prescribed by the commissioner of motor vehicles, and shall pay an initial fee of \$20.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a bright futures fund plate shall pay a renewal fee of \$20.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

\* \* \*

## \* \* \* Sidewalks; Landowner Liability \* \* \*

Sec. 72. Chapter 23 of Title 19 is redesignated to read:

CHAPTER 23. BICYCLE ROUTES AND SIDEWALKS

Sec. 73. 19 V.S.A. § 2301 is amended to read:

§ 2301. DEFINITIONS

\* \* \*

(6) “Sidewalk” means the portion of a street or highway right-of-way designated for primary or exclusive pedestrian use.

Sec. 74. 19 V.S.A. § 2309 is amended to read:

§ 2309. LIABILITY OF LANDOWNER

No landowner shall be liable for any property damage or personal injury sustained by any person who is using, for any purpose permitted by state law or by a municipal ordinance, bicycle routes or sidewalks constructed on the

landowner's property pursuant to this chapter, unless the landowner charges a fee for the use of the property.

\* \* \* All-Terrain Vehicles \* \* \*

Sec. 75. 23 V.S.A. § 3502 is amended to read:

§ 3502. REGISTRATION

(a) An all-terrain vehicle may not be operated unless registered pursuant to this chapter or any other section of this title, by the state of Vermont and unless the all-terrain vehicle displays a valid Vermont ATV Sportsman's Association (VASA) Trail Access Decal (TAD) when operating on a VASA trail, except when operated:

\* \* \*

Sec. 76. 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of 85 percent of the fees and penalties collected under this subchapter, except interest, is hereby allocated to the agency of natural resources for use by the Vermont ATV sportsman's association (VASA) for development and maintenance of a statewide ATV trail program ~~on private property~~, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter. The departments of public safety and fish and wildlife are authorized to contract with VASA to provide these law enforcement services. The agency of natural resources may retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the state grant that supports this program.

\* \* \*

\* \* \* Year of Manufacture Plates \* \* \*

Sec. 77. 23 V.S.A § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained solely for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for the transportation of passengers or property on any highway, except to attend such functions, shall be \$15.00, in lieu of fees otherwise provided by law.

(b) Pursuant to the provisions of section 304 of this title, one registration



plate shall be issued to those vehicles registered under subsection (a) of this section.

(c) Any motor vehicle of the age of 25 years or more from the date of manufacture may bear the registration plates of the year of manufacture instead of the plates issued under this section, if the current plates are maintained within the vehicle and produced upon request of any enforcement officer as defined in subdivision 4(11) of this title.

\* \* \* Design-build contracts \* \* \*

Sec. 78. 19 V.S.A. chapter 26 is added to read:

## CHAPTER 26. DESIGN-BUILD CONTRACTS

### § 2601. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

(1) “Best value” means the highest overall value to the state, considering quality and cost.

(2) “Design-build contracting” means a method of project delivery whereby a single entity is contractually responsible to perform design, construction, and related services.

(3) “Major participant” means any entity that would have a major role in the design or construction of the project as specified by the agency in the request for proposals.

(4) “Project” means the highway, bridge, railroad, airport, trail, transportation, building, or other improvement being constructed or rehabilitated, including all professional services, labor, equipment, materials, tools, supplies, warranties, and incidentals needed for a complete and functioning product.

(5) “Proposal” means an offer by the proposer to design and construct the project in accordance with all request-for-proposals provisions for the price contained in the proposal.

(6) “Proposer” means an individual, firm, corporation, limited-liability company, partnership, joint venture, sole proprietorship, or other entity that submits a proposal. After contract execution, the successful proposer is the design-builder.

(7) “Quality” means those features that the agency determines are most important to the project. Quality criteria may include quality of design, constructability, long-term maintenance costs, aesthetics, local impacts, traveler and other user costs, service life, time to construct, and other factors

that the agency considers to be in the best interest of the state.

§ 2602. AUTHORIZATION

(a) Notwithstanding section 10 of this title or any other provision of law, the agency may use design-build contracting to deliver projects. The agency may evaluate and select proposals on either a best-value or a low-bid basis. If the scope of work requires substantial engineering judgment, the quality of which may vary significantly as determined by the agency, then the basis of award shall be best-value.

(b) The agency shall identify those projects it believes are candidates for design-build contracting, including those involving extraordinary circumstances, such as emergency work, unscheduled projects, or loss of funding.

(c) The agency retains the authority to terminate the contracting process at any time, to reject any proposal, to waive technicalities, or to advertise for new proposals if the agency determines that it is in the best interest of the state.

§ 2603. PREQUALIFICATION

(a) The agency may require that entities be prequalified to submit proposals. If the agency requires prequalification, it shall give public notice requesting qualifications from interested entities electronically through the agency's publicly accessible website or through advertisements in newspapers. The agency shall issue a request-for-qualifications package to all entities requesting one in accordance with the notice.

(b) Interested entities shall supply for themselves and for all major participants all information required by the agency. The agency may investigate and verify all information received. All financial information, trade secrets, or other information customarily regarded as confidential business information submitted to the agency shall be confidential.

(c) The agency shall evaluate and rate all entities submitting a conforming statement of qualifications and select the most qualified entities to receive a request for proposals. The agency may select any number of entities, except that if the agency fails to prequalify at least two entities, the agency shall readvertise the project.

§ 2604. REQUEST FOR PROPOSALS

The agency may issue a request for proposals, which shall set forth the scope of work, design parameters, construction requirements, time constraints, and all other requirements that have a substantial impact on the cost or quality of the project and the project development process, as determined by the agency. The request for proposals shall include the criteria for acceptable

proposals. For projects to be awarded on a best-value basis, the scoring process and quality criteria must also be contained in the request for proposals. In the agency's discretion, the request for proposals may provide for a process, including the establishment of a team to review proposals, for the agency to review conceptual technical elements of each proposal before full proposal submittal for the purposes of identifying defects that would cause rejection of the proposal as nonresponsive. All such conceptual submittals and responses shall be confidential until award of the contract. The request for proposals may also provide for a stipend upon specified terms to unsuccessful proposers that submit proposals conforming to all request-for-proposals requirements.

#### § 2605. LOW-BID AWARD

If the basis of the award of responsive proposals is low-bid, then each proposal, including the price or prices, shall be sealed by the proposer and submitted to the agency as one complete package. The agency shall award the design-build contract to the proposer that submits a responsive proposal with the lowest cost, if the proposal meets all request-for-proposals requirements.

#### § 2606. BEST-VALUE AWARD

(a) If the basis of the award of responsive proposals is best-value, then each proposal shall be submitted by the proposer to the agency in two separate components: a sealed technical proposal and a sealed price proposal. These two components shall be submitted simultaneously. The agency shall first open, evaluate, and score each responsive technical proposal, based on the quality criteria contained in the request for proposals. The request for proposals may provide that the range between the highest and lowest quality scores of responsive technical proposals must be limited to an amount certain. During this evaluation process, the price proposals shall remain sealed, and all technical proposals shall be confidential.

(b) After completion of the evaluation of the technical proposals, the agency shall open and review each price proposal. The agency shall develop a system for assessing the cost and quality criteria. The agency shall award the contract to the proposer of the project representing the best value to the agency.

#### Sec. 79. DESIGN-BUILD CONTRACTS; LIMITATIONS ON USE

During fiscal years 2010 and 2011, the agency of transportation shall limit its exercise of the authority granted by Sec. 78 of this act to not more than four projects. Of these four projects, not more than two shall be in cost estimate categories C–D (\$500,000 to \$2,500,000), not more than one shall be in cost estimate categories E–F (\$2,500,000 to \$10,000,000), and not more than one shall be in cost estimate category G (\$10,000,000 to \$25,000,000).

\* \* \* State-Owned Railroad Property \* \* \*

Sec. 80. Sec. 17(e) of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 31 of No. 164 of the Acts of the 2007 Adj. Sess. (2008), is further amended to read:

(e) The authority granted by this section shall expire on ~~June 30~~ December 31, 2009.

\* \* \* Transportation Buildings \* \* \*

Sec. 81. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Consistent with the recommendations of the January 15, 2009 legislative report (Sec. 8(2) of No. 164 of the Acts of the 2007 Adj. Sess. (2008)) titled "VTrans' Plans for Maintenance Facilities in Chittenden and Addison Counties," the agency of transportation shall proceed with Option A (Stay at "Fort) for the Colchester "Fort" Facility project and shall proceed with Option B (Truck Inspection/Motorcycle Training Facility only) for the North Ferrisburgh Facility project.

(2) As part of the Colchester "Fort" Facility renovation project, the agency shall sell the 25 +/- acre property located off VT Route 117 with the proceeds credited as provided in 19 V.S.A. § 26.

\* \* \* Town Local Match Requirements \* \* \*

Sec. 82. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

\* \* \*

(c) Notwithstanding subsections 309a(a), (b), and (c) of this title, a municipality may use a grant awarded under the town highway structures program or the class 2 town highway roadway program to provide the nonfederal matching funds required to draw down a federal earmark or to match grants provided to towns under the American Recovery and Reinvestment Act of 2009. In all such cases, the grant shall be matched by local funds as provided in this section. The intended use of a town highway grant as matching funds for a federal earmark or for grants provided to towns under the American Recovery and Reinvestment Act of 2009 shall not entitle a municipal grant applicant to any priority for a grant award in any fiscal year. When grants awarded under the town highway structures program or the class 2 town highway roadway program are used to satisfy nonfederal matching requirements for federal earmarks or for grants provided to towns under the

American Recovery and Reinvestment Act of 2009, the term “project costs” in subsections (a) and (b) of this section shall refer only to the nonfederal match for the federal earmark or for a grant provided to towns under the American Recovery and Reinvestment Act 2009.

\* \* \* Central Garage \* \* \*

Sec. 83. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), the amount of \$1,120,000 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

Sec. 84. 23 V.S.A. § 372 is amended to read:

§ 372. MOTOR BUS

The annual fee for registration of a motor bus shall be based on the actual weight of such bus, plus passenger carrying capacity at 150 pounds per person, and shall be \$1.40 per 100 pounds of such weight, except for motor buses registered under section 372a or 376 of this title. Fractions of a hundred-weight shall be disregarded. The minimum fee for the registration of any motor bus shall be \$43.00.

Sec. 85. 23 V.S.A. § 372a is amended to read:

§ 372a. LOCAL TRANSIT PUBLIC TRANSPORTATION SERVICE BUSES; FEE

(a) The annual registration fee for any motor bus used in local transit or public transportation service entirely within any city or town, or not over 10 miles beyond the boundaries thereof, shall be \$45.00, except for those vehicles owned by a municipality for such service that are subject to the provisions of section 376 of this title. In the event a bus registered for local transit or public transportation service is thereafter registered for general use during the same registration year, such fee shall be applied towards the fee for general registration.

(b) For the purposes of this section, a public transportation service bus is a bus used by a nonprofit public transit system as defined in 24 V.S.A. § 5088(3), and a local transit bus is a motor bus used entirely within or not more than 10 miles beyond the boundaries of a city or town.

Sec. 86. 23 V.S.A. § 305 is amended to read:

§ 305. – WHEN ISSUED

\* \* \*

(c) The commissioner may issue number plates to be used for a period of

two or more years. ~~Validating stickers~~ One validating sticker shall be issued by the department of motor vehicles upon payment of the registration fee for the second and each succeeding year the plate is used. No plate is valid for the second and succeeding years unless the ~~stickers are~~ sticker is affixed to the rear plate in the manner prescribed by the commissioner.

\* \* \* Burlington Airport Pilot Project; Creative Financing \* \* \*

Sec. 87. PILOT PROJECT FOR BURLINGTON INTERNATIONAL AIRPORT; CREATIVE FINANCING

A pilot project to examine the potential for a public-private initiatives program shall be pursued for the advancing of an interchange on Interstate 89 along Vermont Route 116 in South Burlington to explore improving future access to the Burlington International Airport and to relieve the overburdened interchanges at Interstate 89 exits 12 and 14. Implementation of the pilot study shall be carried out in cooperation, consultation, and with the support of the Vermont agency of transportation, the Chittenden County metropolitan planning organization (CCMPO), and other affected local jurisdictions and project partners. The CCMPO, with the cooperation of the agency of transportation, is directed to prepare a creative financing plan for the advancement of a project to construct an interchange at the above-mentioned location and deliver the plan to the legislature by November 1, 2009.

\* \* \* Rest Area Revitalization \* \* \*

Sec. 88. LEGISLATIVE INTENT

It is the intent of the general assembly to require agencies to provide justification for reducing services to the public by:

- (1) analyzing current service delivery methods;
- (2) reexamining the assumptions that underlie the choice of the current delivery method;
- (3) right-sizing when necessary; and
- (4) exploring alternate delivery methods that could provide similar services at a lower cost to taxpayers.

**Sec. 89. PERMANENT CLOSING OF REST AREA FACILITIES**

(a) The commissioner of buildings and general services (BGS) is instructed to permanently close rest area facilities at Highgate on Interstate 89, at Sharon South on Interstate 89, at Hartford North on Interstate 91, and at Randolph North on Interstate 89. These four facilities and all operating and maintenance costs associated with them, including the costs of operating WiFi are hereby transferred to the Vermont agency of transportation (VTrans) effective July 1, 2009.

(b) VTrans is hereby instructed to explore ways these buildings might be used for state purposes other than operating a rest area or those purposes that would meet with FHWA approval or, absent a public need, may have the structures removed. In the event VTrans decides to have the structures removed, it will notify the members of the Rest Area Advisory Committee established in 19 V.S.A. § 12c with 30-days' advance notice prior to removal.

(c) VTrans, at its discretion, may decide to close the sites to traffic or to have them remain open to either truck or pleasure car traffic or both. Responsibilities for maintaining the grounds will become the responsibility of VTrans. Erection of barriers to traffic or fencing as necessary to limit the public use of these facilities shall be the responsibility of VTrans.

**Sec. 90. HOURS OF OPERATION**

The commissioner of buildings and general services (BGS) is hereby authorized to adjust the hours of operation for all remaining rest areas. The commissioner shall make decisions on hours of operation based on budgetary considerations, numbers of visitors, and seasonal fluctuations.

**Sec. 91. PILOT PROJECT FOR OPERATION OF INFORMATION CENTERS**

(a) Pursuant to Sec. 19e(c) of No. 38 of the Acts of 1997, the commissioner of buildings and general services (BGS) is authorized to commence a three-year pilot project to operate facilities at Alburgh, Georgia North, and Georgia South.

(b) Pursuant to Sec. 39(3) of No. 18 of the Acts of 1999, the commissioner is authorized to explore the possibilities of creating privately operated travel information centers at exits along the interstate and along the state highway system. The secretary of transportation is instructed to support this initiative by working with BGS and the FHWA to explore a signage strategy that clearly directs travelers to these service opportunities.

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**Sec. 92. FUTURE CONSTRUCTION**

The commissioner of buildings and general services (BGS) is instructed to take steps to plan for and build the Bennington welcome center at an amount not to exceed the federal earmarks and state matching funds identified for this project. It is the expectation of the house and senate committees on transportation that the site will be operated by the Bennington area chamber of commerce under Sec. 19e(c) of No 38 of the Acts of 1997 and under an agreement approved by the Federal Highway Administration. Therefore, the commissioner of BGS and the chamber shall report back to the rest area advisory committee on or before January 15, 2010, as to the plan for operation and the proposed cost.

\* \* \* Public Transit Report \* \* \*

**Sec. 93. PUBLIC TRANSIT REPORT**

(a) Public transit report. Consistent with the goals, findings, and recommendations of the two most recent legislative reports prepared by VTrans regarding a review of potential changes to Vermont's public transit service delivery model (Sec. 35 and Sec. 45 reports), VTrans shall, in continued cooperation with the legislature's joint fiscal office, conduct such further analysis as is necessary to generate specific recommendations for improving the efficient and effective delivery of public transit services in Vermont.

(b) Goal of report. The goal of the report is to recommend a governance and funding structure for public transportation that creates the most efficient use of taxpayer funds while simultaneously creating the most efficient system of public transportation services consistent with the statutory policy goals in 24 V.S.A. § 5083. The report shall:

(1) Make use of the data and information currently available and assess the strengths and weaknesses of the public transit delivery system;

(2) Review the pros and cons of realistic alternative service delivery models;

(3) Present a recommendation for a systematic approach toward changing, evolving, or maintaining the existing service delivery model and propose a configuration under which the service delivery model maximizes state, federal, and local investments into the broad range of public transit services.



(c) The agency shall direct the report with the involvement of the agency of human services and of all public transit providers in the state who are direct grantees and subrecipients of state and federal funds.

(d) Consistent with federal United We Ride initiatives, the report shall consider all federal and state funding invested through or by state and federal agencies on public, human services, and related transportation programs and shall evaluate the potential for achieving greater efficiency through coordination of effort or consolidation of funding and effort.

(e) The report shall be delivered to the general assembly on or before February 15, 2010.

\* \* \* Truck Permits \* \* \*

Sec. 94. 23 V.S.A. § 1432 is amended to read:

§ 1432. LENGTH OF VEHICLES; AUTHORIZED HIGHWAYS

(a) Operation of vehicles with or without a trailer or semitrailer. No motor vehicle without a trailer or semitrailer attached, which is longer than 46 feet overall, shall be operated upon any highway except under special permission from the commissioner of motor vehicles. A motor vehicle with a trailer or semitrailer shall be operated, with regard to the length of the vehicle, pursuant to this section. If there is a trailer or semitrailer, the distance between the kingpin of the semitrailer to the center of the rearmost axle group shall not exceed 43 41 feet. An "axle group" is defined as two or more axles where the centers of all the axles are spaced at an equal distance apart.

~~(1) Vehicles with a trailer or semitrailer not exceeding 72 feet on the truck network. If the overall length of a vehicle with a trailer or semitrailer does not exceed 72 feet, it may be operated without a permit on the truck network established in subsection (e) of this section.~~

~~(2) Vehicles with a trailer or semitrailer not exceeding 68 75 feet off the truck network. If the overall length of a vehicle with a trailer or semitrailer does not exceed 68 75 feet, it may be operated without a permit off the truck network.~~

~~(3)(2) Vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network; tractor 23 feet or less. If the overall length of a vehicle with a trailer or semitrailer is longer than 68 feet but not longer than 72 feet, and if the distance between the steering axle to the rearmost tractor axle is 23 feet or less, a permit may be issued pursuant to subdivision 1402(b)(1) of this title. A receiver or shipper of goods located in Vermont may request from the agency of transportation, access to a state highway, not on the truck network, for a commercial motor vehicle where the~~

overall length exceeds ~~68 feet but is not longer than 72~~ 75 feet. ~~The~~ If the total vehicle length is in excess of 75 feet, or the distance from the steering axle to the rearmost tractor axle is longer than 25 feet, a permit may be requested from the commissioner. In that event, the agency of transportation shall review the route or routes requested, making its determination for approval based on safety and engineering considerations, after considering input from local government and regional planning commissions or the metropolitan planning organization. The agency shall maintain consistency in its application of acceptable highway geometry when approving other routes. The agency may authorize safety precautions on these highways, if warranted, which shall include, but not be limited to, precautionary signage, intelligent transportation system signage, special speed limits and use of flashing lights.

~~(4) Vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network; tractor greater than 23 feet. If the overall length of a vehicle with a trailer or semitrailer is longer than 68 feet but not longer than 72 feet, and if the distance between the steering axle to the rearmost tractor axle is greater than 23 feet in length, a permit may be issued pursuant to subdivision 1402(b)(2) of this title.~~

~~(5)~~(3) Vehicles with a trailer or semitrailer longer than ~~72~~ 75 feet. If the overall length of a vehicle with a trailer or semitrailer is longer than ~~72~~ 75 feet, a permit may be issued pursuant to subdivision 1402(b)(3) of this title.

(b) Rear-end protective devices on trailers. A trailer or semitrailer not in excess of 53 feet may be operated provided the semitrailer is equipped with a rear-end protective device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface.

~~(c) The truck network. The truck network shall consist of the following: U.S. Route 2 between the New Hampshire state line and the junction of U.S. Route 5; U.S. Route 2 from the junction of exit 21 on I-91 to exit 8 on Interstate 89; U.S. Route 2 between the New York state line and VT Route 78; VT Route 2A; U.S. Route 4 from the New York state line to the junction of VT Route 100 south; VT Route 279 from the New York state line to the junction of U.S. Route 7; U.S. Route 5 from the junction of U.S. Route 2 to the junction of exit 20 of I-91; U.S. Route 5 between I-91 at exit 22 to the south entrance of the St. Johnsbury Lyndonville industrial park; U.S. Route 5 south from I-91 at exit 22 to the intersection of St. Johnsbury Railroad Street and Hastings Hill Street; U.S. Route 7; VT Route 9 from the New York state line to the junction of exit 2 on I-91; VT Route 9 from the junction of exit 3 on I-91 to the New Hampshire state line; VT Route 18 from U.S. Route 2 to the New Hampshire~~

~~state line; VT Route 22A between U.S. Route 4 and U.S. Route 7; VT Route 78; VT Route 103; VT Route 105 from the junction of U.S. Route 7 to the junction of VT Route 100, then southerly on VT Route 100 to the junction of VT Route 100 and VT Route 14, then easterly on VT Route 14 to the junction of VT Route 14 and U.S. Route 5, then northerly on U.S. Route 5 to the junction of U.S. Route 5 and VT Route 105, then easterly on VT Route 105 from the junction of U.S. Route 5 to the New Hampshire border; VT Route 104 from VT Route 105 to I-89 at exit 19; VT Route 253 from the New Hampshire border to the Canadian border; VT Route 289; and U.S. Route 302. The commissioner is authorized to place special restrictions applying to motor vehicles on any route of the truck network when, in his or her opinion, the restrictions would provide for the safe operation of all vehicles on the route.~~

~~(d)~~ Operation on U.S. Route 4. Vehicles Notwithstanding any other law to the contrary, vehicles with a trailer or semitrailer which are longer than 68 feet but not longer than 72 feet may be operated with a single or multiple trip overlength permit issued at no cost by the department of motor vehicles or, for a fee, by an entity authorized in subsection 1400(d) of this title on U.S. Route 4 from the New Hampshire state line to the junction of VT Route 100 south, provided the distance from the kingpin of the semitrailer to the center of the rearmost axle group is not greater than ~~43~~ 41 feet.

~~(e)~~(d) Operation of pole semitrailers. The provisions of this section shall not be construed to prevent the operation of so-called pole dinkeys or pole semitrailers when being used to support the ends of poles, timbers, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections, the overall length of which may exceed 60 feet under special permission from the commissioner of motor vehicles.

~~(f)~~(e) Operation on Interstate highways. Notwithstanding subsection (a) of this section, on the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, United States Department of Transportation, and on highways leading to or from the Dwight D. Eisenhower National System of Interstate and Defense Highways for a distance of one mile, unless the agency of transportation finds the use of a specific highway to be unsafe, no overall length limits for tractor-semitrailer or tractor semitrailer-trailer combination shall apply. On these highways, no semitrailer in a tractor-semitrailer combination longer than 53 feet and no trailer or semitrailer in a tractor-semitrailer-trailer combination longer than 28 feet shall be operated. However, the limits established by this section shall not be construed in such a manner as to prohibit the use of semitrailers in a tractor-semitrailer combination of such dimensions as were in actual and lawful use in this state on December 1, 1982.

~~(g)~~(f) List of approved highways. The commissioner shall prepare a list of each highway that has been approved for travel by vehicles referred to in subsection (a) of this section. The list shall be furnished, without charge, to each permitting service, electronic dispatching service, or other similar service authorized to do business in this state and, upon request, to any interested person.

\* \* \* Transportation: Necessity/Condemnation Proceedings \* \* \*

Sec. 95. 19 V.S.A. § 501 is amended to read:

#### § 501. DEFINITIONS

The following words and phrases as used in this chapter shall have the following meanings:

(1) “Necessity” shall mean a reasonable need which considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. Necessity shall not be measured merely by expense or convenience to the condemning party. Due consideration shall be given to the adequacy of other property and locations and to the quantity, kind and extent of cultivated and agricultural land which may be taken or rendered unfit for use by the proposed taking. In this matter the court shall view the problem from both a long range agricultural land use viewpoint as well as from the immediate taking of agricultural lands which may be involved. Consideration also shall be given to the effect upon home and homestead rights and the convenience of the owner of the land; to the effect of the highway upon the scenic and recreational values of the highway; to the need to accommodate present and future utility installations within the highway corridor; to the need to mitigate the environmental impacts of highway construction; and to the effect upon town grand lists and revenues.

(2) Damages resulting from the taking or use of property under the provisions of this chapter shall be the value for the most reasonable use of the property or right in the property, and of the business on the property, and the direct and proximate decrease in the value of the remaining property or right in the property and the business on the property. The added value, if any, to the remaining property or right in the property, which accrues directly to the owner of the property as a result of the taking or use, as distinguished from the general public benefit, shall be considered in the determination of damages.

(3) "Interested person" or "person interested in lands" means a person who has a legal interest of record in the property affected.

Sec. 96. 19 V.S.A. § 502 is amended to read:

§ 502. AUTHORITY; PRECONDEMNATION PROCEDURE

(a) The agency of transportation board, when in its judgment the interest of the state requires, ~~shall request the agency~~ may initiate proceedings under this chapter to ~~take~~ acquire any land or rights in land, including easements of access, air, view and light, deemed necessary to lay out, relocate, alter, construct, reconstruct, maintain, repair, widen, grade, or improve any state highway including affected portions of town highways. All property rights shall be ~~taken~~ acquired in fee simple whenever practicable. In furtherance of these purposes, the agency may enter upon land adjacent to the proposed highway or upon other lands for the purpose of examination and making necessary surveys. However, that work shall be done with minimum damage to the land and disturbance to the owners.

(b) The agency, in the construction and maintenance of limited access highway facilities, may also ~~take~~ acquire any land or rights of the landowner in land under 9 V.S.A. chapter 93, subchapter 2, relating to advertising on limited access highways.

(c)(1) A public hearing shall be held for the purpose of receiving suggestions and recommendations from the public prior to the agency's initiating proceedings under this chapter for the acquisition of any lands or rights. The hearing shall be conducted by the agency. Public notice shall be given by printing the official notice not less than 30 days prior to the hearing in a newspaper having general circulation in the area affected. A copy of the notice shall be mailed to the board, the legislative bodies of the municipalities affected and a copy sent by certified mail to all known owners of lands and rights in land affected by the proposed improvement.

(2) The notice shall set forth the purpose for which the land or rights are desired and shall generally describe the improvement to be made.

~~The board may designate one or more members to attend the hearing and shall do so if a written request is filed with the board at least 10 days prior to the public hearing.~~

(3) At the hearing the agency shall set forth the reasons for the selection of the route intended and shall hear and consider all objections, suggestions for changes and recommendations made by any person interested.

~~If no board member attended the hearing, a written request may be filed with the board within 30 days after the public hearing asking the board to review the project and the record of the hearing. In such event, the board shall complete its review within 30 days after the request.~~

(4) Following the hearing, ~~unless otherwise directed by the board,~~ the agency may proceed to lay out the highway and survey and acquire the land to be taken or affected, giving consideration to any objections, suggestions and recommendations received from the public.

(d) The agency shall not ~~take~~ acquire land or any right in land that is owned by a town or union school district and being used for school purposes until the voters of the district have voted on the issue of ~~taking~~ acquisition at a meeting called for that purpose. A special meeting of the town or union school district shall be called promptly upon receiving notice of a public hearing unless the annual meeting is to be held within 30 days after receiving the notice of public hearing. Due consideration shall be given by the ~~court~~ board to the result of the vote, in addition to the other factors referred to in section 501 of this title, in determining necessity.

(e) In the interests of orderly and effective future planning, the agency may acquire land and rights in land to be used for highway purposes within the reasonably foreseeable future, including but not limited to future construction of four-lane highways on routes presently designed for construction of two lanes, and the construction of interchanges, bridges, and all other improvements to existing highways or highways presently scheduled for construction. In the case of the laying out of highways on a new location, "reasonably foreseeable future" means projects on which construction is to be commenced in a period not exceeding 15 years from the date of acquisition. In the event the agency determines that the land is no longer necessary for use as a highway, it shall immediately sell the property at public sale to private persons, giving consideration to the adjoining landowners.

Sec. 97. 19 V.S.A. §§ 504-510 are amended to read:

#### § 504. PETITION FOR HEARING TO DETERMINE NECESSITY

Upon completion of the survey the agency may petition ~~a superior judge~~ the transportation board, setting forth in the petition that it proposes to acquire certain land, or rights in land, and describing the lands or rights, and the survey shall be attached to the petition and made a part of the petition. The petition shall set forth the purposes for which the land or rights are desired, and shall contain a request that the ~~judge~~ board fix a time and place when ~~he or she, or some other superior judge,~~ the board or a hearing examiner or single board

member so appointed will hear all parties concerned and determine whether the taking is necessary.

§ 505. HEARING TO DETERMINE NECESSITY

(a) ~~The superior judge to whom the petition is presented~~ board shall fix the time for hearing, which shall not be more than 60 nor less than 40 days from the date ~~he or she~~ the board signs the order. Likewise, ~~he or she~~ the board shall fix the place for hearing, which shall be ~~the superior court or any other~~ at some place within the county in which the land in question is located. ~~If the superior judge to whom the petition is presented cannot hear the petition at the time set he or she shall call upon the administrative judge to assign another superior judge to hear the cause at the time and place assigned in the order.~~

(b) If the land proposed to be acquired extends into two or more counties, then a single hearing to determine necessity may be held in one of the counties. In fixing the place for hearing, the ~~superior judge to whom the petition is presented~~ board shall take into consideration the needs of the parties.

§ 506. SERVICE AND PUBLICATION OF NECESSITY PETITION AND NOTICE OF HEARING; ANSWER

(a) The agency shall prepare a notice of the necessity hearing. The notice shall include the names of the municipalities in which the lands to be taken or affected are located; the names of all interested persons within the meaning of subdivision 501(2) of this chapter; and a brief statement identifying the proposed project and its location, and the date, time and place of the necessity hearing. The agency shall make service of copies of the petition, the notice of hearing and the survey (for the purposes of this section, "survey" means a plan, profile, or cross-section of the proposed project) as follows:

(1) Upon interested persons in accordance with the Vermont Rules of Civil Procedure for service of process, except as stated in subsection (b) of this section and in section 519 of this title or, with respect to interested parties with no known residence or place of business within the state, by certified mail, return receipt requested. The copy of the survey that is served upon interested persons need include only the particular property in which those persons have an interest.

(2) One copy each upon the clerk, legislative body, and board of listers of each affected municipality by certified mail. The clerk shall record the notice of hearing in the municipal land records, at the agency's expense, and shall enter the names of the interested persons in the general index of transactions affecting the title to real estate.

(b) The agency also shall publish the notice of hearing in a newspaper of general circulation in the municipalities in which the proposed project lies. Publication shall be made once a week for three consecutive weeks on the same day of the week, the last publication to be not less than five days before the hearing. When service on an interested person cannot with due diligence be made within or outside the state, upon affidavit of the secretary of transportation or the secretary's designee that diligent inquiry has been made to find the interested person, the publication shall be deemed sufficient service on that person. The affidavit shall be accompanied by an affidavit of the person attempting service that the location of the interested person is unknown and that the interested person has no known agent upon whom service can be made.

(c) Compliance with these provisions of this title shall constitute sufficient notice to and service upon all interested persons and municipalities.

(d) No service need be made upon any interested person or municipality that has stipulated to necessity in accordance with section 508 of this chapter.

(e) Unless an answer denying the necessity or propriety of the proposed taking is filed by one or more parties served or appearing in the proceedings on or before the date set in the notice of hearing on the petition, the necessity and propriety shall be deemed to be conceded, and the ~~court~~ board shall so find.

#### § 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 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. The ~~court~~ 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



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 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.~~

#### § 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.

#### § 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 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, 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.

§ 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. 98. 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.

\* \* \* Regional Planning Commissions \* \* \*

Sec. 99. PROJECT PRIORITIZATION PROCESS AND PROPOSAL OF NEW PROJECTS FOR THE STATE TRANSPORTATION PROGRAM BY REGIONAL PLANNING COMMISSIONS

(a) To better reflect regional economic development, land use, and project priorities, the agency of transportation, in cooperation with the regional planning commissions, shall modify the existing project prioritization system to ensure that local input is assigned appropriate weighting in the system.

(b) The agency and the regional planning commissions shall jointly develop and adopt and the agency shall implement a written procedure that allows a regional planning commission to propose that a new project be substituted for an existing project or projects within the same region that are in the state transportation program. The procedure shall:

(1) ensure that the proposed new project for addition to the transportation program and the existing project or projects to be deleted from the program are roughly comparable in cost, using updated cost estimates;

(2) consider for removal from the transportation program only projects that are in candidate status;

(3) describe the project identification requirements and time line requirements that an RPC must satisfy to present the proposed change in the transportation program to the general assembly in a particular fiscal year; and

(4) describe the agency-regional planning commission communication protocols that will apply to the process.

(c) Each year, the agency's proposed transportation program shall include a separate report entitled "RPC Proposals" which shall describe all regional planning commission-proposed changes to the state's transportation program made in accordance with the procedure adopted pursuant to subsection (b) of this section.

(d) The agency and regional planning commissions shall report on the adopted procedure described in subsection (b) of this section and on changes made to the priority system in response to subsection (a) of this section to the committees on transportation by January 15, 2010.

## \* \* \* Annual Transportation Program \* \* \*

Sec. 100. 19 V.S.A. § 10g(g) is added to read:

(g) The agency's annual transportation program shall include a separate report referencing this section describing all proposed projects in the program which would be new to the state transportation program if adopted.

## \* \* \* Diesel tax \* \* \*

Sec. 101. 23 V.S.A. § 3003(d) is amended to read:

(d)(1) For users, the following uses shall be exempt from taxation under this chapter and be entitled to a credit for any tax paid for such uses under section 3020 of this title:

(A) uses, the taxation of which would be precluded by the laws and Constitution of the United States and this state;

(B) uses for agricultural purposes not conducted on the highways of the state;

(C) uses by any state, municipal, school district, fire district or other governmentally owned vehicles for official purposes;

(D) uses by any vehicle off the highways of the state; and

(E) ~~uses by motor buses registered in this state; and~~

~~(F)~~ uses by any vehicle registered as a farm truck under subsection 367(f) of this title.

(2) Provided, however, that no tax shall be due with respect to fuel for use in any state, municipal, school district, fire district or other ~~governmentally owned~~ vehicle owned, leased, or contracted for other than single-trip use by a government entity, as long as the distributor takes from the purchaser at the time of sale an exemption certificate in the form prescribed by the commissioner; and provided, further, that no tax shall be due with respect to fuel delivered for farm use to a farm bulk fuel storage tank.

Sec. 102. EFFECTIVE DATES

(a) The following sections of this act shall take effect from passage:

(1) Secs. 17–18 (ARRA funds).

(2) Sec. 57 (sale of salt shed in Montpelier).

(3) Sec. 58 (enhancement grants).

(4) Sec. 80 (sale of surplus rail property).

(b) Secs. 20–25 (motor fuels transportation infrastructure assessments and

bond fund) shall take effect on June 1, 2009.

(c) Sec. 101 shall take effect on July 1, 2010.

(d) All other sections of this act not specifically enumerated in subsections (a), (b), and (c) of this section shall take effect on July 1, 2009.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator McCormack, for the Committee on Finance, to which the bill was referred, reported that it has considered the same and recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Transportation with the following amendment thereto:

In Sec. 28, 23 V.S.A. § 304(c) by striking out subdivision (5) in its entirety.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence with proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Transportation was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Transportation, as amended, was agreed to and third reading of the bill was ordered.

### **Rules Suspended; Consideration Interrupted by Adjournment**

#### **H. 445.**

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to capital construction and state bonding.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Institutions, Senator Shumlin moved that the Senate adjourn until three o'clock in the afternoon.

### Called to Order

At three o'clock and fifteen minutes the Senate was called to order by the President.

### Consideration Resumed; Proposal of Amendment; Third Reading Ordered

#### H. 445.

Consideration was resumed on House bill entitled:

An act relating to capital construction and state bonding.

Thereupon, Senator Scott, for the Committee on Institutions, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Capital Appropriations \* \* \*

#### Sec. 1. STATE BUILDINGS

The following sums are appropriated in total to the department of buildings and general services, and the commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the chairs of the senate committee on institutions and the house committee on corrections and institutions are notified before that action is taken. The individual allocations in this section are estimates only.

<u>(1) Statewide, Americans with Disabilities Act (ADA) - for upgrades at the Emerson State Office Building in Newport:</u>	<u>100,000</u>
<u>(2) Statewide, building reuse and planning:</u>	<u>125,000</u>
<u>(3) Statewide, contingency:</u>	<u>500,000</u>
<u>(4) Statewide, major maintenance:</u>	<u>8,006,508</u>
<u>(5) Statewide, asbestos and lead abatement:</u>	<u>300,000</u>
<u>(6) Statewide, elevator repairs and upgrades:</u>	<u>150,000</u>
<u>(7) Statewide, physical security enhancements:</u>	<u>250,000</u>
<u>(8) BGS engineering and architectural project costs:</u>	<u>750,000</u>
<u>(9) Springfield, state office building retaining wall, phase 3:</u>	<u>150,000</u>
<u>(10) Middlesex, to complete the secretary of state and state archives vault addition:</u>	<u>6,800,000</u>

(11) Bennington State Office Building, 200 Veterans Drive. Demolish, design, and reuse the 1991 and 1978 portions of the building, an estimated 48,000 square feet. The commissioner shall use the building to house programs and services previously located in the building, except for agency of human services functions other than corrections and vocational rehabilitation functions; and build four holding cells, a sally port, and two additional courtrooms without jury facilities for a total of four courtrooms: 8,000,000

(12) Newport, correctional facility roof replacement: 300,000

(13) Burlington, 32 Cherry St., HVAC Upgrades, phase 1: 500,000

(14) Burlington, 32 Cherry St., water intrusion repairs, phase 1: 825,000

(15) Sharon, welcome center, sidewalk repairs: 250,000

(16) Rutland, multimodal garage trench drains 250,000

(17) Statewide, major maintenance at information centers 150,000

(18) Repair and replacement of slate roofs on historic state buildings in the Waterbury complex. The commissioner shall strive to employ as many tradespeople as possible: 250,000

Total Appropriation – Section 1 \$27,656,508

## Sec. 2. ADMINISTRATION

The following sums are appropriated to the agency of administration for the projects described in this section:

(1) for the department of taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping: 100,000

(2) for the department of information and innovation as a match for federal funds for phase I of installation of a Medicaid and health care data system to replace the access system that was installed in the 1980s: 1,700,000

(3) for the Vermont telecommunications authority to provide financial assistance for the purpose of expanding Vermont's mobile telecommunications and broadband infrastructure pursuant to Sec. 29 of this act: 1,000,000

Total Appropriation – Section 2 \$2,800,000

## Sec. 3. HUMAN SERVICES

(a) The following sums are appropriated in total to the department of buildings and general services for the agency of human services for the projects described in this section.



(1) Vermont state hospital, ongoing safety renovations. The commissioner of the department of buildings and general services shall work with the secretary of the agency of human services to utilize the existing space without costly renovations. The commissioner and secretary may consider alternatives such as an increase in staff and changing staffing patterns, construction design, and techniques for effectively using the sprinkler system without moving it: 150,000

(2) Vermont state hospital, planning, design, and permitting for a 15-bed secure residential recovery facility in Waterbury: 500,000

(3) Vermont state hospital, to consider how to replace acute intensive psychiatric inpatient services provided by the current Vermont State hospital by building capacity to provide those functions at the Rutland Regional Medical Center (RRMC). However, the funds allocated under this subdivision shall not be used for the financial analysis obtained pursuant to Sec. 32(b)(1) of this act and shall not be encumbered until completion of the analysis, and provided that planning is not discontinued pursuant to Sec. 32(b)(4) of this act. Funds so encumbered shall be used to match funds provided by the Rutland Regional Medical Center to continue planning for providing acute intensive inpatient services at the RRMC on a one-to-one basis: 250,000

(4) Health lab, for analysis, feasibility studies, adaptation of past plans, and development of conceptual designs to provide the basis for an agreement with the University of Vermont to co-locate the department of health laboratory with its Colchester research facility: 500,000

(5) Corrections, continuation of suicide abatement project: 200,000

(6) Corrections, security upgrades: 180,000

(b) The following is appropriated to the Vermont housing and conservation board to support building of transitional housing for various populations such as victims of violence, people recently released from incarceration, and homeless people; for housing for people with particular needs such as housing with services for people with disabilities, those requiring treatment for substance abuse, or the elderly; and for improving downtown areas: 250,000

Total Appropriation – Section 3 \$2,030,000

#### Sec. 4. BUILDING COMMUNITIES GRANTS

The following sums are appropriated for building communities grants established in 24 V.S.A. chapter 137:

(1) To the agency of commerce and community development, division for historic preservation, for the historic preservation grant program: 200,000

<u>(2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program:</u>	<u>200,000</u>
<u>(3) To the Vermont council on the arts for the cultural facilities grant program:</u>	<u>200,000</u>
<u>(4) To the department of buildings and general services for the recreational facilities grant program:</u>	<u>200,000</u>
<u>(5) To the department of buildings and general services for the human services and educational facilities competitive grant program:</u>	<u>200,000</u>
<u>Total appropriation - Section 4</u>	<u>\$1,000,000</u>

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated to the department of buildings and general services for the agency of commerce and community development for the following projects:

<u>(1) Major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services:</u>	<u>250,000</u>
<u>(2) Final state contribution to expand the visitors' center at the Calvin Coolidge state historic site in Plymouth Notch. These funds may be used as a match for a National Endowment for the Humanities Challenge Grant. The commissioner of finance and management may approve a request from the commissioner of buildings and general services for funds in anticipation of receipts of private donations for the Plymouth visitors center project:</u>	<u>1,500,000</u>

(b) The following sums are appropriated to the agency of commerce and community development for the following projects:

<u>(1) Underwater preserves:</u>	<u>50,000</u>
<u>(2) Placement and replacement of roadside historic site markers:</u>	<u>15,000</u>
<u>Total Appropriation – Section 5</u>	<u>\$1,815,000</u>

Sec. 6. EDUCATION

(a) The following is appropriated in total to the department of education for the purposes described in this section:

<u>(1) To pay the balance owed for the following addition and renovation projects, up to:</u>	
<u>(A) Brattleboro Union High and Area Middle schools;</u>	

(B) Hanover High School and Frances C. Richmond School in Hanover, N.H.;

(C) Williamstown Middle/High School;

(D) Saxtons River Elementary School in Rockingham;

(E) Central Elementary School in Rockingham; and

(F) Thatcher Brook Primary School in Waterbury: 2,426,916

(2) To pay one third of the balance owed for the following addition, renovation, and consolidation projects, up to:

(A) Elm Hill School in Springfield;

(B) Union Street School in Springfield;

(C) Weathersfield Elementary and Middle Schools;

(D) Newport Town School; and

(E) Robinson Elementary School in Starksboro: 4,205,996

(3) To pay the balance owed for the following energy performance contracts, up to:

(A) Montpelier elementary, middle, and high schools;

(B) Milton elementary, junior, and senior high schools;

(C) Brattleboro elementary schools; and

(D) Neshobe School in Brandon: 390,480

(4) To pay the balance owed for the following biomass projects, up to:

(A) Camels Hump Middle School in Richmond; and

(B) Williamstown Middle/High School: 71,264

(5) To pay state aid for emergency school construction projects pursuant to subdivision 3448(a)(3)(A) of Title 16 which may arise during FY10, up to: 300,000

(6) To be divided evenly, along with any funds remaining after the projects listed in subdivisions (1) – (5) of this subsection have received funds, among the following for addition and renovation projects:

(A) Green Mountain Technology and Career Center in Hyde Park;

(B) Center for Technology in Essex Town; and

(C) North Country Career Center in Newport: 2,905,344

(b) The following is appropriated to the Department of Education for emergency shelters in schools paid pursuant to 16 V.S.A. § 3453a:      43,555

Total Appropriation – Section 6      \$10,343,555

Sec. 7. AUSTINE SCHOOL

The sum of \$227,937 is appropriated to the department of buildings and general services for the renovation of Holton Hall at the Austine School.

Total Appropriation – Section 7      \$227,937

Sec. 8. UNIVERSITY OF VERMONT

The sum of \$2,000,000 is appropriated to the University of Vermont for construction, renovation, or maintenance projects.

Total Appropriation – Section 8      \$2,000,000

Sec. 9. VERMONT STATE COLLEGES

The sum of \$2,000,000 is appropriated to the Vermont State Colleges for major facility maintenance.

Total Appropriation – Section 9      \$2,000,000

Sec. 10. NATURAL RESOURCES

(a) The following sums are appropriated in total to the agency of natural resources for water pollution control projects:

(1) For existing projects, the Springfield loan conversion, chapter 120 administrative support, and feasibility study planning advances necessary to operate the ongoing program for grants to municipalities pursuant to chapter 55 of Title 10 (aid to municipalities for water supply, pollution abatement, and sewer separations) and chapter 120 of Title 24 (special environmental revolving fund):      475,000

(2) Municipal pollution control projects:

(A) Proctor for combined sewer overflow abatement:      160,000

(B) Enosburg Falls for combined sewer overflow abatement:      250,000

(C) St. Johnsbury for combined sewer overflow abatement:      240,000

(3) Interest on short-term borrowing associated with delayed grant funding for the Pownal project:      140,000

(4) For the Vermont environmental protection agency pollution control revolving fund:      19,433,000

(b) The following sums are appropriated in total to the agency of natural resources for the drinking water state revolving fund:

(1) for engineering, oversight, and program management: 275,000

(2) for the Vermont environmental protection agency drinking water revolving fund in fiscal year 2010: 19,500,000

(c) The following sums are appropriated in total to the agency of natural resources for the clean and clear program to accelerate the reduction of phosphorus discharges into Lake Champlain and other waters of the state:

(1) Ecosystem restoration and protection: 1,700,000

(2) Unregulated stormwater management: 200,000

(3) Phosphorus treatment at the Proctor aerated lagoon facility: 510,000

(d) The following sum is appropriated to the agency of natural resources for the state's year-two share of the federal match to conduct a three-year study of flood-control measures in the city of Montpelier. However, the state shall not enter into any commitment to pay for construction of flood control improvements without legislative approval: 142,000

(e) The following sums are appropriated to the agency of natural resources for the department of forests, parks and recreation. To the extent possible, the commissioner of forests, parks and recreation shall involve the Vermont Youth Conservation Corps in the following initiatives. Funds shall be used for:

(1) A parks conservation corps program to stimulate economic activity, create employment opportunities, and improve trails, buildings, and other state park infrastructure through geographically dispersed construction and renovation projects in Vermont state parks. To the extent feasible, these funds shall be used to support small-scale projects being funded by resources made available through the American Recovery and Reinvestment Act of 2009 (ARRA), including a summer youth employment program in partnership with the department of labor. Projects may include construction of rustic cabins:

400,000

(2) Statewide, small-scale rehabilitation: 500,000

(3) Wastewater repairs and preventive improvements: 250,000

(4) Infrastructure improvements: 1,000,000

(5) Energy conservation and alternative energy projects in state parks: 1,000,000

(6) Rehabilitation of CCC structures in state parks: 1,000,000

(7) Upgrade of restrooms and bathhouses in state parks: 1,000,000

(8) Upgrade of the ranger residence and headquarters at Woodford State Park: 250,000

(9) Upgrade and maintenance of Maidstone Road, and other forest highways with any funds remaining after the upgrade of Maidstone Road: 600,000

(10) The Green Mountain Club, Inc. for the procurement in fee simple or by easement of properties along the Long Trail: 25,000

(f) The following sums are appropriated to the agency of natural resources for department of fish and wildlife projects described in this subsection. If possible, the secretary shall apply for ARRA funds for energy upgrades and shall report on any receipt of such funds to the senate committee on institutions and the house committee on corrections and institutions:

(1) Backup generators for the Bald Hill or the Bennington Filter Building, or both: 125,000

(2) Buck Lake Camp facilities improvement: 84,000

(3) For the Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure: 25,000

(4) Immediate biosecurity at several of the fish hatcheries: 83,000

(5) Fish production improvements at the Grand Isle and Bennington hatcheries: 181,000

(6) Long-term biosecurity at the Grand Isle fish hatchery: 269,000

(7) Replace windows at Roxbury, Bennington, and Salisbury hatcheries 50,000

(g) If more ARRA funds become available for pollution control, drinking water projects, or other natural-resource-related projects during fiscal year 2010, the secretary is encouraged to apply for them.

Total Appropriation – Section 10 \$49,867,000

#### Sec. 11. MILITARY

The following sums are appropriated in total to the department of the military for:

(1) Site acquisition for the combined northern field maintenance shop and Morrisville armory: 100,000

(2) Maintenance and renovations at state armories, including increased locker space at 12 armories, designs for latrines and ADA projects, ADA and

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sanitary facilities upgrades, and low roof design and construction at the Waterbury Armory 380,000

Total Appropriation – Section 11 \$480,000

Sec. 12. PUBLIC SAFETY

The following sums are appropriated in total to the department of buildings and general services for the department of public safety for:

(1) Complete construction of a new forensics lab in Waterbury: 2,057,821

(2) Design and construction of a new emergency operations center in Waterbury. This amount shall be used to match \$1,000,000 in federal funds for the project: 375,000

(3) Purchase of property, obtaining of permits, and design for the Brattleboro/Rockingham state police office: 750,000

Total Appropriation – Section 12 \$3,182,821

Sec. 13. FIRE SERVICE TRAINING

The following sums are appropriated for fire service training:

(1) To the department of public safety for the Vermont fire service training council for equipment for the VTC fire science degree program: 100,000

(2) To Vermont State Colleges as the state's financial contribution to the construction of a steel burn building at the Vermont Technical College campus in Randolph: 200,000

Total Appropriation – Section 13 \$300,000

Sec. 14. CRIMINAL JUSTICE TRAINING COUNCIL

The sum of \$1,700,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council to design and construct a new firing range, and purchase and locate a three-lane mobile firing unit in Pittsford.

Total Appropriation – Section 14 \$1,700,000

Sec. 15. AGRICULTURE, FOOD AND MARKETS

The following sums are appropriated in total to the agency of agriculture, food and markets for the purposes described in this section:

(1) For the best management practice implementation cost share program, to continue to develop best management practices on Vermont farms. Farmers participating in this program are eligible for cost share funds not to exceed \$75,000 or 80 percent of a project, whichever is less: 1,800,000

(2) For the agricultural buffer program, to install water quality conservation buffers 175,000

(3) For the agricultural fair capital projects competitive grants program. No single entity shall be awarded more than ten percent of this appropriation: 200,000

Total Appropriation – Section 15 \$2,175,000

Sec. 16. VERMONT PUBLIC TELEVISION

The sum of \$500,000 is appropriated to Vermont Public Television as the state match for the federally mandated legally required conversion of Vermont Public Television’s facilities to digital format.

Total Appropriation – Section 16 \$500,000

Sec. 17. VERMONT INTERACTIVE TELEVISION

The sum of \$308,000 is appropriated to Vermont Interactive Television for video upgrades, monitor replacement, or any combination thereof, at Vermont Interactive Television sites.

Total Appropriation – Section 17 \$308,000

Sec. 18. VERMONT RURAL FIRE PROTECTION

The sum of \$100,000 is appropriated to the department of public safety, division of fire safety for the Vermont rural fire protection task force to continue the dry hydrant program.

Total Appropriation – Section 18 \$100,000

Sec. 19. VERMONT VETERANS’ HOME

The following sums are appropriated to the department of buildings and general services for the Vermont Veterans’ Home for the purposes described in this section:

(1) Cost increase for Phase II of geothermal HVAC renovations: 600,000



(2) <u>North wing roof replacement:</u>	<u>200,000</u>
<u>Total Appropriation – Section 19</u>	<u>\$800,000</u>

Sec. 20. VERMONT CENTER FOR CRIME VICTIM SERVICES

The sum of \$50,000 is appropriated to the Vermont Center for Crime Victim Services for Americans with Disabilities Act improvements at domestic violence shelters. The Vermont Center for Crime Victim Services shall file with the commissioner of buildings and general services an annual report, on or before December 1, 2009, which details the status of the improvements funded in whole or in part by state capital appropriations.

<u>Total Appropriation – Section 20</u>	<u>\$50,000</u>
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\* \* \* Financing this Act \* \* \*

Sec. 21. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

The following sums are reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 of this act:

<u>(1) of the amount appropriated in Sec. 253(4) of No. 152 of the Acts of the 1999 Adj. Sess. (2000) (Springfield Correctional Facility):</u>	<u>461.14</u>
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<u>(2) of the amount appropriated in Sec. 14 of No. 61 of the Acts of 2001 (Pittsford Wastewater System):</u>	<u>226,933.98</u>
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<u>(3) of the amount appropriated by Sec. 12(b) of No. 43 of the Acts of 2005 (Public Safety):</u>	<u>2,105.00</u>
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<u>(4) of the amount appropriated by Sec. 13(c) of No. 52 of the Acts of 2007 (Public Safety and Fire Service Training Council):</u>	<u>14,520.70</u>
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<u>(5) of the amount appropriated by Sec. 26 of No. 52 of the Acts of 2007 (Sale of Condo Unit, Newport State Office Building):</u>	<u>163,800.00</u>
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<u>Total Reallocations and Transfers – Section 21</u>	<u>\$407,820.82</u>
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Sec. 22. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The state treasurer is authorized to issue general obligation bonds in the amount of \$69,995,000 for the purpose of funding the appropriations of this act. The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

69,995,000

(b) The following amount from ARRA clean water state revolving fund grants is hereby appropriated for use in FY10 and FY11 for projects funded through the Vermont environmental protection agency pollution control revolving fund. Specific project spending shall be approved by a committee made up of the joint fiscal committee and the chairs of the senate committee on institutions and the house committee on corrections and institutions.  
19,433,000

(c) The following amount from ARRA State Drinking Water Capitalization Grants is hereby appropriated for use in FY10 and FY11 for projects funded through the drinking water state revolving fund. Specific project spending shall be approved by a committee made up of the joint fiscal committee and the chairs of the senate committee on institutions and the house committee on corrections and institutions.  
19,500,000

Total Revenues – Section 22 \$108,928,000

\* \* \* General Authority \* \* \*

Sec. 23. FEDERAL STIMULUS FUNDS; GENERAL AUTHORITY

(a) The head of any state agency or public body that receives funds under this act is hereby encouraged to apply for ARRA funds for capital expenses. Any ARRA funds received for capital expenses shall be reported to the chair of the senate committee on institutions and the chair of the house committee on corrections and institutions pursuant to Sec. E.129 of the appropriations bill of 2009.

(b) The head of any state agency or public body that receives funds under this act is authorized to use funds appropriated under this act to apply for and match funds which may be available for capital construction under the ARRA.

\* \* \* Buildings and General Services \* \* \*

Sec. 24. ACCEPTANCE OF GRANTS AND OTHER FUNDS

(a) Notwithstanding section 5 of Title 32 (acceptance of grants), the commissioner of buildings and general services may accept federal grant funds:

(1) in connection with the state forensic laboratory. These funds may be used to defray or supplement costs in Sec. 12(1) of this act; and

(2) for the purpose of designing and retrofitting a new emergency management facility and emergency operations center.

(b) Each receipt of a grant or gift authorized by this section shall be reported by the commissioner to the chairs of the senate committee on

institutions and the house committee on corrections and institutions and to the joint fiscal committee.

Sec. 25. DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;  
AUTHORITY TO FUND PROJECTS AUTHORIZED IN PRIOR YEARS

The commissioner of buildings and general services is authorized to use funds appropriated under this act for capital projects requiring additional support that were funded with capital or general appropriations made in prior years.

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) The commissioner of buildings and general services is authorized to negotiate the sale of all or a portion of the state's property that adjoins the Hebard state office building in Newport City for the purposes of transferring ownership and operation of the bike path, walking path, and boardwalk. The commissioner shall strive to obtain fair market value, considering maintenance and potential liability costs to the state if the property is not sold. Upon approval of the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner is not obligated to follow the provisions of 29 V.S.A. § 166(b) in negotiating and selling this property.

(b) The commissioner of buildings and general services is authorized to purchase property in the Westminster vicinity for the purpose of locating the southeastern Vermont public safety facility.

(c) Notwithstanding subsection 32(c) of No. 200 of the Acts of 2008, the commissioner of buildings and general services is authorized to sell the real property commonly referred to as the "Former Tree Farm Property" and associated buildings located in the town and village of Essex in one or two parcels as follows: the commissioner may sell the portion which is in the town of Essex to the town of Essex and the portion which is in the village of Essex to the village of Essex or may sell the entire parcel to either the village or the town of Essex. The commissioner shall strive to obtain fair market value, considering maintenance and potential liability costs to the state if the property is not sold. Upon approval of the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner is not obligated to follow the provisions of 29 V.S.A. § 166(b) in negotiating and selling this property.

(d) The commissioner is authorized either to convert to other state use or to sell the building in Middlesex formerly leased to North American Playcare,

Inc., if the commissioner is unable to enter into a lease with the Montessori school for a child care facility. If the commissioner sells the building, he or she shall follow the process of 29 V.S.A. § 166.

(e) Pursuant to 29 V.S.A. § 166(b), the commissioner of buildings and general services is authorized to subdivide land at the former Weeks school in Vergennes in order to sell the Arsenal and Fairbanks buildings. The commissioner may use proceeds from the sale to enhance the value of the remaining former Weeks school property.

(f) The commissioner of buildings and general services is authorized to sell the following properties pursuant to 29 V.S.A. § 166:

(1) The Dummerston library building. The commissioner shall strive to obtain fair market value, considering maintenance and potential liability costs to the state if the property is not sold. Upon approval of the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner is not obligated to follow the provisions of 29 V.S.A. § 166(b) in negotiating and selling this property.

(2) Building 617 in Essex. The commissioner shall consult with the chair of the senate committee on institutions and the chair of the house committee on corrections and institutions prior to finalizing any sale.

(3) The Redstone building at 26 Terrace Street in Montpelier after the secretary of state has moved to another location.

(g) The commissioner of buildings and general services shall consider options for use and disposal of the following properties and shall present his or her analysis and recommendations to the senate committee on institutions and the house committee on corrections and institutions on or before January 15, 2010:

(1) Father Logue's camp in Duxbury.

(2) 62 Pierpoint Avenue in Rutland.

(3) The house, barn, and land at the Northwest State Correctional Facility in St. Albans. At a minimum, the commissioner of buildings and general services shall consult with the commissioner of corrections to consider use of the buildings and property as transitional housing, a work farm associated with the correctional facility, or transitional housing, and to consider sale of the property for use as a working farm.

(h) In Sec. 32(d) of No. 200 of the Acts of the 2007 Adj. Sess. (2008), the general assembly authorized the commissioner of buildings and general services to sell, lease, subdivide, convert into condominiums, or any

combination thereof the Thayer school building located at 1193 North Avenue in Burlington. The commissioner is hereby further authorized to transfer title by warranty deed for sale of the building.

(i) The commissioner of buildings and general services is hereby authorized to enter into negotiations to lease building space at 210 South Street in Bennington to house programs and services of the agency of human services previously located in the State Office Building at 200 Veterans Drive in Bennington. Upon approval of the chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may enter into a lease agreement for the use of the building.

Sec. 27. 29 V.S.A. § 152(a)(33) is added to read:

(33) Accept grants of funds, equipment, and services from any source, including federal appropriations, for the installation, operation, implementation, or maintenance of energy conservation measures or improvements at state buildings provided that the commissioner shall report receipt of a grant under this subdivision to the chairs of the senate committee on institutions, the house committee on corrections and institutions, and the joint fiscal committee.

Sec. 28. 29 V.S.A. § 152(b) is amended to read:

(b) Prior to transfer of unexpended balances between projects under the provisions of this section or another provision of law, expenditure of capital funds through grants or other programs which involve a nongovernment entity, or sale or lease of property acquired with proceeds of a state bond issue to a nongovernment entity, the commissioner shall consult with the state treasurer and the commissioner of finance and management to determine that such transfer does not adversely affect the exclusion from gross income of the interest on the bonds from which such unexpended proceeds are derived, pursuant to Section 103 of the Internal Revenue Code of 1986 or any corresponding Internal Revenue Code section of the United States, as from time to time amended. The commissioner shall notify the state treasurer within 30 days of the postponement of any authorized projects for which bonds have been issued.

\* \* \* Commerce and Community Development \* \* \*

Sec. 29. VERMONT TELECOMMUNICATIONS AUTHORITY; MOBILE TELECOMMUNICATIONS AND BROADBAND SERVICES

(a) The Vermont telecommunications authority shall use funds appropriated in Sec. 2(3) of this act as described in this section:

(1) To provide financial assistance for building infrastructure capable of delivering mobile telecommunications and broadband services pursuant to the authority granted in 30 V.S.A. § 8062(b)(2), and in accordance with the priorities established under 30 V.S.A. § 8077;

(2) To leverage funding from other sources, including funds available under the American Recovery and Reinvestment Act of 2009 (ARRA); and

(3) To use up to \$300,000 to fund the broadband development grant program created in Sec. 3 of No. 79 of the Acts of 2007.

(b) If the authority has an opportunity to use the appropriation to leverage funds, and if the funding source requires that the leveraged funds be used in a way that conflicts with subdivision (a)(1) of this section, the authority may accept and expend the funds upon approval of the joint fiscal committee, the chairs of the senate committees on institutions and on finance, and the chairs of the house committees on corrections and institutions and on commerce and economic development.

\* \* \* Human Services \* \* \*

Sec. 30. VERMONT STATE HOSPITAL; REPLACEMENT

(a) It is the intent of the general assembly that expenditures for planning for replacement of the functions of the Vermont state hospital shall be directed toward meeting the conditions and requirements of the conceptual certificate of need issued by the department of banking, insurance, securities, and health care administration on April 12, 2007, and extended for 12 months, to expire on April 12, 2010.

(b) Prior to the submission of an application for a phase II certificate of need for construction of a facility to house a secure residential recovery program provided for in Sec. 31 of this act, the department of mental health shall develop a master plan to replace the acute care functions now provided in the Vermont state hospital and to close the Vermont state hospital. The master plan shall include an adequate long-range perspective of the funding needs and sources such that the phase II review process for a secure residential recovery program will be able to:

(1) consider whether there will be an appropriate balance between the fiscal and other needs of current and future inpatient facilities and the fiscal and other needs of the community mental health system; and

(2) consider the state's financial ability to complete the master plan.

(c) While pursuing the secure residential facility as described in Sec. 31 of this act and the planning for acute mental health care in several hospitals geographically distributed throughout the state as provided for in Sec. 32 of this act, the department of mental health shall enter into discussions with the Brattleboro Retreat, Fletcher Allen Health Care, Rutland Regional Medical Center and other general and specialty hospitals to explore options for hospital-level care for the remaining placements needed to close the Vermont state hospital.

(d) As part of its master plan to replace the Vermont state hospital, the department of mental health shall conduct a financial analysis and an analysis of the impact on care of the temporary return to inpatient care at staff secure facilities.

Sec. 31. VERMONT STATE HOSPITAL; SECURE RESIDENTIAL RECOVERY PROGRAM

(a) It is the intent of the general assembly that the commissioner of mental health shall provide a secure residential recovery program for individuals with a mental health disability for whom inpatient hospital treatment would be inappropriate, including those who may be in secure custody of the commissioner of mental health as a result of district court orders and those in secure custody of the commissioner of mental health with dementia, traumatic brain injuries, or other treatment-resistant mental illnesses or disabilities whose symptoms require secure care. It is further the intent of the general assembly that the facility housing the program shall be designed to afford the greatest future flexibility for any potential residential health care program and shall be consistent with the goal of creating a facility with a residential character. In addition, both the site and design shall foster the ability to provide outdoor recreation, safety of residents and program participants, and appropriate programming to meet the needs of each of the several diagnostic groups to be served.

(b) Prior to further design development, the commissioner of mental health and the commissioner of buildings and general services shall fully investigate and analyze site options for locating the secure residential facility on the Waterbury campus as well as other at sites in Waterbury. The facility shall not be located next to the A-building. The facility design shall incorporate the necessary components to function as a freestanding program that does not rely

on support space currently serving patient needs in the existing Vermont state hospital.

(c)(1) It is the intention of the general assembly that the secure residential recovery program shall be governed by a governing body which is separate from the governing body of the Vermont state hospital and shall be operated under a license to be issued by the department of disabilities, aging, and independent living (DAIL).

(2) DAIL shall amend by rule pursuant to chapter 25 of Title 3 the licensing requirements for therapeutic community residences to provide for the operation of secure residential recovery programs.

(d) At the time of filing a certificate of need (CON) letter of intent with the department of banking, insurance, securities, and health care administration, the department of mental health shall notify the Centers for Medicare and Medicaid Services (CMS) in writing that it is planning and developing a 15-bed residential program, with a description of its size, program, intended patient population, physical location relative to the existing state hospital, anticipated licensing, and anticipated governance structure. In addition, the department shall request CMS to review the final plan to determine if federal financial participation under Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act would be available for the facility.

(e)(1) The department of mental health shall submit the response of CMS, if any, or the fact that CMS has not responded to the request, to the senate committee on institutions and the house committee on corrections and institutions, the senate and house committees on appropriations, the senate committee on health and welfare, the house committee on human services, the joint fiscal committee, and the mental health oversight committee.

(2) During the legislative session, the department shall provide quarterly updates to the senate committee on institutions, the house committee on corrections and institutions, the senate committee on health and welfare, and the house committee on human services on the progress toward completing the facility and developing the residential recovery program.

(3) Outside the legislative session, the department shall provide quarterly updates to the joint fiscal committee and the mental health oversight committee on the progress toward completing the facility and developing the residential recovery program.

(f) When the secure residential recovery program begins accepting residents, the department of health shall reduce by 15 the number of licensed beds at the Vermont state hospital.



Sec. 32. VERMONT STATE HOSPITAL; REPLACEMENT OF ACUTE CARE FUNCTIONS

(a) It is the intent of the general assembly that the plan for replacement of the functions of the Vermont state hospital shall provide geographic access such that patients requiring acute mental health care can be appropriately treated as near to their respective homes as possible through providing replacement specialized and intensive inpatient levels of care in more than one hospital staffed with appropriately trained and experienced staff. While recognizing a preference for geographic access, the plan shall ensure that acute care facilities are able to maintain sufficient patient census to be financially sustainable. Acute care facilities may be operated under one or more licenses issued to the department or to the hospitals, as appropriate.

(b)(1) The department of mental health, in collaboration with the joint fiscal office, the treasurer's office, and the Vermont educational and health buildings finance agency, shall obtain an accounting and financial analysis of any proposed bonding structure, including costs of capitalization, to determine whether a financing arrangement that places no debt capacity burden on either the state or on Rutland Regional Medical Center (RRMC) is reasonably feasible for a new psychiatric wing at RRMC to replace and expand the existing psychiatric unit.

(2) No later than September 1, 2009, the department shall provide a report describing the financing arrangement for a new psychiatric wing at RRMC and the results of the accounting and financial analysis to the mental health oversight committee and the joint fiscal committee.

(3)(A) The joint fiscal office shall analyze and evaluate the financing arrangement and results of the accounting and financial analysis conducted under subdivision (1) of this subsection to determine if the financing is reasonable. The department of mental health shall provide the joint fiscal office with ongoing access to the analysis in order to ensure that the joint fiscal office has sufficient information to evaluate the results as required in this subdivision.

(B) The joint fiscal office may contract with an independent consultant to provide additional analysis, if needed, for its analysis required under subdivision (A) of this subdivision. Upon request of the joint fiscal office, the commissioner of the department of buildings and general services shall transfer up to \$25,000 of unexpended funds appropriated to the department of buildings and general services in prior capital construction acts for Vermont state hospital planning to the joint fiscal office for this purpose.

(C) The joint fiscal office shall provide the mental health oversight committee and the joint fiscal committee with its evaluation as soon as

possible after receiving the report of the results required by subdivision (2) of this subsection in order for the committees to make a determination by October 1, 2009.

(4) After receipt of the report and no later than October 1, 2009, the mental health oversight committee or the joint fiscal committee may object to the financing arrangement proposed by the department for a new psychiatric wing at RRMC. If either committee objects, the department shall discontinue planning for a new psychiatric wing at RRMC.

(c) Simultaneously with any planning for expansion of psychiatric services at RRMC, including conducting the financial analysis under subdivision (b)(1) of this section and whether or not planning for the RRMC option is discontinued as provided for in subdivision (b)(4) of this section, the department shall continue to assess the feasibility, including the cost, of providing acute care services at general or appropriate specialized hospitals in other locations. As part of the planning process described in this subsection, the department shall obtain an independent labor analysis of the impact of providing services at RRMC, if planning has not been discontinued pursuant to subdivision (b)(4) of this section, and at general or appropriate specialized hospitals in other locations being considered for provision of acute care functions with respect to recruiting and maintaining staffing for any staff-intensive, specialized psychiatric services required. The department of labor may provide the labor analysis provided for in this subsection. The commissioner of the department of buildings and general services shall transfer funds necessary for this study from unexpended funds appropriated to the department of buildings and general services in prior capital construction acts for Vermont state hospital planning to the department of mental health for this purpose.

(d) By January 15, 2010, the department shall propose any statutory changes it believes may be necessary for implementation of its master plan, including recommendations for statutory provisions which ensure that acute care facilities maintain sufficient patient census to be financially sustainable.

Sec. 33. Sec. 124d(e) of No. 65 of the Acts of 2007 is amended to read:

(e) For purposes of this section, the council shall cease to exist ~~on~~ when the development of the alternatives to the Vermont state hospital is completed, but no later than July 1, ~~2009~~ 2012.

\* \* \* Corrections \* \* \*

Sec. 34. 28 V.S.A. § 102(b)(16) is added to read:

(16) With the approval of the secretary of human services, to accept federal grants made available through federal crime bill legislation provided that the commissioner shall report receipt of a grant under this subdivision to the chairs of the senate committee on institutions, the house committee on corrections and institutions, and the joint fiscal committee.

Sec. 35. CORRECTIONS; HOUSING FOR INMATES AND DETAINEES; COLLABORATION AMONG FEDERAL AND STATE OFFICIALS; USE OF NORTHWEST STATE CORRECTIONAL FACILITY

(a) The commissioner of corrections shall consult with the U.S. marshal to identify opportunities to collaborate to provide secure facilities that meet the needs of federal, state, county, and municipal law enforcement officials regarding space for housing of inmates and detainees. The commissioner shall consider building of a new facility with ARRA funds as well as the potential for reconfiguring the e-wing of the Northeast Regional Correctional Facility to house federal, state, county and municipal inmates and detainees. The commissioner shall report to the corrections oversight committee by October 15, 2009.

(b) The department of corrections shall accept lodging at the Northwest State Correctional Facility from local law enforcement officers on a weekend basis for a period of one year. On or before July 1, 2010, the commissioner of corrections shall report on the implementation of this subsection to the corrections oversight committee.

\* \* \* Vermont Telecommunications Authority \* \* \*

Sec. 36. Sec. 42 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 3 of No. 79 of the Acts of 2007, relating to a broadband development grant program, is repealed on ~~June 30, 2009~~ June 20, 2011.

\* \* \* Natural Resources \* \* \*

Sec. 37. 3 V.S.A. § 2822(e) is added to read:

(e) The secretary, with the approval of the secretary of administration, may transfer any unexpended funds appropriated in a capital construction act among other projects authorized in the same section of that act.

Sec. 38. 24 V.S.A. § 4753b is added to read:

§ 4753b. ACCEPTANCE OF FUNDS

(a) The commissioner of environmental conservation, with the approval of the secretary of natural resources, may accept federal grants made available through the federal Clean Water Act and the federal Drinking Water Act in accordance with this chapter. Acceptance of this grant money is hereby approved, provided all notifications are made under subsection 4760(a) of this title.

(b) The commissioner shall report receipt of a grant under this section to the chairs of the senate committee on institutions and the house committee on corrections and institutions and the joint fiscal committee.

Sec. 39. Sec. 8(a)(2) of No. 52 of the Acts of 1989, as amended by Sec. 18 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) and Sec. 32 of No. 29 of the Acts of 1999, is amended to read:

(2) That this conveyance shall be completed within ~~20~~ 30 years of the effective date of this act.

\* \* \* Military \* \* \*

Sec. 40. AUTHORITY TO TRANSFER FUNDS

The military department in the office of the adjutant general may transfer funds appropriated to it in this act among other projects authorized in the same section of the act.

\* \* \* Judiciary \* \* \*

Sec. 41. JUDICIARY; CAPITAL FUNDING

In 2008, the general assembly and supreme court established the Vermont Commission on Judicial Operation and charged the commission with evaluating the allocation and management of fiscal resources, including state capital appropriations, for judicial operations. Therefore, due to the possibility that significant changes may occur in the planning, location, and physical plants of the judiciary, the general assembly will not appropriate capital funds for judiciary expenses until it receives the recommendations of the commission.

\* \* \* Administration \* \* \*

Sec. 42. 3 V.S.A. § 2291(c) is amended to read:

(c) The secretary of administration with the cooperation of the commissioners of public service and of buildings and general services shall develop and oversee the implementation of a state agency energy plan for state

government. The plan shall be adopted by June 30, 2005, modified as necessary, and readopted by the secretary on or before ~~January 15 of each fifth~~ January 15, 2010 and each sixth year subsequent to 2005 2010. The plan shall accomplish the following objectives and requirements:

\* \* \*

Sec. 43. 3 V.S.A. § 2291b is amended to read:

§ 2291b. ADOPTION OF STATE AGENCY ENERGY IMPLEMENTATION PLANS

After review by the commissioner of buildings and general services and approval by the secretary of administration, each state agency shall adopt an implementation plan on or before ~~August 31, 2005~~ August 31, 2010 to ensure compliance with the state agency energy plan. Each agency shall readopt and file its implementation plan biennially with the commissioner to ensure that the implementation plan remains compatible with the state agency energy plan.

\* \* \* Property Transactions \* \* \*

Sec. 44. Sec. 26 of No. 52 of the Acts of 2007 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

The commissioner of buildings and general services is authorized, with the approval of the secretary of administration, to sell the properties listed in this section pursuant to 29 V.S.A. § 166. Of proceeds from the sales, \$50,000 is appropriated to the Friends of the State House for renovations to the state house. ~~The remainder is appropriated to the department of buildings and general services for construction and renovation of building 617 in Essex to house the department of health and department of public safety forensics laboratories~~ shall be paid into a capital fund account pursuant to 29 V.S.A. §166(d).

\* \* \*

\* \* \* Effective Date \* \* \*

Sec. 45. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Illuzzi, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Institutions?, Senators Illuzzi, Bartlett, Kitchel, Miller, Sears, Shumlin and Snelling moved to amend the proposal of amendment of the Committee on Institutions, as follows:

First: In Sec. 3(b), at the end of the sec by striking out the following: “250,000” and inserting in lieu thereof the following: 1,000,000, and by striking out the following: “\$2,030,000” and inserting in lieu thereof the following: \$2,780,000

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

Sec. 14. CRIMINAL JUSTICE TRAINING COUNCIL; PHASE I, PROFESSIONAL RANGE DESIGN

(a) The sum of \$800,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council in Pittsford to:

- (1) design and construct a new firing range; and
- (2) purchase and locate a three-lane mobile firing unit.

(b) The project shall be phased. The first phase shall be to purchase the mobile firing unit and temporarily locate it on the grounds.

(c) Before finalizing design of the range, the commissioner shall consult with an experienced range professional or military or federal agency experienced in the design and use of firing ranges to ensure the project is optimally designed.

Total Appropriation – Section 14

\$800,000

Thereupon, pending the question, Shall the report of the Committee on Institutions be amended as recommended by Senators Illuzzi, Bartlett, Kitchel, Miller, Sears, Shumlin and Snelling?, Senator Illuzzi requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Institutions?, was agreed to.

Thereupon, third reading of the bill was ordered.

**Proposals of Amendment; Bill Passed in Concurrence with Proposals of Amendment**

**H. 442.**

House bill entitled:

An act relating to miscellaneous tax provisions.

Was taken up.

Thereupon, pending third reading of the bill, Senator Cummings, on behalf of the Committee on Finance, moved that the Senate proposal of amendment be amended by deleting Secs. 52 and 53.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Racine, Kittell, Choate, Starr, Giard, Lyons, Ashe, Nitka, Campbell and White moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec. 54a to read as follows:

Sec. 54a. SUNSET

The following sections of this bill shall expire on June 30, 2012:

(1) Sec. 37b (increase in tax on cigarettes);

(2) Sec. 37c (increase in tax on other tobacco products from 41 percent to 92 percent); but the other provisions of this section, relating to the tax on moist snuff and new smokeless tobacco, shall not expire;

(3) Sec. 42a (sales and use tax on clothing costing more than \$110.00);

(4) Sec. 51 (increase in tax on spirituous liquor); and

(5) Sec. 54 (gross receipts tax on satellite television programming providers).

Which was agreed to.

Thereupon, pending third reading of the bill, Senators McCormack and Starr moved that the Senate proposal of amendment be amended as follows:

First: By striking out Sec. 42a in its entirety.

Second: By striking out Sec. 55 in its entirety.

Third: By striking out Sec. 57 in its entirety.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators McCormack and Starr?, Senator McCormack moved to divide the question, which was agreed to.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as *firstly* recommended by Senators McCormack and Starr?, was disagreed to on a roll call, Yeas 11, Nays 19.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Brock, Choate, Doyle, Illuzzi, Kitchel, Maynard, McCormack, Mullin, Nitka, Scott, Starr.

**Those Senators who voted in the negative were:** Ashe, Ayer, Bartlett, Campbell, Carris, Cummings, Flanagan, Giard, Hartwell, Kittell, Lyons, MacDonald, Mazza, Miller, Racine, Sears, Shumlin, Snelling, White.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as *secondly* recommended by Senators McCormack and Starr?, was disagreed to on a roll call, Yeas 3, Nays 27.

Senator McCormack having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** \*Ashe, McCormack, Starr.

**Those Senators who voted in the negative were:** Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, White.

\*Senator Ashe explained his vote as follows:

“Mr. President:

Having taken mathematics through trigonometry in high school, I refuse to buy into the Administration’s games as to whether Vermont is the first, second, fourth, or sixth most taxed state. With this vote I send a message to our conferees that I want a person’s ability to pay to be an important consideration as we raise the revenues needed to meet the needs of Vermonters.”



Thereupon, the pending question, Shall the Senate proposal of amendment be amended as *thirdly* recommended by Senators McCormack and Starr?, was disagreed to on a roll call, Yeas 6, Nays 24.

Senator McCormack having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Brock, Kittell, Maynard, McCormack, Starr.

**Those Senators who voted in the negative were:** Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Lyons, MacDonald, Mazza, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, White.

Thereupon, pending third reading of the bill, Senators Miller and Illuzzi moved that the Senate proposal of amendment be amended by striking out Secs. 54 and 55.

Which was disagreed to on a roll call, Yeas 9, Nays 21.

Senator Miller having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Brock, Doyle, Illuzzi, Kittell, Maynard, Miller, Mullin, Scott, Starr.

**Those Senators who voted in the negative were:** Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Flanagan, Giard, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Racine, Sears, Shumlin, \*Snelling, White.

\*Senator Snelling explained her vote as follows:

I sincerely appreciate and respect the eloquent remarks of my colleague from Chittenden, Senator Miller. She speaks with great passion on behalf of the entrepreneurs. I agree with many of her comments. However, I have already made a commitment to this bill as part of a package so I must vote no. I will continue to work towards a better solution in conference.

Thereupon, pending third reading of the bill, Senators Campbell, McCormack, Nitka and Racine move to amend the Senate proposal of amendment by inserting a new section to be numbered Sec. 57a to read as follows:

Sec. 57a. 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.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 25, Nays 5.

Senator Shumlin having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Bartlett, Campbell, Carris, Cummings, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

**Those Senators who voted in the negative were:** Brock, Choate, Doyle, Maynard, Mullin.

#### **Proposals of Amendment Amended; Bill Passed in Concurrence with Proposals of Amendment**

#### **H. 441.**

House bill entitled:

An act making appropriations for the support of government.

Was taken up.

Thereupon, pending third reading of the bill, Senator Bartlett moved that the Senate proposal of amendment be amended as follows:

First: In Sec. C.101, by striking out the figure “12,361,777 where it twice appears and inserting in lieu thereof the figure 11,625,977 and by striking out the figure “5,901,246” and inserting in lieu thereof the figure 5,165,246 and by striking out the figure “11,168,977” and inserting in lieu thereof the figure 10,432,977

Second: In Sec. C.102, by striking out the figure “260,165,579” where it twice appears and inserting in lieu thereof the figure 259,429,579 and by

striking out the figure “67,844,640” and inserting in lieu thereof the figure 67,108,640

Third: By striking out Sec. D.101(a)(4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

(4) an assessment from special funds of no greater than two percent of any fund appropriation to the general fund, of no greater than \$3,321,444 in total. Notwithstanding any other provisions of law, the secretary of administration is authorized to reduce special fund appropriations and transfer special funds to the general fund in fiscal year 2010 to achieve this amount and shall report these actions to the joint fiscal committee at its November 2009 meeting.

Fourth: By striking out Sec. E.135.2 in its entirety

Fifth: By striking out Sec. E.313(h) in its entirety and inserting in lieu thereof a new subsection (h) to read as follows:

(h) The total appropriation reflects a reduction of \$150,000 in treatment services. Prior to taking actions that distribute this savings to providers, the division of alcohol and drug abuse prevention must provide a plan to the joint fiscal committee at the July 2009 meeting for its review and approval.

Sixth: In Sec. E.330(c), by striking out the number “2009” and inserting in lieu thereof the number 2010

Seventh: By inserting a new Sec. E.342.1 to read as follows:

Sec. E 342.1 18 V.S.A. § 1421 is amended to read:

§ 1421. ~~DEFINITIONS~~ SMOKING IN THE WORKPLACE; PROHIBITION

As used in this subchapter:

~~(1) “Smoking area” means an area that nonsmoking employees are not required to visit on a regular basis where smoking is permitted pursuant to a policy established under this subchapter. Up to 30 percent of employee cafeteria and lounge areas may be designated as a smoking area.~~

~~(2) “Workplace”~~ The use of lighted tobacco products is prohibited in any “workplace,” which, for the purposes of this subchapter, means an enclosed structure where employees perform services for an employer or, in the case of an employer who assigns employees to departments, divisions, or similar organizational units, the enclosed portion of a structure where the unit to which the employee is assigned is located. Workplace does not include a residential facility for elders or disabled persons that is regulated by C.M.S., centers for Medicaid and Medicare services. Except for schools, workplace does not include areas commonly open to the public nor any portion of a structure

~~which~~ that also serves as the employee's or employer's personal residence. For schools, workplace ~~shall include~~ includes any enclosed location ~~at which~~ where instruction or other school-sponsored functions are occurring and students are present.

Eighth: By striking out Sec. E.800 in its entirety and inserting in lieu thereof a new Sec. E.800 to read as follows:

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 Vermont league of cities and towns and consisting of the executive directors of the Vermont housing finance agency, Vermont economic development authority, and the secretary of the agency of commerce and community development the secretary of the agency of commerce and community development or designee, Vermont housing conservation board, Vermont bankers association, municipalities, regional development corporations, and other appropriate entities shall develop a proposal for consolidating active community development grants which have previously been awarded to municipalities 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.

Ninth: By striking out Sec. E.1103 in its entirety and inserting in lieu thereof a new Sec. E.1103 to read as follows:

Sec. E.1103. COST REDUCTION AUTHORIZATION

(a) Due to the current and continuing fiscal stress that will be impacting the Vermont state budget and a desire to avert unnecessary layoffs, 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 \$14,700,000 in general fund savings and \$1,400,000 in transportation fund savings as well as other reductions in special funds and federal funds consistent with any contract modification agreed to between the Vermont state employees' association and the state of Vermont in fiscal year 2010.

(b) The general assembly recommends the parties consider the following in achieving a contract modification to produce the savings sought in subsection (a) of this section:

(1) Acceptance of the union proposals to:

(i) Forego the fiscal year 2010 cost of living increase.

(ii) Postpone any steps eligibility 12 months from when it would otherwise occur.

(iii) Eliminate the employee wellness program

(iv) Extend the contract one year with no cost of living increase in fiscal year 2011.

(2) Inclusion of the following additional proposals:

(i) Reduce general fund contracted expenditures for fiscal year 2010 by \$1,260,000.

(ii) The application of 8 furlough days per year.

(iii) The elimination of five executive branch exempt positions at salary levels in excess \$60,000 per year and further cuts in positions or pay to produce \$1,500,000 in general fund savings from exempt positions, temporary employees and classified confidential employees.

(3) The recommendations in subdivisions (b)(1) and (2) 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 these amounts to make them consistent with the reductions outlined above.

(4) As part of this proposal, the cost of living adjustment for members of the general assembly shall be treated in accordance with the contract revision.

(5) For fiscal year 2010, notwithstanding existing pay plans, no bonuses, salary increases, or pay plan adjustments shall be made for nonbargaining unit employees, nor shall employees who change positions or take on added responsibilities receive increases in salaries accompanying this change.

(c) In the event that no agreement is reached, the secretary of administration shall not have the authority to reduce appropriations and positions to achieve the savings in subsection (a) of this section unless the secretary has submitted the reduction plan to the house and senate committees on appropriations by May 1, 2009 and that plan is enacted by the general assembly.

(d) 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.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Bartlett on behalf of the Committee on Appropriations?, Senator Bartlett moved to substitute a new *eighth* proposal of amendment as follows:

Eighth: By striking out Sec. E.800 in its entirety and inserting in lieu thereof a new Sec. E.800 to read as follows:

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 Vermont league of cities and towns and consisting of the executive directors of the Vermont housing finance agency, Vermont economic development authority, and the secretary of the agency of commerce and community development the secretary of the agency of commerce and community development or designee, Vermont housing conservation board, 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.

Which was agreed to.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as recommended by Senator Bartlett on behalf of the Committee on Appropriations, as amended?, was agreed to.

Thereupon, pending third reading of the bill, Senator Mullin moved that the Senate proposal of amendment be amended by adding Secs. F.100 through F.109 to read as follows:

## Sec. F.100. BALANCED BUDGET WITH NO TAX INCREASES

The purpose of the adjustments in this section is to present a balanced budget for fiscal year 2010 without raising taxes, with two exceptions being a reduction of the household income eligibility cap for property tax adjustments from \$90,000 to \$80,000, and a cap on the current use subsidy for very high-valued property. The additional education tax revenue from the lowered household income cap would be used to fund an additional portion of teacher retirement; and the current use savings in the education fund is used to reduce the general fund transfer to the education fund. In addition, \$5 million is cut from Vermont housing and conservation board funding, with their remaining funding to be used only for housing purposes. And finally, these adjustments allow for balancing the budget without the tax increases which have been proposed for fiscal year 2010, by cutting spending provisions as shown in the following sections.

Sec. F.101. 32 V.S.A. § 6066(a) is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of ~~\$90,000.00~~ \$80,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$200,000.00.

(B) For a claimant with household income of less than ~~\$90,000.00~~ \$80,000.00 but more than \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the applicable percentage of household income for the taxable year.

(C) For a claimant whose household income does not exceed \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the lesser of:

(i) the applicable percentage of household income for the taxable year; or

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year reduced by \$15,000.00.

(D) A claimant whose household income does not exceed ~~\$90,000.00~~ \$80,000.00 shall also be entitled to an additional adjustment amount under this section of \$10.00 per acre, up to a maximum of five acres, for each additional acre of homestead property in excess of the two-acre housesite. The adjustment amount under this section shall be shown separately on the notice of property tax adjustment to the claimant.

Sec. F. 102. 32 V.S.A. § 3764 is added to read:

§ 3764. LIMITATION ON USE VALUE PROPERTY TAX REDUCTION

Notwithstanding any other provision of law, if the listed value, divided by the most recent common level of appraisal, of the total enrolled acres in any one parcel exceeds \$4,000.00 per acre, then the owner shall, in addition to the tax otherwise paid on the use value of the parcel, pay municipal and education property taxes on the amount per acre in excess of \$4,000.00, subject to any property tax adjustment available to the owner under chapter 154 of this title. Beginning in fiscal year 2011, the payment to any municipality under section 3760 of this chapter shall be adjusted to take into account the limitation in this section.

Sec. F.103. By increasing education fund sources for teachers' retirement by \$8.4 million

In Sec. B.514, by striking out the following: "40,303,002" and inserting in lieu thereof the following: "31,903,002", and by adding under Source of funds: Education fund \$8,400,000

Sec. F.104. Vermont Housing and Conservation Board appropriation reduced by \$5 million

In Sec. B.813, by striking out the following: "22,933,436" in both instances and inserting in lieu thereof the following: 17,933,436 and by striking out the following: "11,326,662" and inserting in lieu thereof the following: 6,326,662; and by inserting the following: "Vermont housing and conservation funding in fiscal year 2010 shall be used only for housing purposes."

Sec. F.105. Property transfer tax dedicated to the VHCB trust fund reduced by \$5 million, and excess amounts flow to general fund

In Sec. D.100, by inserting the following:

"(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.



(1) The sum of \$314,503 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$314,503 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of ~~\$9,101,662~~ \$4,101,662 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above ~~\$9,101,662~~ \$4,101,662 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

\* \* \*

Sec. F.106. Cut tobacco cessation funding by \$714,000

In Sec. B.312, by striking out the following: “74,842,314” in both instances and inserting in lieu thereof the following: 74,128,314 and by striking out the following: “1,906,916” and inserting in lieu thereof the following: 1,192,916

In Sec. B.301, by striking out the following: “70,206,046” and inserting in lieu thereof the following: 69,492,046 and by striking out the following: “34,911,760” and inserting in lieu thereof the following: 35,625,760

Sec. F.107. Move \$714,000.00 saved from tobacco cessation funding to Global Commitment, allowing reduction of general fund monies to Global Commitment

In Sec. E.312, by inserting the following:

“(c) Funding for the tobacco programs in fiscal year 2010 shall consist of the ~~\$1,917,516~~ \$1,203,516 in tobacco funds and \$1,059,409 in Global Commitment funds appropriated in Sec. B.312 of this act; and \$212,709 of the tobacco funds appropriated in Sec. B.300 of this act. This total ~~\$3,189,634~~ \$2,475,634 shall be utilized according to the provisions of 18 V.S.A. chapter 225 as follows:

(1) community-based programs - \$850,300;

(2) media and public education - \$837,200;

(3) tobacco cessation programs - ~~\$1,163,200~~ \$449,200; these funds may also be used to provide tobacco cessation counseling services to persons incarcerated in Vermont correctional facilities, and \$80,000 shall be used to make nicotine replacement therapies available to all persons enrolled in tobacco cessation counseling, \$91,400 shall be allocated to programs that serve

pregnant women, and \$12,500 shall be granted to the Washington County Mental Health Agency, Inc. for a special cessation program;

(4) surveillance and evaluation activities - \$276,600;

(5) statewide provider education - \$62,334.”

Sec. F.108. Cut legislative budget \$200,000 by reduction in funding of Health Care Reform Commission

In Sec. B.127, by striking out the following: “7,301,391” in both instances and inserting in lieu thereof the following: 7,101,391, and by striking out the following: “3,872,884” and inserting in lieu thereof the following: 1,192,916.

In Sec. E.127 by adding:

\* \* \*

(b) The director of the commission on health care reform shall reduce expenditures on contracts and personal services by \$200,000.”

Sec. F.109.

In Sec. D.102. by adding:

(b) There is hereby unreserved in the human services caseload reserve established by 32 V.S.A. § 308b the amount of \$3,956,000, for fiscal year 2010 appropriation in the agency of human services for caseload related needs.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Mullin?, Senator Mullin requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending third reading of the bill, Senator Mullin moved that the that the Senate proposal of amendment be amended as follows

First: Vermont Housing and Conservation Board appropriation reduced by \$2.02 million.

In Sec. B.813, by striking out the following: “22,933,436” in both instances and inserting in lieu thereof the following: 20,911,315 and by striking out the following: “11,326,662” and inserting in lieu thereof the following: 9,304,541; and by inserting the following: “Vermont housing and conservation funding in fiscal year 2010 shall be used only for housing purposes.”

Second: Property transfer tax dedicated to the VHCB trust fund reduced by \$5 million, and excess amounts flow to general fund

In Sec. D.100(a)(2), by striking out the following: “\$9,101,662” in both instances and inserting in lieu thereof the following: \$7,079,541.

Third: Restore cuts in Global Commitment

In Sec. B.301, by striking out the following: “1,022,593,978” in both instances and inserting in lieu thereof the following: 1,026,379,457 and by striking out the following: “63,308,477” and inserting in lieu thereof the following: 64,456,234, and by striking out the following: “637,086,652” and inserting in lieu thereof the following: 639,316,678, and by striking out the following: “97,005,100” and inserting in lieu thereof the following: 97,412,796.

Fourth: Restore cuts to Global Commitment

In Sec. B.307, by striking out the following: “538,752,966” in both instances and inserting in lieu thereof the following: 542,538,445.

Fifth: Restore cuts in Long Term Care

In Sec. B.308, by striking out the following: “205,105,257” in both instances and inserting in lieu thereof the following: 207,989,043 and by striking out the following: “62,187,933” and inserting in lieu thereof the following: 63,062,297, and by striking out the following: “120,827,485” and inserting in lieu thereof the following: 122,526,323, and by striking out the following: “22,089,839” and inserting in lieu thereof the following: 22,400,423.

Which was disagreed to on a roll call, Yeas 6, Nays 24.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Brock, Doyle, Giard, Maynard, Mullin, Scott.

**Those Senators who voted in the negative were:** Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Flanagan, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, \*Sears, Shumlin, Snelling, Starr, White.

\*Senator Sears explained his vote as follows:

“I vote “No” because these changes have not been vetted through the committee process or even discussed with the committee.”

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended by adding a new section to be Sec. E.501.2 to read as follows:

Sec. E.501.2. 16 V.S.A. § 821(c) is amended to read:

(c) Notwithstanding subsection (a) of this section, a school board without previous authorization by the electorate may pay tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there. ~~The board's decision shall be final in regard to the institution the pupil may attend.~~ A parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, whose authority shall include the ability to direct the school board to pay some or all of the pupil's tuition and whose decision shall be final.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Illuzzi?, Senator Illuzzi requested and was granted leave to withdraw his proposal of amendment.

Thereupon, Senator Illuzzi moved to amend the Senate proposal of amendment by striking out Sec. E.501.1 in its entirety.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Illuzzi and Kitchel moved that the Senate proposal of amendment be amended as follows

First: In Sec. B.1101(a)(3), by striking out the figure "\$2,826,658" and inserting in lieu thereof the figure \$2,476,658

Second: In Sec. B.1101(a) by inserting a new subdivision (10) to read as follows:

(10) To the Sterling College for student residency and program center costs. \$350,000

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Shumlin moved that the Senate proposal of amendment to H. 441 be amended by the amendments that were made to the Senate proposal of amendment to H. 442, namely, the amendments offered by:

- 1) Senator Cummings
- 2) Senator Racine
- 3) Senator Campbell

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 27, Nays 3.

Senator Bartlett having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

**Those Senators who voted in the negative were:** Brock, Maynard, Mullin.

#### **Rules Suspended; Bills Messaged**

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**H. 441, H. 442.**

#### **Adjournment**

On motion of Senator Shumlin, the Senate adjourned until nine o'clock in the morning.