

Journal of the Senate

WEDNESDAY, MAY 12, 2010

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

President Assumes the Chair

Joint Resolution Adopted in Concurrence

J.R.H. 51.

Joint resolution originating in the House of the following title was read and adopted in concurrence and is as follows:

Joint resolution supporting the assignment of the F-35 aircraft to the Vermont Air National Guard.

Whereas, since 1946, the Vermont Air National Guard in South Burlington at the Burlington International Airport (BIA) has been home to the 158th Fighter Wing, and for approximately 20 years, it has hosted the F-16 jet combat aircraft, long considered one of the United States Air Force's (USAF's) premier fighter planes, and

Whereas, the Vermont Air National Guard is an essential component of the BIA's administrative operations providing approximately \$2 million annually in fire protection services as well as emergency response support, and

Whereas, the Green Mountain Boys of the Vermont Air National Guard proudly "maintain the highest caliber of trained personnel and equipment to accomplish the USAF mission of 'Fly, Fight, and Win,' " and

Whereas, although a highly respected and venerable aircraft, the lifespan of the F-16 is close to its conclusion, and during the next decade, the more technologically advanced F-35 is scheduled to replace the F-16, and

Whereas, the USAF has narrowed the potential bedding sites for the F-35 to 11 locations nationwide, and only three, including South Burlington, are National Guard fighter wings, and

Whereas, the USAF will make a final determination where to station the F-35 in 2011, and deployment will probably not occur until several years later, and

Whereas, residents of South Burlington and other affected municipalities have expressed concerns about the noise that the F-35 might cause, and

Whereas, although the USAF is currently conducting an Environmental Impact Study (EIS) on the F-35, including local noise impacts, this study will not be completed until later in 2010, and

Whereas, Vermont Air National Guard Lt. Col. Chris Caputo, the local F-35 project manager, has commented that the F-35 takeoffs could possibly be quieter than those of the F-16, as the older plane relies on external fuel tanks compared to the stealth-shaped F-35 which is equipped with interior fuel tanks that enable it to take off at a lower throttle setting, and

Whereas, an EIS completed at Eglin Air Force Base in Florida did document high F-35 noise levels; however, they reflected that use of that base as a training facility where repeated high speed landings and takeoffs occur, and

Whereas, unlike at Eglin, the more restrained airport protocol of the Vermont Air National Guard will mean that more advanced training maneuvers are conducted in remote areas of northern New England and upstate New York and not over the more densely populated areas of Chittenden County, and

Whereas, an acoustic analysis of the F-35 conducted at Edwards Air Force Base in California recorded only slightly higher decibel levels for the F-35 in comparison to the F-16, including: flying at 1,000 feet and at 160 knots at full throttle — but without its afterburner — the F-35 generated 121 decibels compared to 114 for the F-16; at minimum throttle, the F-35 was recorded at 94 decibels compared to the F-16's 89, and

Whereas, responding to noise concerns of the South Burlington City Council, Brigadier General Steven Cray noted that the Vermont Air National Guard has decades of experience and an excellent heritage of working with neighbors on fighter jet noise problems and would continue this tradition with the F-35, and

Whereas, although there are noise issues related to the prospect of a new, and more technologically advanced, F-35 fighter jet being stationed at BIA in South Burlington, the Vermont Air National Guard is working to address neighbors' concerns, and

Whereas, the general assembly is confident that with its tradition of excellence in training and commitment to accomplishing its mission, the current F-16 workforce will be able to adapt its skill set to meet the technical needs of the F-35, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly looks favorably upon the permanent assignment of the F-35 fighter jets to the Vermont Air National Guard's base at Burlington International Airport in South Burlington, and be it further

Resolved: That the General Assembly supports the Vermont Air National Guard's transitioning to the next generation of aviation technology, and be it further

Resolved: That the General Assembly encourages collaboration among the Vermont Air National Guard, the city of South Burlington, and other affected municipalities to identify and address environmental, health, housing, and workforce concerns, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to United State Air Force Secretary Michael Donley, Vermont National Guard Adjutant General Major General Michael Dubie, and the Vermont Congressional Delegation.

Proposal of Amendment; Third Reading Ordered

H. 498.

Senator Scott, for the Committee on Transportation, to which was referred House bill entitled:

An act relating to maintenance of private roads.

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. 19 V.S.A. § chapter 27 is added to read:

CHAPTER 27. PRIVATE ROADS

§ 2701. DEFINITIONS

As used in this chapter, "private road" means a road whose owner is not the state of Vermont, a municipality, or a single private property owner, but two or more owners of private property abutting the road and the owners of any easements recorded in the municipal land records of the town in which the road is located granting a right to cross the road in order to access their property.

§ 2702. PRIVATE ROAD MAINTENANCE

(a) For the purposes of this section, the term "maintenance" shall include activities related to the upkeep of a private road in its existing condition or as necessary to allow safe passage on a private road within its existing scope of

use and shall not be construed to include any expansions of or improvements to a private road.

(b) In the absence of any other agreement for the maintenance of a private road, including covenants, requirements contained in deeds, and state or local permits, the owners of the property abutting a private road and the holders of recorded easements with a right to use a private road shall divide reasonable maintenance costs commensurate with their use of the private road.

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

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 to amend the bill as recommended by the Committee on Transportation?, Senator Scott requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending the question, Shall the bill be read the third time?, Senator White, moved 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. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) The current Fannie Mae appraisal form contains a section for the appraiser to comment on off-site improvements — including private streets — and to indicate whether the improvements are publicly or privately maintained. If a property is located on a community-owned or privately owned and maintained street, Fannie Mae requires a legally enforceable agreement or covenant for maintenance of the street.

(2) On January 31, 2008, Fannie Mae issued Announcement 08-01, which specifies that Fannie Mae will permit the delivery of mortgage loans for properties for which there is no such maintenance agreement or covenant, provided that the property is located in a state that has statutory provisions defining the responsibilities of property owners for the maintenance and repair of private streets.

(3) Since the mortgage crisis, Fannie Mae has become stricter in its underwriting standards and in enforcing the private street maintenance agreement requirement. Because the ability to sell mortgages to Fannie Mae on the secondary market is critical to most mortgage lenders, this has delayed mortgage closings and created uncertainty for Vermont homeowners throughout the state.

Sec. 2. PRIVATE ROAD MAINTENANCE AGREEMENT STUDY

(a) A committee consisting of two members of the public appointed by the governor, a representative of the Vermont Bankers Association, a representative of the Vermont League of Cities and Towns, and the commissioner of banking, insurance, securities, and health care administration or designee is established to study the creation of default statutory requirements defining the responsibilities of property owners for the maintenance and repair of private roads and to formulate recommended legislation.

(b) For attendance at committee meetings, the members of the committee appointed by the governor shall be reimbursed at the per diem rate set forth in 32 V.S.A. § 1010(b) and for their actual and necessary mileage expenses.

(c) The committee shall report its findings and recommended legislation to the senate committees on finance and on transportation and to the house committee on commerce and economic development no later than January 15, 2011.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

Thereupon, the pending question, Shall the bill read the third time?, was agreed to.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

House Proposal of Amendment Concurred In**J.R.S. 47.**

House proposal of amendment to Senate bill entitled:

Joint resolution strongly urging the Republic of Turkey to recognize the right to religious freedom for all its residents and to end all discriminatory policies directed against the Ecumenical Patriarchate of the Orthodox Church.

Was taken up.

The House proposes to the Senate to amend the resolution by striking the second *Resolved* clause and insert in lieu thereof the following:

Resolved: That the Secretary of State be directed to send a copy of this resolution to the United States Secretary of State, the Order of Saint Andrew the Apostle Archons of the Ecumenical Patriarchate in New York City, and the Vermont Congressional Delegation.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Message from the House No. 83

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 considered joint resolution originating in the Senate of the following title:

J.R.S. 64. Joint resolution relating to the future of the international port of entry at Morses Line and the proposed federal acquisition of land belonging to the Rainville family farm.

And has adopted the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Rules Suspended; Report of Committee of Conference; Consideration Postponed

H. 790.

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

An act relating to capital construction and state bonding.

Was taken up for immediate consideration.

Senator Scott, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 790. An act relating to capital construction and state bonding.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and 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.

- (1) Statewide, asbestos and lead abatement: 300,000
- (2) Statewide, Americans with Disabilities Act (ADA): 100,000
- (3) Statewide, building reuse and planning: 125,000
- (4) Statewide, contingency: 500,000
- (5) Statewide elevator repairs and upgrades: 350,000
- (6) Statewide, major maintenance. Of this amount, up to 400,000 may be expended for window replacement at the Waterbury complex: 8,025,579
- (7) Statewide, major maintenance, VT information centers: 100,000
- (8) Statewide: BGS engineering and architectural project costs: 2,465,785
- (9) Statewide physical security enhancements: 100,000
- (10) Montpelier, 116 State St., restore building envelope: 750,000
- (11) Montpelier, 133 State St., infrastructure repair: 1,250,000
- (12) Montpelier, 120 State St., replace heating system 750,000
- (13) Waterbury, steamline extension: 700,000
- (14) Waterbury, state office complex fire alarm panels and door holders: 250,000
- (15) Springfield, state office building, HVAC upgrade: 500,000
- (16) Bennington, courthouse and state office building: 6,958,340
- (17) Burlington, 32 Cherry St., HVAC upgrades: 500,000
- (18) Burlington, 108 Cherry St., HVAC upgrades. The commissioner may reallocate funds between this subdivision and subdivision (17) of this

section as the commissioner finds to be in the best interests of the state: 500,000

(19) Bennington, state office building, geothermal energy project: 2,000,000

(20) Montpelier, for the secretary of state, for renovations and code compliance at 128 State Street, including the third floor, and necessary fit-up at 14/16 Baldwin St: 300,000

(21) Montpelier, state house, renovate and refurnish up to three house committee rooms, chosen by the speaker of the house, as the first step in making better use of existing space. By January 1, 2011, the joint rules committee shall consider restoring the Ethan Allen room to public use: 100,000

(22) For Burlington International Airport to continue the process of planning and designing a new aviation technical training center: 150,000

Total Appropriation – Section 1 \$26,774,704

Sec. 2. ADMINISTRATION; VERMONT TELECOMMUNICATIONS AUTHORITY; VERMONT CENTER FOR GEOGRAPHIC INFORMATION

(a) The sum of \$100,000 is appropriated to 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.

(b) The sum of \$4,500,000 is appropriated to the Vermont telecommunications authority (VTA) to build infrastructure to meet the cellular and broadband needs of unserved Vermonters. To the extent possible, the VTA shall use the funds to leverage drawdown of ARRA funds and to build infrastructure that can be used as a revenue stream to enable use of up to \$40,000,000 in moral obligation bonding allocated to the VTA. These funds shall be spent in accordance with the provisions of 30 V.S.A. § 8079 and Sec. 4 of No. 78 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act.

(c) The sum of \$1,456,280 is appropriated to the department of information and innovation for Vermont integrated eligibility work flow system (VIEWS).

Total Appropriation – Section 2 \$6,056,280

Sec. 3. HUMAN SERVICES

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.

<u>(1) Health laboratory design. Site acquisition, permitting, and construction documents for co-location of the department of health laboratory with the UVM Colchester research facility:</u>	<u>4,700,000</u>
<u>(2) Vermont state hospital, ongoing safety renovations:</u>	<u>100,000</u>
<u>(3) Corrections, continuation of suicide abatement project:</u>	<u>100,000</u>
<u>(4) Corrections, security upgrades:</u>	<u>200,000</u>
<u>(5) Corrections, grease trap for the Chittenden regional correctional facility:</u>	<u>335,000</u>
<u>Total Appropriation – Section 3</u>	<u>\$5,435,000</u>

Sec. 4. JUDICIARY

The sum of \$200,000 is appropriated to the department of buildings and general services to design the replacement of the electric boiler and HVAC system, including an upgrade to a renewable energy system, and to reconfigure office space in the Barre district court and office building.

<u>Total Appropriation – Section 4</u>	<u>\$200,000</u>
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Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in total 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) Plymouth Visitors' Center, exhibits and furnishings:</u>	<u>250,000</u>

(b) The following sums are appropriated in total 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>\$565,000</u>
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Sec. 6. BUILDING COMMUNITIES GRANTS

The following sums are appropriated for building communities grants established in chapter 137 of Title 24:

<u>(1) To the agency of commerce and community development, division for historic preservation, for the historic preservation grant program:</u>	<u>180,000</u>
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(2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program: 180,000

(3) To the Vermont council on the arts for the cultural facilities grant program: 180,000

(4) To the department of buildings and general services for the recreational facilities grant program: 180,000

(5) To the department of buildings and general services for the human services and educational facilities competitive grant program: 180,000

(6) For the agricultural fairs capital projects competitive grant program. No single entity shall be awarded more than ten percent of this appropriation: 180,000

Total Appropriation – Section 6 \$1,080,000

Sec. 7. EDUCATION

The following is appropriated in total to the department of education for:

(1) State aid for emergency school construction projects pursuant to 16 V.S.A. § 3448(a)(3)(A): 600,000

(2) Emergency shelters in schools: 44,889

(3) Remaining state aid for school construction projects pursuant to 16 V.S.A. § 3448 which were prioritized for funding by the state board of education for fiscal year 2011, excluding asset renewal projects. Each project shall receive an equal percentage of the amount owed by the state: 6,355,111

Total Appropriation – Section 7 \$7,000,000

Sec. 8. AUSTINE SCHOOL

The sum of \$540,104 is appropriated to the department of buildings and general services for the renovation of Holton Hall at the Austine School.

Total Appropriation – Section 8 \$540,104

Sec. 9. UNIVERSITY OF VERMONT

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

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

Sec. 10. VERMONT STATE COLLEGES

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

Total Appropriation – Section 10 \$2,000,000

Sec. 11. VERMONT INTERACTIVE TELEVISION

The sum of \$290,085 is appropriated to Vermont Interactive Television to purchase equipment, including video upgrades and monitor replacement.

Total Appropriation – Section 11 \$290,085

Sec. 12. NATURAL RESOURCES

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

(1) 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), the Springfield loan conversion, and administrative support under chapter 120 of Title 24. Of this amount and the amount in subdivision (2) of this subsection, up to \$50,000 may be used to provide municipalities with grants or loans for a study of the feasibility and planning of site-appropriate potable water supply and wastewater systems, including innovative decentralized systems, for historic village and existing settled areas. Systems shall be designed to comply with the adopted municipal plan. The agency of natural resources shall have the discretion to determine eligibility for and amounts of funds provided to municipalities for feasibility studies and planning, and shall report to the senate committees on institutions and on natural resources and energy, and the house committees on corrections and institutions and on fish, wildlife and water resources on or before January 15, 2011, regarding how the municipal grant program is working, the demand for the grants, what projects were funded, and anticipated future construction costs of those projects: 2,375,400

(2) For combined sewer overflow projects receiving ARRA funding:

- (A) Burlington, Gazo Avenue: 100,000
- (B) Burlington, Manhattan Drive: 200,000
- (C) Middlebury, pump station work: 450,000
- (D) Montpelier, several areas of the city: 138,500
- (E) Proctor sewer system rehabilitation: 32,500
- (F) Springfield, several areas: 374,000

(3) Interest on short-term borrowing associated with delayed grant funding for the Pownal project: 85,000

(b) The following sum is appropriated to the agency of natural resources for the drinking water state revolving fund. Of this amount, up to \$50,000 may be used to provide municipalities with grants or loans for a study of the feasibility and planning of site-appropriate potable water supply and wastewater systems, including innovative decentralized systems, for historic village and existing settled areas. Systems shall be designed to comply with the adopted municipal plan. The agency of natural resources shall have the discretion to determine eligibility for and amounts of funds provided to municipalities for feasibility studies and planning, and shall report to the senate committees on institutions and on natural resources and energy, and the house committees on corrections and institutions and on fish, wildlife and water resources on or before January 15, 2011, regarding how the municipal grant program is working, the demand for the grants, what projects were funded, and anticipated future construction costs of those projects: 2,175,660

(c) The following sum is appropriated to the agency of natural resources for the clean and clear program for ecosystem restoration and protection. The agency shall use at least \$100,000 of this appropriation to work with the Vermont youth conservation corps on appropriate ecosystem restoration and protection projects: 1,900,000

(d) The following sum is appropriated to the agency of natural resources for the state's year-three 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: 177,000

(e) The following sum is appropriated to the agency of natural resources for the department of forests, parks and recreation for rehabilitation of small and large infrastructure in the state forests and parks, including wastewater repairs, upgrades of restrooms and bathhouses, rehabilitation of CCC structures, and road restoration. Up to \$100,000 of these funds may be used to work with the Vermont youth conservation corps on appropriate forests, parks and recreation projects: 2,500,000

(f) The following sums are appropriated to the agency of natural resources for department of fish and wildlife projects described in this subsection:

(1) To match federal funding for a lamprey control project: 157,500

(2) Safety improvements at the Salisbury, Bennington, and Bald Hill fish hatcheries: 78,300

(3) Bald Hill fish hatchery, fish production improvements: 120,000

(4) Bald Hill emergency dam repair: 70,000

(5) For the Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure. The association shall enter into an agreement with any private landowner whose pond is upgraded, maintained, or built in whole or in part using state funds. The agreement shall provide for a lease of at least 10 years, with the option for renewal, and for mutually agreeable maintenance, repair, and use of the pond. In addition, the Walleye Association shall report in January 2011 to the house committee on corrections and institutions and the senate committee on institutions on use of the funds appropriated in this subdivision: 25,000

(6) For improvement and expansion of existing fishing accesses: 250,000

Total Appropriation – Section 12 \$11,208,860

Sec. 13. MILITARY

The sum of \$850,000 is appropriated to the department of the military for maintenance and renovation at state armories. To the extent feasible, these funds shall be used to draw down federal funds.

Total Appropriation – Section 13 \$850,000

Sec. 14. PUBLIC SAFETY

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

(1) Renovations to the public safety headquarters building in Waterbury: 3,215,000

(2) Purchase of equipment for the fire service training center in Pittsford: 100,000

(3) Conversion to narrowband frequencies for SOV two-way radio systems: 45,000

Total Appropriation – Section 14 \$3,360,000

Sec. 15. CRIMINAL JUSTICE TRAINING COUNCIL

The sum of \$1,000,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council to complete improvements and repairs to the firing range in Pittsford.

Total Appropriation – Section 15 \$1,000,000

 Sec. 16. AGRICULTURE, FOOD AND MARKETS

The following is 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 reduce nonpoint source pollution in Vermont. For projects paid from this appropriation, cost share funds may be increased to 90 percent of a project: 1,500,000

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

(3) For infrastructure improvements at farmers' markets which are members of the Vermont farmers' markets association: 25,000

Total Appropriation – Section 16 \$1,700,000

Sec. 17. VERMONT PUBLIC TELEVISION

The sum of \$500,000 is appropriated to Vermont Public Television for the state match for the federally mandated conversion of Vermont Public Television's transmission sites to digital broadcasting format.

Total Appropriation – Section 17 \$500,000

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 in total to the department of buildings and general services for the Vermont Veterans' Home for the purposes described in this section:

(1) Relocate and replace the transformer: 150,000

(2) Replace gas lines: 170,000

Total Appropriation – Section 19 \$320,000

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. Annually, on or before December 1, the Vermont Center for Crime Victim Services shall file with the commissioner of buildings and

general services a report which details the status of the improvements funded in whole or in part by state capital appropriations.

Total Appropriation – Section 20

\$50,000

Sec. 21. VERMONT HISTORICAL SOCIETY

The sum of \$150,000 is appropriated to the department of buildings and general services for a one-to-one matching grant to the Vermont historical society to reduce debt at the Vermont history center in Barre. The department may release the funds to the historical society upon receiving certification that the funds have been matched.

Total Appropriation – Section 21

\$150,000

Sec. 22. HOUSING AND CONSERVATION BOARD

The amount of \$5,000,000 is appropriated to the Vermont housing and conservation board (VHCB) for building and preservation of affordable housing, and for conservation projects. The board shall:

(1) give priority consideration to affordable housing preservation and infill projects in or near downtowns or village centers as well as consider applications to build or renovate housing for elders, supportive housing for persons with disabilities, including chronic mental illness, and individuals and families who might otherwise be homeless;

(2) evaluate its current applications for building of affordable housing and give priority to encouraging and planning transitional and supportive housing for offenders reentering the community and persons with substance abuse problems, including public inebriates. The board and agency of human services shall collaborate to conduct outreach to and build partnerships among housing and human services providers. The agency of human services shall work to provide necessary support services for residents of these housing projects;

(3) allocate up to 20 percent of this appropriation for conservation grant awards that will maximize drawdown of federal and private matching funds, particularly federal farmland protection funds allocated to Vermont by the Natural Resources Conservation Service. If less than \$3,590,000 of the state's private use bond cap is made available to the VHCB for eligible affordable housing investments, VHCB may increase the amount it allocates to conservation grant awards from its capital appropriation, notwithstanding the percentage provided for in this section, provided that VHCB increases its affordable housing investments by the same amount from funds appropriated to VHCB in the FY 2011 Appropriations Act;

(4) allocate \$100,000 of this appropriation for the construction of single room occupancy (SRO) housing for at-risk youth. The board shall give priority to SRO housing that requires as a condition of residency participation in educational, life-skills, and job training and programming and for which rental subsidies will support ongoing operational costs;

(5) leverage federal and private funds to the maximum extent feasible;
and

(6) on or before January 15, 2011, report to the senate committee on institutions and the house committee on corrections and institutions on how the funds appropriated in this section were spent or obligated.

Total Appropriation – Section 22 \$5,000,000

* * * Financing this Act * * *

Sec. 23. 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:

(1) of proceeds from sale of space in the Emory A. Hebard State Office Building in Newport pursuant to Sec. 37 of No. 62 of the Acts of 1997: 53,478.68

(2) of the amount realized from the sale of land on Swift Street in Burlington pursuant to Sec. 27 of No. 43 of the Acts of 2005: 30,000.00

(3) of the amount appropriated by Sec. 5(a)(1) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Lamoille County courthouse): 61,508.11

(4) of the amount appropriated by Sec. 5(d) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Grand Isle County courthouse): 8,476.40

(5) of the amount realized from a nonrefundable deposit for purchase of land pursuant to Sec. 25(2) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Comfort Hill Road, Vergennes): 3,010.00

(6) of the amount appropriated for dam inspection and repair at the Southeast State Correctional Facility in Windsor pursuant to Sec. 4(4) of No. 52 of the Acts of 2007: 68,868.00

(7) of the amount appropriated by Sec. 4(6) of No. 52 of the Acts of 2007 for security at the Chittenden Regional Correctional Facility: 422.49

(8) of the amount appropriated by Sec. 8(2) of No. 149 of the Acts of the 2001 Adj. Sess. (2002) for a sludge storage facility in Bradford: 42,521.92

(9) of the amount appropriated by Sec. 11(e)(3) of No. 256 of the Acts of the 1991 Adj. Sess. (1992) for grants and loans for solid waste management facilities: 2,704.23

(10) of the amount appropriated by Sec. 19(d)(1) of No. 233 of the Acts of the 1993 Adj. Sess. (1994) for municipal grants and loans for landfill closings: 2,000.00

(11) of the amount appropriated by Sec. 13(b)(4)(B) of No. 62 of the Acts of 1995 for assistance to municipalities for recycling: 25,143.58

(12) of the amount appropriated by Sec. 19(d)(3) of No. 233 of the Acts of the 1993 Adj. Sess. (1994) for municipal grants and loans for solid waste management facilities: 23,424.00

(13) of the amount appropriated by Sec. 10(b)(3) of No. 185 of the Acts of the 1995 Adj. Sess. (1996) for municipal assistance for solid waste management facilities: 9,120.46

(14) of the amount appropriated by Sec. 10(k) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) to purchase mechanical harvesting equipment: 2,479.03

(15) of the amount appropriated by Sec. 10(d) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for a forest plan for the Green Mountain National Forest: 11,921.57

(16) of the amount appropriated by Sec. 10(o) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for an engineering study of the state dock in St. Albans: 7,373.00

(17) of the amount appropriated by Sec. 3(3) of No. 43 of the Acts of 2009 for consideration of how to replace acute intensive psychiatric inpatient services provided at the current Vermont state hospital with services to be provided at the Rutland Regional Medical Center: 247,802.15

(18) of the amount appropriated by Sec. 10(d) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for forestry planning: 11,922.00

(19) of the amount appropriated by Sec. 12(f)(4) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) for the Salisbury fish station generator: 13,119.00

(20) of the amount appropriated by Sec. 9 of No. 29 of the Acts of 1999 for the Vermont historical society: 29,116.00

(21) of the amount appropriated by Sec. 3(c)(1) of No. 43 of the Acts of 2005 for a dormitory-style work camp: 41,163.00

(22) of the amount appropriated by Sec. 9(a)(1) of No. 43 of the Acts of 2009 for water pollution control: 88,879.00

(23) of the amount appropriated by Sec. 12(a)(1) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) for water pollution control: 431,538.00

(24) of the amount appropriated by Sec 4(f) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) for heating and ventilation system for the Northern State Correctional Facility: 6,196.00

(25) of the amount appropriated by Sec. 1(7) of No. 147 of the Acts of 2005 Adj. Sess. (2006) for repairs to Vermont Veterans Home Heat Distribution System: 7,374.00

(26) of the amount appropriated by Sec. 23 of No. 148 of the Acts of the 1999 Adj. Sess. (2000) for non-point pollution reduction: 25,947.37

(27) of the amount appropriated by Sec. 5 of No. 61 of the Acts of 2001 for non-point source pollution reduction: 87,558.69

(28) of the amount appropriated by Sec. 13 of No. 149 of the Acts of the 2001 Adj. Sess. (2002) for non-point pollution reduction: 13,313.08

(29) of the amount appropriated by Sec.14(a) of No. 63 of the Acts of 2003 for non-point source pollution reduction: 57,885.15

(30) of the amount appropriated by Sec.15 of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for non-point source pollution reduction: 170,537.39

(31) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 for VSH planning: 495,604.60

(32) of the amount appropriated by Sec. 4(a) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) for a VSH feasibility study: 246,625.50

(33) of the amount appropriated by Sec. 3(b)(1)(A) of No. 43 of the Acts of 2005 for VSH futures planning: 28,000.40

Total Reallocations and Transfers – Section 23 \$2,355,032.80

Sec. 24. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The state treasurer is authorized to issue general obligation bonds in the amount of \$71,825,000 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.

(b) The sum of \$2,000,000 is transferred from the Vermont clean energy development fund established in 10 V.S.A. § 6523 to the department of buildings and general services for the purpose of funding statewide energy efficiencies and renewable projects pursuant to Sec. 1(19) of this act.

Total Revenues – Section 24 \$73,825,000

* * * Buildings and General Services * * *

Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) Pursuant to 29 V.S.A. § 152(3), the commissioner of buildings and general services is authorized to purchase the land and existing building located at 245 South Park Drive in Colchester.

(b) Notwithstanding 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to sell the land purchased under subsection (a) of this section to the University of Vermont for \$1.00, and to enter into a ground lease with the University of Vermont for \$1.00 for the purpose of locating the state health laboratory for a minimum of 50 years with an automatic renewal provision. With the advice and consent of the chairs and vice chairs of the house committee on corrections and institutions and the senate committee on institutions, the commissioner shall negotiate the ground lease so that the state will receive services and benefits from the university which will ensure that the land exchange is fair to both parties.

(c) Notwithstanding 29 V.S.A. §§ 166(b) and 165(h), after consultation with the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner of buildings and general services is authorized to sell or enter into a lease purchase agreement at less than fair market value for building #617 in Essex.

(d) Notwithstanding 10 V.S.A. § 6524, \$2,000,000 of the American Recovery and Reinvestment funds described in 10 V.S.A. § 6523(h) shall be under the authority of the commissioner of buildings and general services and shall be for statewide energy efficiencies and renewable projects pursuant to Sec. 1(19) of this act.

(e) Notwithstanding 29 V.S.A. §§ 165 and 166, the commissioner of buildings and general services is authorized to sell to the city of Rutland the former armory building at 62 Pierpoint Avenue in Rutland at the 2010 appraised value. The sale may be a lease purchase agreement that would enable the city to lease the building for up to ten years and that would grant the city the right to purchase the property any time during the ten-year lease for fair market value with all lease payments and improvements to the property, at depreciated value, made by the city to the state being deducted from the purchase price. The lease-to-own agreement shall include a provision that the

city shall pay all expenses, including major maintenance. If the commissioner is unable to negotiate a mutually acceptable agreement with the city of Rutland, the commissioner is authorized to sell the building pursuant to 29 V.S.A. § 166. Proceeds of the lease purchase under this subsection shall be paid into a capital fund account pursuant to 29 V.S.A. § 166(d).

(f) Following consultation with the state advisory council on historic preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans.

Sec. 26. USE AND DEVELOPMENT OF STATE FACILITIES AND LANDS

(a) The commissioner of buildings and general services shall work with the town of Windsor to develop a plan for use of state lands adjacent to the Southeast State Correctional Facility in Windsor, and shall consult with the commissioner of forests parks and recreation, the secretary of agriculture, food and markets, the commissioner of corrections, local wildlife conservation groups, and trails and recreation organizations as they develop the plan. The plan shall describe a mixed use of the area which will result in benefits to the town of Windsor, the region, and the state on a sustainable basis. Proposed uses shall be based on the natural attributes of the area so that for example, agricultural uses may be proposed in sections of prime agricultural soils, forestry uses may be proposed in areas suitable for sustainable tree growth, wildlife habitat is maintained and improved especially for Vermont species of greatest conservation need, and housing may be proposed to be clustered near recreational uses. On or before January 15, 2011, the commissioner of buildings and general services and the town of Windsor shall jointly present the plan to the house and senate committees on natural resources and energy, the senate committee on institutions, and the house committee on corrections and institutions.

(b) The commissioner of buildings and general services shall work with the city of Montpelier to determine whether the state's steam plant could provide electricity or heat or both, to both state buildings and a portion of the city. If needed, the commissioner is authorized to sign a letter of intent which would broadly describe the general terms for the state's participation in the project, and support the city of Montpelier's commencement of necessary environmental reviews, if appropriate. However, any letter of intent shall be approved by the chairs of the senate committee on institutions and the house committee on corrections and institutions prior to signature, and no lease

transfer or construction shall take place without the authorization of the general assembly.

(c) The commissioner of buildings and general services may use up to \$400,000 of unexpended FY10 funds allocated for major maintenance and \$400,000 of funds allocated for major maintenance in FY11 for:

(1) up to \$600,000 for repair of the generator and switchgear of the cogeneration system at the state correctional facility in Springfield; and

(2) up to \$ 200,000 for improvements and upgrades to the municipal water system serving the Springfield correctional facility, provided that the town of Springfield contributes an equal amount of funds for the upgrades and provided that the town of Springfield agrees to accept ownership of the system in accordance with provision #9 of the correctional facility agreement executed between the state and the town on March 30, 1999. However, funds shall be expended under this subdivision only for the remainder of the project after the town has received federal funds for upgrade of the water system.

(d) Notwithstanding 29 V.S.A. § 166, the secretary of the agency of commerce and community development is authorized to enter into a lease with the Calvin Coolidge Memorial Foundation for a portion of the Calvin Coolidge state historic site in Plymouth Notch for use as an educational center for a term of years he or she deems to be in the best interests of the state.

Sec. 27. Sec. 1(8) and (11) of No. 43 of the Acts of 2009 are amended to read:

(8) BGS engineering and architectural project costs. It is the intent of the general assembly that labor and operating costs, such as engineering and architectural costs, shall not be paid for from bonded funds in the future:

1,950,000	2,408,340
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(11) Bennington, 200 Veterans Drive. Demolish and design the rebuilding of the older section of the state office building, ~~excluding and a portion of the courthouse space; renovate the newer section of the building to house programs and services previously located in the building to address water infiltration and indoor air quality issues, consolidate all courthouse functions in an expanded building, enhance energy opportunities, and allow geothermal equipment to be installed under the new space;~~ and build four holding cells, a sally port, and two additional courtrooms without jury facilities for a total of four courtrooms:

8,000,000	7,541,660
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Sec. 28. 3 V.S.A. § 2291(e) amended to read:

(e) The commissioner of buildings and general services shall develop life cycle cost guidelines for use in all state buildings. These guidelines shall require all new construction and major renovations to meet or exceed the

~~document titled "The Vermont Guidelines for Energy Efficient Commercial Construction" as published in its most recent edition by the department of public service as that document may be amended~~ current "Vermont Commercial Building Energy Standards." Where practicable the goal shall be attaining an EPA ENERGY STAR[®] rating of at least seventy-five.

* * * Building Communities Grants * * *

Sec. 29. 24 V.S.A. chapter 137 is amended to read:

CHAPTER 137. BUILDING COMMUNITIES GRANTS

§ 5601. BUILDING COMMUNITIES GRANTS

(a) The purpose of this chapter is to establish grants to help communities preserve important historic buildings and enhance community facilities. Therefore, in order to make it easy for communities to apply, the board or department which administers a grant program under this chapter shall work with other administrators of building communities grants to develop a standard application form which:

(1) describes the application process and includes clear instructions and examples to help applicants complete the form;

(2) includes an opportunity for a community to demonstrate its ability to generate ~~required~~ one-for-one matching funds from local fundraising or other efforts;

(3) includes a summary of each of the other grants, their deadlines, and a statement that no community shall apply for more than one grant under this chapter for the same project in the same calendar year; and

(4) may include supplements specific to an individual grant.

* * *

§ 5602. HISTORIC PRESERVATION GRANT PROGRAM

There is established an historic preservation grant program which shall be administered by the division for historic preservation in the agency of commerce and community development. Grants shall be made available to municipalities and nonprofit tax-exempt organizations ~~on a one-for-one matching basis~~ for restoring buildings and structures.

§ 5603. HISTORIC BARNS PRESERVATION GRANT PROGRAM

There is established an historic barns preservation grant program which shall be administered by the division for historic preservation in the agency of commerce and community development. Grants shall be made available to

~~municipalities and nonprofit tax exempt organizations on a one-for-one matching basis~~ barn owners for restoring historic barns.

§ 5604. CULTURAL FACILITIES GRANT PROGRAM

(a) There is established a cultural facilities competitive grant program to be administered by the Vermont arts council ~~and made available on a one-for-one matching basis with funds raised from nonstate sources~~. No portion of a grant shall be used to pay salaries.

(b) Grants shall be awarded on a competitive basis. In recommending grant awards, a review panel shall give priority consideration to applicants who demonstrate greater financial need or are in underserved areas of the state.

§ 5605. RECREATIONAL FACILITIES GRANT PROGRAM

(a) Creation of program. There is created a recreational facilities grant program to be the successor to and a continuation of the recreational and educational facilities grant program established in Sec. 34 of No. 43 of the Acts of 2005 to provide competitive grants to municipalities as defined in chapter 117 of Title 24 and to nonprofit organizations for capital costs associated with the development and creation of community recreational opportunities in Vermont communities. The program is authorized to award matching grants of up to \$25,000.00 per project, ~~provided that grant funds shall be awarded only when evidence is presented by a successful applicant that three dollars have been raised from nonstate sources for every one dollar awarded under this program~~. The required match shall be met through dollars raised and not through in-kind services.

* * *

§ 5606. HUMAN SERVICES AND EDUCATIONAL FACILITIES COMPETITIVE GRANT PROGRAM

(a) Creation of program. There is created a human services and educational facilities grant program to be the successor to and a continuation of the human services competitive grant program established in Sec. 36 of No. 43 of the Acts of 2005 to provide competitive grants to municipalities as defined in chapter 117 of this title and to nonprofit organizations for capital costs associated with the major maintenance, renovation, or development of facilities for the delivery of human services and health care or for the development of educational opportunities in Vermont communities. The program is authorized to award matching grants of up to \$25,000.00 per project, ~~provided that grant funds shall be awarded only when evidence is presented by a successful applicant that at least three dollars have been raised from nonstate sources for every dollar awarded under this program~~. The required match shall be met through dollars raised and not through in-kind services.

* * *

* * * Commerce and Community Development * * *

Sec. 30. 23 V.S.A. § 3311(d) is amended to read:

(d) Underwater historic preserve area. A vessel shall not be operated in an “underwater historic preserve area” except as provided in this subsection. These areas are historic and archaeological sites located on the bottomlands of the waters of the state and are designated as public recreational areas. The division for historic preservation may designate underwater historic preserve areas and they shall be identified by a floating special purpose yellow buoy marked “State of Vermont Underwater Historic Preserve.” The following requirements shall govern the operation of vessels at the preserves:

(1) a vessel may secure to a yellow buoy only when diving or remotely operated vehicle diving at the preserve. In this subsection, “remotely operated vehicle diving” means using an unstaffed underwater robot to view a preserve site;

(2) ~~only~~ vessels 35 feet in length or less, ~~and only those engaged in diving,~~ may secure to a buoy;

(3) vessels 50 feet in length or less and piloted by a U.S. Coast Guard-licensed captain may secure to a buoy for the purpose of remotely operated vehicle diving;

(4) a divers-down flag shall be displayed whenever a vessel is secured to a buoy;

~~(4)~~(5) on sites with multiple buoys, one vessel may be secured to each buoy;

~~(5)~~(6) when a vessel is secured to the buoy, all other vessels shall remain at least 200 feet from the buoy; and

~~(6)~~(7) anchoring is not permitted within 200 feet of the buoy.

Sec. 31. 10 V.S.A. § 6654(f) is amended to read:

(f) The Vermont economic development authority, VEDA, is authorized to make loans on behalf of the state pursuant to this section. Annually, the secretary of commerce and community development with the approval of the secretary of natural resources in consultation with the VEDA manager shall determine an amount from the brownfield revitalization program that will be available to VEDA for loans. Proceeds from repayment of loans shall be deposited in the brownfield revitalization fund and shall be available for future grants and loans under this section. Loans under this subsection shall be issued and administered by VEDA, provided:

* * *

(2) A loan to an applicant for characterization or assessment may not exceed \$250,000.00 ~~and may be used for characterization, assessment, or remediation.~~ Remediation loans shall not be capped. All loans shall be subject to all the following conditions:

* * *

* * * Vermont Telecommunications Authority * * *

Sec. 32. VERMONT TELECOMMUNICATIONS AUTHORITY; USE OF PRIVATE ACTIVITY BONDING AUTHORITY; REPORT

On or before January 15, 2011, the executive director of the Vermont telecommunications authority shall report to the senate committee on institutions, the senate committee on finance, the house committee on ways and means, and the house committee on corrections and institutions on revenues realized from infrastructure built with general obligation bond funds, private activity bonds issued pursuant to 30 V.S.A. § 8064, revenues realized from infrastructure built with private activity bonds, and what is needed to maximize use of the authority's private activity bonding authority.

* * * Natural Resources * * *

Sec. 33. 10 V.S.A. § 1974(4), (5), and (6) are added to read:

(4) The installation or use of a water treatment system for a potable water supply where the treatment system is designed to:

(A) reduce or eliminate water hardness;

(B) reduce or eliminate properties or constituents on the list of secondary standards in the Vermont water supply rules;

(C) reduce or eliminate radon, lead, arsenic, or a combination of these; or

(D) eliminate bacteria or pathogenic organisms, provided that the treatment system treats all of the water used for drinking, washing, bathing, the preparation of food, and laundering.

(5) The installation or use of a water treatment device, provided that the installation or use is overseen by the secretary as a part of a response action due to contamination or the threat of contamination of a potable water supply by a release or threat of release of a hazardous material or any other source of contamination.

(6) The increase in flow to an existing wastewater system as a result of the use of an exempt water treatment system under subdivisions (4) and (5) of this section.

Sec. 34. CLEAN WATER STATE REVOLVING FUND; INTENDED USE PLAN; AMENDMENTS

(a) The agency of natural resources has written and submitted a clean water intended use plan for submission to the U.S. Environmental Protection Agency (EPA) as part of its annual application for a Clean Water Capitalization Grant. Upon acceptance by the EPA, Vermont expects to be awarded \$12,905,000 which it will distribute through the clean water state revolving fund. The intended use plan describes how these funds will be distributed to municipal projects.

(b) If any of the municipalities allocated a share of the federal funds in the intended use plan are unable to use the funds due to unanticipated delays, or are eligible for other funds which could be used for the project instead of the federal funds, the agency is hereby directed to submit a plan amendment which will enable it to reallocate those funds to a project on the priority list which will cost more than \$4 million, does not readily qualify for other sources of funding, serves over 2,500 users, is in the economic growth center of the region, and will result in jobs and economic growth.

Sec. 35. POLLUTION CONTROL REVOLVING LOAN FUND; DRINKING WATER REVOLVING FUND; LOAN FORGIVENESS

(a) Upon awarding a loan from the Vermont environmental protection agency pollution control revolving fund or the Vermont environmental protection agency drinking water state revolving fund, the secretary of the agency of natural resources may forgive up to 50 percent of the loan if the award is made from funds appropriated from the Federal Fiscal Year 2010 Clean Water State Revolving Fund or Drinking Water State Revolving Fund Grants (FFY2010 CWSRF and FFY2010 DWSRF).

(b) Notwithstanding 10 V.S.A. § 1624a(b), the assistance provided by a loan from the Vermont environmental protection agency pollution control revolving fund made from FFY2010 CWSRF funds may be for up to 100 percent of the eligible project cost.

(c) The secretary shall establish standards, policies, and procedures as necessary for implementing the provisions of this section, for allocating the funds among projects, and for revising standard priority lists in order to comply with requirements associated with the federal FY2010 CWSRF and DWSRF capitalization grants.

Sec. 36. Sec. 8(a)(3) of No. 149 of the Acts of the 2001 Adj. Sess. (2002) is amended to read:

(3) Dams, maintenance and reconstruction; provided \$35,000 of this appropriation shall be made to supplement the \$55,000 federal Land and Water Conservation Fund grant for Harvey's Lake dam to replace the existing dam with an electronically-controlled rubber bladder dam; and provided ~~\$30,000~~ \$50,091 of this appropriation shall be made to enable engineering and design of repairs to abate the imminent hazard posed by the Curtis Pond dam in Calais, with the further provision that the state shall not be liable for any claims that may arise from the work performed at that dam: 300,000

* * * Vermont State Hospital * * *

Sec. 37. VERMONT STATE HOSPITAL; REPLACEMENT

(a) The general assembly supports the continued development of a secure recovery residence as a next step to replace a function of the state hospital. The department of mental health is directed to continue to develop plans for the replacement of state hospital functions consistent with state public policy and the terms of the conceptual certificate of need, including acute specialized and intensive care inpatient hospital beds and any other incomplete elements of the plan.

(b) The commissioner of buildings and general services shall make funds necessary for this work available from funds allocated in the past for planning and development of a secure recovery residence pursuant to subsection (c) of this section and for replacement of Vermont state hospital inpatient beds pursuant to subsection (d) of this section. These funds shall be replaced with up to \$10,000,000 in federal case load reserve funds, if available.

(c) The commissioner of buildings and general services and the commissioner of mental health shall continue to plan, design, and work to obtain permits for a secure residential recovery facility in Waterbury. Notwithstanding Sec. 31(b) of No. 43 of the Acts of 2009, simultaneous with the certificate of need process and prior to applying for a local permit for a new appropriately designed 15-bed secure residential program and facility in Waterbury, the commissioners shall further review all potential building sites within the Waterbury complex and shall consult with the Waterbury village and town officials, and report on the final site to the chairs and vice chairs of the senate committee on institutions and house committee on corrections and institutions on or before July 1, 2010. The facility design shall incorporate the components necessary for the facility to function as a freestanding program that does not rely on support space currently serving patient needs in the existing Vermont state hospital.

(d) The commissioner of mental health shall plan for the replacement of Vermont state hospital inpatient beds in consultation with the following: Brattleboro Retreat, Rutland Regional Medical Center, and Dartmouth Medical School. The commissioner of buildings and general services shall engage in the design of the required space.

Sec. 38. Sec. 31(d) of No. 43 of the Acts of 2009 is amended to read:

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

* * * Education * * *

Sec. 39. 16 V.S.A. § 3448(a)(7)(C) is amended to read:

(C) The amount of an award shall be 50 percent of the approved cost of a project or applicable portion of a project which results in consolidation of two or more school buildings and which will serve the educational needs of students in a more cost-effective and educationally appropriate manner as compared to individual projects constructed separately. A decision of the commissioner as to eligibility for aid under this subdivision (C) shall be final. This subdivision (C) shall apply only to a project which has received preliminary approval by June 30, ~~2010~~ 2011.

Sec. 40. 30 V.S.A. § 8079 is amended to read:

§ 8079. BROADBAND INFRASTRUCTURE; INVESTMENT

(a) To achieve the goals established in subsection 8060(b) of this title, the authority is authorized to invest in broadband infrastructure or contract with retail providers for the purpose of making services available to at least 10,000 households or businesses in target communities where such services are currently unavailable or to upgrade services in underserved business districts, as determined by the authority. For the purposes of this section, target communities shall not be considered unserved if a broadband provider has a legally binding commitment to provide service to those locations or a provider has received a broadband stimulus grant to provide service to those locations.

(b) To accomplish the purpose of this section, the authority shall publish a request for proposals for ~~any or~~ all of the following options for the purpose of providing broadband coverage to 100 percent of Vermont households and businesses within target communities: (1) the construction of physical broadband infrastructure, to be owned by the authority; (2) initiatives by public-private partnerships or retail vendors; or (3) programs that provide financial incentives to consumers, in the form of rebates for up to 18 months, for example, to ensure that providers have a sufficient number of subscribers.

~~Before publication, a copy of all requests for proposals shall be provided to the senate committee on finance and the house committee on commerce and economic development, and shall be approved by the joint fiscal committee~~
The authority shall select proposals for target communities that best achieve the objective stated in subsection (a) of this section, consistent with the criteria listed in subsections (c) and (d) of this section.

~~(c) Criteria. In developing the criteria which will govern the requests for proposals regarding the expenditure of the appropriations contained in S.288 and H. 790 as enacted in the 2010 legislative session, and to the extent consistent with the objectives set forth in subsection (a) of this section, the authority shall strive to achieve~~ Any request for proposals developed under this section shall include the following requirements:

~~(1) Require the use of current generation infrastructure, such as fiber optic cable where cable is used, or otherwise appropriate, and technology which is considered state of the art by the telecommunications industry. The technology and infrastructure used by a telecommunications provider participating in a project pursuant to this section shall support the delivery of services with an upload speed of at least one megabit per second, and combined download and upload speeds equal to or greater than five megabits per second. However, the Vermont telecommunications authority may waive the one megabit upload speed requirement if it determines this is in the best interest of the consumers.~~

~~(2) Require that any infrastructure~~ Infrastructure owned and leased by the authority shall be available for use by as many telecommunication providers as the technology will permit to avoid the state from establishing a monopoly service territory for one provider.

~~(d) The authority shall review proposals and award contracts based upon the price, quality of services offered, positive experience with infrastructure maintenance, retail service delivery, and other factors determined to be in the public interest by the authority. In selecting target communities, the authority shall consider to the extent possible:~~

~~(1) the proportion of homes and businesses in those communities without access to broadband service and without access to broadband service meeting the minimum technical service characteristic objectives established under section 8077 of this title;~~

~~(2) the level of adoption of broadband service by residential and business users within the community;~~

~~(3) opportunities to leverage or support other sources of federal, state, or local funding for the expansion or adoption of broadband service;~~

(4) the number of potential new subscribers in each community and the total level of funding available for the program; and

(5) the geographic location of selected communities and whether new target communities would further the goal of bringing broadband service to all regions of the state.

(6) Pending grant and loan applications for the expansion of broadband service filed with the U.S. Department of Commerce and with the broadband initiatives program under the Rural Utilities Service of the U.S. Department of Agriculture, which will be awarded no later than October 1, 2010.

(e) To the extent any funds appropriated by the general assembly are rendered unnecessary for the purpose of reaching unserved Vermonters due to a successful application to the broadband initiatives program under the Rural Utilities Service of the U.S. Department of Agriculture, such funds shall be placed in reserve by the authority to be used first to achieve 100-percent coverage pursuant to chapter 91 of Title 30 and, once that is achieved, to then deliver fiber-quality service to Vermont's public facilities, regional business hubs, and anchor businesses and institutions.

(f) Beginning July 1, 2010, the authority may invest up to \$500,000.00 for upgrades in broadband services in underserved business districts, as defined by the authority.

Sec. 41. Sec. 4(b) of No. 78 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(b) No portion of the appropriation made in subsection (a) of this section shall be encumbered or disbursed until a detailed itemization of the specific manner in which the funds shall be spent is ~~presented to and approved by the joint fiscal committee, after obtaining input from~~ submitted to the senate committee on finance, the senate committee on economic development, housing and general affairs, and the house committee on commerce and economic development.

Sec. 42. COMMUNITY SAFETY AND CORRECTIONS TASK FORCE

(a) There is created a task force made up of one representative of the department of corrections chosen by the commissioner of corrections, two representatives of municipal governments chosen by the Vermont league of cities and towns, one member of the judiciary chosen by the administrative judge, one prosecutor chosen by the association of Vermont states attorneys and sheriffs, one representative of law enforcement chosen by the association of the Vermont police chiefs association, one representative of the community justice centers chosen by the community justice center of Vermont. The commissioner of corrections shall call the committee together and preside until

the election of a chair. The department of corrections shall provide staff services to the committee.

(b) The task force shall consider the best ways to provide correctional services within the correctional system and within the community. The task force shall:

(1) Inventory overnight and residential facilities both in the corrections system and in the community for persons incapacitated due to overuse of alcohol or drugs, persons at risk of committing or who have committed a crime and who have a mental disability, persons at risk of committing or who have committed a crime and who have a substance abuse problem, detainees who need temporary housing, people reentering the community who need transitional housing after serving time in a correctional facility, and persons who have been convicted of a crime and are serving an alternate sentence in the community.

(2) Consider:

(A) the need for more bed capacity within the correctional system and whether the need can be met by building additional correctional capacity, reorganization of existing facilities, better use of community facilities for persons who may be lodged in a corrections facility for lack of a more appropriate space, additional supported and nonsupported community capacity, or some combination of these;

(B) ways to reduce the need for incarcerative beds through use of alternative sentencing and provision of community services to reduce crime, including consideration that the number of people on furlough, probation, or parole in a particular municipality does not overburden that municipality. A key benchmark to be considered is the ratio of supervisees to the municipality's total population. The task force shall also consider recommendations on how to minimize the related impact on the community.

(3) Report on the progress of its work to the general assembly on or before January 15, 2011, and make a final report with recommendations to the general assembly on or before November 15, 2011.

(c) The task force shall report its progress to the corrections oversight committee at least twice during the summer and fall of 2010.

Sec. 43. SHADOW LAKE FISH AND WILDLIFE ACCESS AREA; RIGHT OF WAY; COMMISSIONER OF BUILDINGS AND GENERAL SERVICES

(a) The commissioner of fish and wildlife shall negotiate an agreement with Junnie and Nellie Peck, who own land adjacent to the Shadow Lake fishing access. The agreement shall provide an easement across the land

owned by the department of fish and wildlife to enable the landowners to access their residence. In return, the landowners shall provide to the state of Vermont a right of first refusal on the land and shall retire the development rights on the land.

(b) The commissioner of buildings and general services shall appraise the value of development rights and right of first refusal on the Junnie and Nellie Peck property adjacent to the Shadow Lake fishing access.

Sec. 44. Sec. 13 of No. 78 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 13. FARM-TO-PLATE INVESTMENT PROGRAM

The funds received pursuant to Sec. 7(a) of this act shall be used to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330 and support entities that will enhance the production, storage, processing, and distribution infrastructure of the Vermont food system. The funds shall be competitively awarded by the program director, in consultation with the secretary of agriculture, food and markets and the Vermont sustainable agriculture council, in the form of grants to nonprofit ~~farmers' markets and like~~ entities that are ready to implement their business plans or expand their existing operations to provide additional capacity and services within the food system. The funds also may be used for the coordination and implementation of the recommendations contained in the strategic plan of the farm-to-plate investment program.

Sec. 45. REPEALS

The following are repealed:

(1) 32 V.S.A. § 309(d), relating to emergency operation centers.

(2) Sec. 13(b)(2)(B) of No. 148 of the Acts of the 1997 Adj. Sess. (1998), relating to deed covenants on land which may be conveyed by the state of Vermont to Rutland.

Sec. 46. EFFECTIVE DATE

This act shall take effect on passage.

*PHILIP B. SCOTT
JOHN F. CAMPBELL
RICHARD T. MAZZA*

Committee on the part of the Senate

*ALICE M. EMMONS
LINDA K. MYERS
JOHN S. RODGERS*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, on motion of Senator Shumlin consideration of the Report of the Committee of Conference was postponed.

**Rules Suspended; Proposals of Amendment; Third Reading Ordered;
Rules Suspended; Bill Passed in Concurrence with Proposals of
Amendment**

H. 778.

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

An act relating to amending miscellaneous provisions in Vermont's public retirement systems.

Was taken up for immediate consideration.

Senator White, for the Committee on Government Operations, 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. 3 V.S.A. § 455(a)(4)(E) is added to read:

(E) For group A, C, or F members who retire on or after July 1, 2012, an increase in compensable hours in any year used to calculate average final compensation that exceeds 120 percent of average compensable hours, shall be excluded from that year when calculating average final compensation.

Sec. 2. 3 V.S.A. § 455(a)(26) and (27) are added to read:

(26) "Average compensable hours" shall mean average annual compensable hours for a period of five full years immediately preceding the years used to determine average final compensation. If a member's compensable hours in any year used to calculate average final compensation exceeds 120 percent of average compensable hours, the compensation for hours worked in excess of 120 percent shall be excluded from average final compensation for that particular year. Average compensable hours form the benchmark to preclude abuses by implementing a 20-percent limit on increases in compensable hours in any year used to calculate average final compensation.

(27) "Compensable hours" shall mean all hours worked during a fiscal year and shall include the following types of paid time: regular hours worked, overtime hours worked, and paid leave.

Sec. 2a. 3 V.S.A. § 470 is amended to read:

§ 470. POST-RETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

(a) For group A, group C₂ and group D members, as of June 30 in each year, commencing June 30, 1972, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent, in the ratio of the average of the Consumer Price Index for the month ending on that date to the average of said index for the month ending on June 30, 1971₂, or the month ending on June 30 of the most recent year subsequent thereto as of which an increase ~~or decrease~~ in retirement allowance was made. If the increase ~~or decrease~~, so determined, equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased, as the case may be~~, by an equal percentage. Such increase or decrease shall commence on the January 1st immediately following such December 31st. Such percentage increase ~~or decrease~~ shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31st. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

(b) For group F members, as of June 30 in each year, commencing January 1, 1991, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased, as the case may be~~, by an amount equal to one-half of the percentage increase ~~or decrease~~. Commencing January 1, 2014, the retirement allowance of each beneficiary who was an active contributing member of the group F plan on or after June 30, 2008₂, and who retires on or after July 1, 2008₂, shall be increased ~~or decreased, as the case may be~~, by an equal percentage of the Consumer Price Index for the preceding year. The increase ~~or decrease~~ shall commence on the January 1st immediately following such December 31st. The adjustment shall apply to group F members receiving an early retirement allowance only in the year following attainment

of age 62, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

* * *

(e) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 3. 3 V.S.A. § 522 is amended to read:

§ 522. VERMONT PENSION INVESTMENT COMMITTEE

(a) There is created the Vermont pension investment committee to ~~be comprised of six~~ comprise seven members as follows:

(1) one member and one alternate, who may or may not be trustees of the board of the Vermont state employees' retirement system, elected by the employee and retiree members of that board;

(2) one member and one alternate, who may or may not be trustees of the board of the state teachers' retirement system of Vermont, elected by the employee and retiree members of that board;

(3) one member and one alternate, who may or may not be trustees of the board of the Vermont municipal employees' retirement system, elected by the municipal employee and municipal official members of that board;

(4) two members and one alternate, appointed by the governor; ~~and~~

(5) the state treasurer or designee; and

(6) one member, appointed by the other six voting members of the committee, who shall serve as chair of the committee and at the pleasure of the committee.

* * *

(d) The chair of the Vermont pension investment committee shall be a nonvoting member, except in the case of a tie vote.

(e) The ~~members of the~~ Vermont pension investment committee shall elect a ~~chair and~~ vice chair from among its members.

(f) Four members of the committee shall constitute a quorum. If a member is not in attendance, the alternate of that member shall be eligible to act as a member of the committee during the absence of the member. Four concurring votes shall be necessary for a decision of the committee at any

meeting of the committee. The committee shall be attached to the office of the state treasurer for administrative support, and the expenses of the committee and the treasurer's office in support of the committee shall be paid proportionately from the funds of the three retirement systems and any individual municipalities that have been allowed to invest their retirement funds pursuant to subsection 523(a) of this title.

~~(f)~~(g) Public employee members and alternates shall be granted reasonable leave time by their employers to attend committee meetings and committee-related educational programs.

~~(g)~~(h) The committee shall provide an annual report to the respective authorities responsible for electing and appointing members and alternates regarding attendance at committee meetings and relevant educational programs attended.

~~(h)~~(i) A vacancy of an elected or appointed member or alternate shall be filled for the remainder of the term by the authority responsible for electing or appointing that member or alternate.

Sec. 4. 3 V.S.A. § 523 is amended to read:

§ 523. VERMONT PENSION INVESTMENT COMMITTEE; DUTIES

(a) The Vermont pension investment committee shall be responsible for the investment of the assets of the state teachers' retirement system of Vermont, the Vermont state employees' retirement system, and the Vermont municipal employees' retirement system pursuant to section 472 of this title, ~~section 16 V.S.A. § 1943 of Title 16, and section 24 V.S.A. § 5063 of Title 24.~~ The committee shall strive to maximize total return on investment, within acceptable levels of risk for public retirement systems, in accordance with the standards of care established by the prudent investor rule under ~~chapter 147 of Title 9~~ 14A V.S.A. § 902. The committee may, in its discretion, subject to approval by the attorney general, also enter into agreements with municipalities administering their own retirement systems to invest retirement funds for those municipal pension plans. The state treasurer shall serve as the custodian of the funds of all three retirement systems.

(b) Members and alternates of the committee who are not public employees shall be entitled to compensation as set forth in ~~section 32 V.S.A. § 1010 of Title 32~~ and reimbursement for all necessary expenses that they may incur through service on the committee from the funds of the retirement systems. The chair of the committee may be compensated from the funds at a level not to exceed one-third of the salary of the state treasurer, as determined by the other members of the committee.

(c) The committee shall keep a record of all its proceedings which shall be open for public inspection.

(d) The committee ~~may~~ shall formulate policies and procedures deemed necessary and appropriate to carry out its functions.—~~Notwithstanding the foregoing, the committee shall consider, consistent with chapter 147 of Title 9, subsection 472a(b) of this title, 16 V.S.A. § 1943a(b), and 24 V.S.A. § 5063a(b), investing up to \$17,500,000.00 with the Vermont housing finance agency to assist in its homeownership financing programs for persons and families of low and moderate income as defined in 10 V.S.A. § 601(11),~~ including a written statement of the responsibilities of and expectations for the chair of the committee.

* * *

Sec. 5. 16 V.S.A. § 1937(c)(1)(C), as amended by Sec. 3 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(C) 1-2/3 percent of the member's average final compensation multiplied by years of creditable service, two of which shall be membership service, on or after July 1, 2010, to a maximum of 53.34 percent of average final compensation;

Sec. 6. 16 V.S.A. § 1944(c)(12)(A), as amended by Sec. 6 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(12)(A) Payment of a portion of the cost of health and medical benefits provided by subsection 1942(p) of this title for retired members shall be made from the medical account created by subsection (i) of this section. The board shall determine the total costs of the applicable standard plan for a retired member and of the applicable standard plan for a retired member and spouse, and the board shall pay the following portion of those costs:

(i) 80 percent of the cost for a retired member who has at least 10 years of creditable service as of July 1, 2010, and fewer than 25 years of creditable service at the time of retirement;

(ii) 80 percent of the cost for a retired member and spouse if the retired member has at least 10 years of creditable service as of July 1, 2010, and at least 25 years of creditable service at the time of retirement;

(iii) 60 percent of the cost for a retired member who has fewer than 10 years of creditable service as of July 1, 2010, and 15 or more but fewer than 20 years of creditable service at the time of retirement;

(iv) 70 percent of the cost for a retired member who has fewer than 10 years of creditable service as of July 1, 2010, and 20 or more but fewer than 25 years of creditable service at the time of retirement; and

(v) 80 percent of the cost for a retired member and spouse if:

(I) the retired member has 10 or more but fewer than 15 years of creditable service as of July 1, 2010, and at least 25 years of creditable service at the time of retirement; or

(II) the retired member has 15 or more but fewer than 25 years of creditable service as of July 10, 2010, and at least 10 additional years of creditable service at the time of retirement; or

(III) the retired member has 25 or more but fewer than 30 years of creditable service as of July 1, 2010, and at least 35 years of creditable service at the time of retirement; or

(IV) the retired member has at least 30 years of creditable service as of July 1, 2010, and at least five additional years of creditable service at the time of retirement; and

(V) the service was not purchased, restored, granted, or transferred on or after July 1, 2010.

Sec. 6a. 16 V.S.A. § 1949 is amended to read:

§ 1949. POST-RETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

(a) For all group A members, as of June 30 in each year, beginning June 30, 1972, the board shall determine the increase ~~or decrease~~, to the nearest one-tenth of one percent, in the ratio of the average of the consumer price index for the month ending on that date to the average of the index for the month ending on June 30, 1971, or the month ending on June 30 of the most recent year subsequent thereto as to which an increase ~~or decrease~~ in retirement allowance was made. If the increase ~~or decrease~~, so determined, equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased ~~or decreased, as the case may be~~, by an equal percentage. The increase ~~or decrease~~ shall begin on January 1 immediately following that December 31. An equivalent percentage increase or decrease shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31. The maximum adjustment of any retirement allowance in any calendar year resulting from any determination under this section shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

* * *

(d) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 6b. 16 V.S.A. § 1949(b), as amended by Sec. 7 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(b) For group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the consumer price index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased, as the case may be,~~ by an amount equal to one-half of the percentage increase ~~or decrease~~. The increase ~~or decrease~~ shall commence on the January 1st immediately following that December 31st. The adjustment shall apply to group C members having attained the age of 57 or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall apply to group C members not having attained the age of 57 or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of age 65 or when the combination of the member's age and years of creditable service totals 90, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

Sec. 7. 16 V.S.A. § 1949(b), as amended by Sec. 7 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(b) For group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of the increase or decrease, to the nearest one-tenth of a percent of the consumer price index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased or decreased, as the case may be, by an amount equal to one-half of the percentage increase or decrease. The increase or decrease shall commence on the January 1st immediately following that December 31st. The adjustment shall apply to group C members having attained the age of 57 or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall

apply to group C members not having attained the age of 57 or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of age 65 ~~or when the combination of the member's age and years of creditable service totals 90~~, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

Sec. 8. VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM;
BOARD; FINDINGS

The general assembly finds that the current composition of the board of the Vermont municipal employees' retirement system is inequitable because municipal employees are not adequately represented on the board. The general assembly intends to investigate options for modifying the composition of the board.

Sec. 9. 24 V.S.A. § 5064(b) is amended to read:

(b) Member savings. Contributions deducted from the compensation of members together with any member contributions transferred from a predecessor system shall be accumulated in the fund and separately recorded for each member. Contributions shall be made by group A members at the rate of three percent of earnable compensation. Contributions shall be made by group B members at the rate of five percent of earnable compensation. Contributions shall be made by group C and group D members at a rate of 11 percent of earnable compensation. Additionally, if an employee remains in group C and is employed by an employer who elects to revoke its group C membership in accordance with subsection 5068(f) of this title, the rate established in this subsection will be adjusted. This adjustment shall be determined by subtracting the group B rate, or if not applicable, the group A rate determined in subdivision (c)(1) of this section from the group C rate determined in subdivision (c)(1) of this section. ~~Notwithstanding the provisions of this subsection, for the period July 1, 2000 through June 30, 2010, contributions shall be made by group A members at the rate of two and one half percent of earnable compensation, by group B members at the rate of four and one half percent of earnable compensation, and by group C members at the rate of nine percent of earnable compensation.~~

* * *

Sec. 10. VERMONT MUNICIPAL RETIREMENT FUND

Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2010 through June 30, 2011, contributions shall be made by group A members at the rate of two and one-half percent of earnable compensation, by group B members at the rate of four and one-half percent of earnable compensation, and by group C members at the rate of nine percent of earnable compensation.

Sec. 10a. 24 V.S.A. § 5067 is amended to read:

§ 5067. COST OF LIVING ADJUSTMENTS

(a) For members, as of June 30 in each year, commencing June 30, 1987, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased ~~or decreased, as the case may be,~~ by an amount equal to one-half of the percentage increase ~~or decrease~~. The increase ~~or decrease~~ shall commence on the January 1 immediately following such December 31. The adjustment shall apply to members of the group A, B, or D plans receiving an early retirement allowance only in the year following attainment of normal retirement age, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be two percent for group A members and three percent for group B, C, and D members, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

* * *

(e) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 11. STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT; MEMBERSHIP

Notwithstanding any provision of law to the contrary, amendments to 16 V.S.A. § 1931(20) in Sec. 5 of No. 24 of the Acts of 2009 (retirement system available only to licensed teachers) shall not apply to:

(1) Any person who was a member of the state teachers' retirement system of Vermont under chapter 55 of Title 16 on June 30, 2009.

(2) Any person who signed a contract prior to July 1, 2009, for employment in an independent school beginning on that date if the contract

included provisions ensuring membership in the state teachers' retirement system of Vermont under chapter 55 of Title 16.

Sec. 12. STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT;
CREDITABLE SERVICE

Any member of the state teachers' retirement system of Vermont whose creditable service is greater than 24.90 but less than 25.00 years on June 30, 2010, shall be granted, upon written approval from the member, sufficient creditable service to equal 25.00 years on June 30, 2010.

Sec. 13. REPEAL

(a) Sec. 1, 3 V.S.A. § 455(a)(4)(E), and Sec. 2, 3 V.S.A. § 455(a)(26) and (27), shall be repealed on July 1, 2014.

(b) Secs. 2a, 6a, 6b, and 10 shall be repealed on July 1, 2011, and the amendments to the statutory provision set forth in those Secs. shall revert to the language in existence prior to the effective date of this act, except to the extent that 16 V.S.A. § 1949(b) has otherwise been amended by Sec. 7 of this Act.

Sec. 14. EFFECTIVE DATES

This section and Sec. 11 of this act shall take effect upon passage.

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

Senator Shumlin, for the Committee on Appropriations, to which the bill was referred, reported the bill without recommendation.

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 to amend the bill as proposed by the Committee on Government Operations?, Senator White requested and was granted leave to withdraw the proposal of amendment.

Thereupon, Senator White moved 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. 3 V.S.A. § 455(a)(4)(E) is added to read:

(E) For group A, C, or F members who retire on or after July 1, 2012, an increase in compensable hours in any year used to calculate average final compensation that exceeds 120 percent of average compensable hours, shall be excluded from that year when calculating average final compensation.

Sec. 2. 3 V.S.A. § 455(a)(26) and (27) are added to read:

(26) “Average compensable hours” shall mean average annual compensable hours for a period of five full years immediately preceding the years used to determine average final compensation. If a member’s compensable hours in any year used to calculate average final compensation exceeds 120 percent of average compensable hours, the compensation for hours worked in excess of 120 percent shall be excluded from average final compensation for that particular year. Average compensable hours form the benchmark to preclude abuses by implementing a 20-percent limit on increases in compensable hours in any year used to calculate average final compensation.

(27) “Compensable hours” shall mean all hours worked during a fiscal year and shall include the following types of paid time: regular hours worked, overtime hours worked, and paid leave.

Sec. 2a. 3 V.S.A. § 470 is amended to read:

§ 470. POST-RETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

(a) For group A, group C₂ and group D members, as of June 30 in each year, commencing June 30, 1972, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent, in the ratio of the average of the Consumer Price Index for the month ending on that date to the average of said index for the month ending on June 30, 1971₂, or the month ending on June 30 of the most recent year subsequent thereto as of which an increase ~~or decrease~~ in retirement allowance was made. If the increase ~~or decrease~~, so determined, equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased, as the case may be~~, by an equal percentage. Such increase or decrease shall commence on the January 1st immediately following such December 31st. Such percentage increase ~~or decrease~~ shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31st. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

(b) For group F members, as of June 30 in each year, commencing January 1, 1991, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the Consumer Price Index for the

preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased, as the case may be,~~ by an amount equal to one-half of the percentage increase ~~or decrease.~~ Commencing January 1, 2014, the retirement allowance of each beneficiary who was an active contributing member of the group F plan on or after June 30, 2008, and who retires on or after July 1, 2008, shall be increased ~~or decreased, as the case may be,~~ by an equal percentage of the Consumer Price Index for the preceding year. The increase ~~or decrease~~ shall commence on the January 1st immediately following such December 31st. The adjustment shall apply to group F members receiving an early retirement allowance only in the year following attainment of age 62, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

* * *

(e) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 3. 3 V.S.A. § 522 is amended to read:

§ 522. VERMONT PENSION INVESTMENT COMMITTEE

(a) There is created the Vermont pension investment committee to ~~be comprised of six~~ comprise seven members as follows:

(1) one member and one alternate, who may or may not be trustees of the board of the Vermont state employees' retirement system, elected by the employee and retiree members of that board;

(2) one member and one alternate, who may or may not be trustees of the board of the state teachers' retirement system of Vermont, elected by the employee and retiree members of that board;

(3) one member and one alternate, who may or may not be trustees of the board of the Vermont municipal employees' retirement system, elected by the municipal employee and municipal official members of that board;

(4) two members and one alternate, appointed by the governor; ~~and~~

(5) the state treasurer or designee; and

(6) one member, appointed by the other six voting members of the committee, who shall serve as chair of the committee and at the pleasure of the committee.

* * *

(d) The chair of the Vermont pension investment committee shall be a nonvoting member, except in the case of a tie vote.

(e) The members of the Vermont pension investment committee shall elect a chair and vice chair from among its members.

(f) Four members of the committee shall constitute a quorum. If a member is not in attendance, the alternate of that member shall be eligible to act as a member of the committee during the absence of the member. Four concurring votes shall be necessary for a decision of the committee at any meeting of the committee. The committee shall be attached to the office of the state treasurer for administrative support, and the expenses of the committee and the treasurer's office in support of the committee shall be paid proportionately from the funds of the three retirement systems and any individual municipalities that have been allowed to invest their retirement funds pursuant to subsection 523(a) of this title.

(g) Public employee members and alternates shall be granted reasonable leave time by their employers to attend committee meetings and committee-related educational programs.

(h) The committee shall provide an annual report to the respective authorities responsible for electing and appointing members and alternates regarding attendance at committee meetings and relevant educational programs attended.

(i) A vacancy of an elected or appointed member or alternate shall be filled for the remainder of the term by the authority responsible for electing or appointing that member or alternate.

Sec. 4. 3 V.S.A. § 523 is amended to read:

§ 523. VERMONT PENSION INVESTMENT COMMITTEE; DUTIES

(a) The Vermont pension investment committee shall be responsible for the investment of the assets of the state teachers' retirement system of Vermont, the Vermont state employees' retirement system, and the Vermont municipal employees' retirement system pursuant to section 472 of this title, ~~section 16 V.S.A. § 1943 of Title 16, and section 24 V.S.A. § 5063 of Title 24.~~ The committee shall strive to maximize total return on investment, within acceptable levels of risk for public retirement systems, in accordance with the standards of care established by the prudent investor rule under ~~chapter 147 of~~

~~Title 9~~ 14A V.S.A. § 902. The committee may, in its discretion, subject to approval by the attorney general, also enter into agreements with municipalities administering their own retirement systems to invest retirement funds for those municipal pension plans. The state treasurer shall serve as the custodian of the funds of all three retirement systems.

(b) Members and alternates of the committee who are not public employees shall be entitled to compensation as set forth in ~~section 32 V.S.A. § 1010 of Title 32~~ and reimbursement for all necessary expenses that they may incur through service on the committee from the funds of the retirement systems. The chair of the committee may be compensated from the funds at a level not to exceed one-third of the salary of the state treasurer, as determined by the other members of the committee.

(c) The committee shall keep a record of all its proceedings which shall be open for public inspection.

(d) The committee ~~may~~ shall formulate policies and procedures deemed necessary and appropriate to carry out its functions. ~~Notwithstanding the foregoing, the committee shall consider, consistent with chapter 147 of Title 9, subsection 472a(b) of this title, 16 V.S.A. § 1943a(b), and 24 V.S.A. § 5063a(b), investing up to \$17,500,000.00 with the Vermont housing finance agency to assist in its homeownership financing programs for persons and families of low and moderate income as defined in 10 V.S.A. § 601(11), including a written statement of the responsibilities of and expectations for the chair of the committee.~~

* * *

Sec. 5. 16 V.S.A. § 1937(c)(1)(C), as amended by Sec. 3 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(C) 1-2/3 percent of the member's average final compensation multiplied by years of creditable service, two of which shall be membership service, on or after July 1, 2010, to a maximum of 53.34 percent of average final compensation;

Sec. 6. 16 V.S.A. § 1944(c)(12)(A), as amended by Sec. 6 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(12)(A) Payment of a portion of the cost of health and medical benefits provided by subsection 1942(p) of this title for retired members shall be made from the medical account created by subsection (i) of this section. The board shall determine the total costs of the applicable standard plan for a retired member and of the applicable standard plan for a retired member and spouse, and the board shall pay the following portion of those costs:

(i) 80 percent of the cost for a retired member who has at least 10 years of creditable service as of July 1, 2010, and fewer than 25 years of creditable service at the time of retirement;

(ii) 80 percent of the cost for a retired member and spouse if the retired member has at least 10 years of creditable service as of July 1, 2010, and at least 25 years of creditable service at the time of retirement;

(iii) 60 percent of the cost for a retired member who has fewer than 10 years of creditable service as of July 1, 2010, and 15 or more but fewer than 20 years of creditable service at the time of retirement;

(iv) 70 percent of the cost for a retired member who has fewer than 10 years of creditable service as of July 1, 2010, and 20 or more but fewer than 25 years of creditable service at the time of retirement; and

(v) 80 percent of the cost for a retired member and spouse if:

(I) the retired member has 10 or more but fewer than 15 years of creditable service as of July 1, 2010, and at least 25 years of creditable service at the time of retirement; or

(II) the retired member has 15 or more but fewer than 25 years of creditable service as of July 10, 2010, and at least 10 additional years of creditable service at the time of retirement; or

(III) the retired member has 25 or more but fewer than 30 years of creditable service as of July 1, 2010, and at least 35 years of creditable service at the time of retirement; or

(IV) the retired member has at least 30 years of creditable service as of July 1, 2010, and at least five additional years of creditable service at the time of retirement; and

(V) the service was not purchased, restored, granted, or transferred on or after July 1, 2010.

Sec. 6a. 16 V.S.A. § 1949 is amended to read:

§ 1949. POST-RETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

(a) For all group A members, as of June 30 in each year, beginning June 30, 1972, the board shall determine the increase ~~or decrease~~, to the nearest one-tenth of one percent, in the ratio of the average of the consumer price index for the month ending on that date to the average of the index for the month ending on June 30, 1971, or the month ending on June 30 of the most recent year subsequent thereto as to which an increase ~~or decrease~~ in retirement allowance was made. If the increase ~~or decrease~~, so determined,

equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased ~~or decreased, as the case may be,~~ by an equal percentage. The increase ~~or decrease~~ shall begin on January 1 immediately following that December 31. An equivalent percentage increase or decrease shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31. The maximum adjustment of any retirement allowance in any calendar year resulting from any determination under this section shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

* * *

(d) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 6b. 16 V.S.A. § 1949(b), as amended by Sec. 7 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(b) For group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the consumer price index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased ~~or decreased, as the case may be,~~ by an amount equal to one-half of the percentage increase ~~or decrease~~. The increase ~~or decrease~~ shall commence on the January 1st immediately following that December 31st. The adjustment shall apply to group C members having attained the age of 57 or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall apply to group C members not having attained the age of 57 or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of age 65 or when the combination of the member's age and years of creditable service totals 90, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the

amount payable to the beneficiary without regard to the provisions of this section.

Sec. 7. 16 V.S.A. § 1949(b), as amended by Sec. 7 of No. 74 of the Acts of the 2010 General Assembly, is amended to read:

(b) For group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of the increase or decrease, to the nearest one-tenth of a percent of the consumer price index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased or decreased, as the case may be, by an amount equal to one-half of the percentage increase or decrease. The increase or decrease shall commence on the January 1st immediately following that December 31st. The adjustment shall apply to group C members having attained the age of 57 or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall apply to group C members not having attained the age of 57 or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of age 65 ~~or when the combination of the member's age and years of creditable service totals 90~~, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be five percent and the minimum shall be one percent, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

Sec. 8. 24 V.S.A. § 5062 is amended to read:

§ 5062. RETIREMENT BOARD; MEDICAL BOARD; ACTUARY; RATES OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

(a)(1) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are hereby vested in a board of five trustees, known as the retirement board. The board shall consist of:

~~(A) the representative designated by the governor, the state treasurer;~~

(B) and two municipal employees two employee representatives who shall at all times during their term of office both be contributing members of the system and have completed five years of creditable service, elected by the membership of the system; and

(C) one ~~municipal official~~ employer representative who shall at all times during their term of office be a member of a governing body, the chief executive officer, or a supervisor as defined in 21 V.S.A. § 1502(13), of an employer participating in the system, elected by the ~~membership of the system~~ governing bodies of the system employers; and

(D) one employer representative who shall at all times during their term of office be a member of a governing body, the chief executive officer, or a supervisor as defined in 21 V.S.A. § 1502(13), of an employer participating in the system, appointed by the governor from a list of not less than three nominations jointly submitted by the Vermont League of Cities and Towns and the Vermont School Boards Association.

(2) An individual shall not be eligible to serve as an employee representative if the individual is eligible to serve as an employer representative.

* * *

(n) The board shall determine the election procedures by which the two ~~municipal employees and one municipal official~~ employee representatives and employer representative elected by the governing bodies of the system employers who are members of the board are elected. Elections shall be held to take effect on July 1, 1978 and triennially thereafter for the first municipal employee's seat; on July 1, 1979 and triennially thereafter for the municipal official's seat; and on July 1, 1980 and triennially thereafter for the second ~~municipal employee's seat~~ 2010, for the first employee representative and employer representative elected by the governing bodies of the system employers and every four years thereafter; and on July 1, 2012, for the second employee representative and employer representative appointed by the governor and every four years thereafter. The term in office for each elected member of the board shall be ~~three~~ four years. Vacancies of an elected board member's seat in midterm shall be filled by ~~a person~~ an individual eligible for election to that seat designated by the remaining members of the board.

* * *

Sec. 8a. VMERS BOARD OF TRUSTEES TRANSITIONAL PROVISIONS

The representative designated by the governor under the provisions of 24 V.S.A. § 5062(a) prior to the effective date of this act shall cease to serve on the board upon the effective date of Sec. 8 and this section of this act. The municipal employee representative whose term expires on June 30, 2011, under the provisions of 24 V.S.A. § 5062(a) prior to the effective date of this act shall, upon the effective date of this act, fill the position of employee representative until the election effective July 1, 2012. The municipal official

servicing under the provisions of 24 V.S.A. § 5062(a) prior to the effective date of this act shall serve until the employer representative appointed by the governor is appointed.

Sec. 9. 24 V.S.A. § 5064(b) is amended to read:

(b) Member savings. Contributions deducted from the compensation of members together with any member contributions transferred from a predecessor system shall be accumulated in the fund and separately recorded for each member. Contributions shall be made by group A members at the rate of three percent of earnable compensation. Contributions shall be made by group B members at the rate of five percent of earnable compensation. Contributions shall be made by group C and group D members at a rate of 11 percent of earnable compensation. Additionally, if an employee remains in group C and is employed by an employer who elects to revoke its group C membership in accordance with subsection 5068(f) of this title, the rate established in this subsection will be adjusted. This adjustment shall be determined by subtracting the group B rate, or if not applicable, the group A rate determined in subdivision (c)(1) of this section from the group C rate determined in subdivision (c)(1) of this section. ~~Notwithstanding the provisions of this subsection, for the period July 1, 2000 through June 30, 2010, contributions shall be made by group A members at the rate of two and one-half percent of earnable compensation, by group B members at the rate of four and one-half percent of earnable compensation, and by group C members at the rate of nine percent of earnable compensation.~~

* * *

Sec. 10. VERMONT MUNICIPAL RETIREMENT FUND

Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2010 through June 30, 2011, contributions shall be made by group A members at the rate of two and one-half percent of earnable compensation, by group B members at the rate of four and one-half percent of earnable compensation, and by group C members at the rate of nine and one quarter percent of earnable compensation.

Sec. 10a. 24 V.S.A. § 5067 is amended to read:

§ 5067. COST OF LIVING ADJUSTMENTS

(a) For members, as of June 30 in each year, commencing June 30, 1987, a determination shall be made of the increase ~~or decrease~~, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. The retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased ~~or decreased~~, ~~as the case may be~~, by an amount equal to one-half of the

percentage increase ~~or decrease~~. The increase ~~or decrease~~ shall commence on the January 1 immediately following such December 31. The adjustment shall apply to members of the group A, B, or D plans receiving an early retirement allowance only in the year following attainment of normal retirement age, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. The maximum adjustment of any retirement allowance resulting from any such determination shall be two percent for group A members and three percent for group B, C, and D members, and no retirement allowance shall be reduced below the amount payable to the beneficiary without regard to the provisions of this section.

* * *

(e) No adjustment shall be made pursuant to this section in January if the Consumer Price Index as of the previous June 30th is a negative rate.

Sec. 11. STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT;
MEMBERSHIP

Notwithstanding any provision of law to the contrary, amendments to 16 V.S.A. § 1931(20) in Sec. 5 of No. 24 of the Acts of 2009 (retirement system available only to licensed teachers) shall not apply to:

(1) Any person who was a member of the state teachers' retirement system of Vermont under chapter 55 of Title 16 on June 30, 2009.

(2) Any person who signed a contract prior to July 1, 2009, for employment in an independent school beginning on that date if the contract included provisions ensuring membership in the state teachers' retirement system of Vermont under chapter 55 of Title 16.

Sec. 12. STATE TEACHERS' RETIREMENT SYSTEM OF VERMONT;
CREDITABLE SERVICE

Any member of the state teachers' retirement system of Vermont whose creditable service is greater than 24.90 but less than 25.00 years on June 30, 2010, shall be granted, upon written approval from the member, sufficient creditable service to equal 25.00 years on June 30, 2010.

Sec. 13. REPEAL

(a) Sec. 1, 3 V.S.A. § 455(a)(4)(E), and Sec. 2, 3 V.S.A. § 455(a)(26) and (27), shall be repealed on July 1, 2014.

(b) Secs. 2a, 6a, 6b, and 10 shall be repealed on July 1, 2011, and the amendments to the statutory provision set forth in those Secs. shall revert to the language in existence prior to the effective date of this act, except to the

extent that 16 V.S.A. § 1949(b) has otherwise been amended by Sec. 7 of this Act.

Sec. 14. EFFECTIVE DATES

(a) Secs. 8 and 8a shall take effect on June 30, 2010.

(b) This section and Sec. 11 of this act shall take effect upon passage.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Campbell, Nitka and McCormack moved that the Senate proposal of amendment be amended in Sec. 12, at the end of the section, by adding a second sentence to read as follows:

Any member of the state teachers' retirement system of Vermont who has reached the normal retirement age and whose creditable service is greater than or equal to 9.90 but less than 10 years on June 30, 2010, shall be granted, upon written approval from the member, sufficient creditable service to equal 10 years on June 30, 2010.

Which was agreed to on a roll call, Yeas 16, Nays 13.

Senator Nitka having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Bartlett, Campbell, Carris, Cummings, Flanagan, Giard, Hartwell, Illuzzi, Kittell, Lyons, MacDonald, McCormack, Nitka, Sears, Shumlin, White.

Those Senators who voted in the negative were: Ashe, Ayer, Brock, Doyle, Flory, Kitchel, Mazza, Miller, Mullin, Racine, Scott, Snelling, Starr.

The Senator absent and not voting was: Choate.

Thereupon, the question, Shall the bill be read a third time?, was decided in the affirmative.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

**Consideration Resumed; Report of Committee of Conference Accepted
and Adopted on the Part of the Senate**

H. 790.

Consideration was resumed on House bill entitled:

An act relating to capital construction and state bonding.

Thereupon, the pending question, Shall the Senate accept and adopt the Report of the Committee of Conference?, was decided in the affirmative.

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. 498, H. 778, H. 790.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until twelve o'clock and forty-five minutes in the afternoon.

Afternoon

The Senate was called to order by the President *pro tempore*.

**Rules Suspended; Proposal of Amendment; Third Reading Ordered;
Rules Suspended; Bill Passed in Concurrence with Proposal of
Amendment**

H. 722.

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

An act relating to notice of security breaches and internet ticket sales.

Was taken up for immediate consideration.

President Assumes the Chair

Senator Miller, for the Committee on Economic Development, Housing and General Affairs, 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. 9 V.S.A. Chapter 117 is added to read:

CHAPTER 117. INTERNET SALES

§ 4190. INTERFERING WITH INTERNET TICKET SALES

(a) A person shall not intentionally use a computer program or other software intended to interfere with or circumvent, on a ticket seller's website, an equitable ticket buying process established by the seller for tickets of admission to a sporting event, theatre, musical performance, or place of public entertainment or amusement of any kind.

(b) A person who violates this section, in a civil action brought by the seller, shall be subject to:

- (1) appropriate equitable relief;
- (2) reasonable attorney's fees and costs; and
- (3) liquidated damages of up to \$3,000 per transaction.

Sec. 2. EFFECTIVE DATE

This act shall take effect July 1, 2010.

And by amending the title of the bill to read as follows:

"An act relating to preventing ticket scalping."

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Illuzzi moved that the Senate proposal of amendment be amended by inserting a new Sec. 2 to read as follows:

Sec. 2. FARM-TO-PLATE INVESTMENT PROGRAM

The funds received pursuant to Sec. 7(a) of this act shall be used to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330 and support entities that will enhance the production, storage, processing, and distribution infrastructure of the Vermont food system. The funds shall be competitively awarded by the program director, in consultation with the secretary of agriculture, food and markets and the Vermont sustainable agriculture council, in the form of grants to for-profit and nonprofit entities that are ready to implement their business plans or expand their existing operations to provide additional capacity and services within the food system. The funds also may be used for the coordination and implementation

of the recommendations contained in the strategic plan of the farm-to-plate investment program.

And by renumbering the remaining sections of the bill to be numerically correct.

Which was agreed to.

Thereupon, the pending question, Shall the bill be read the third time?, was decided in the affirmative.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Rules Suspended; Report of Committee of Conference; Consideration Interrupted by Recess

H. 789.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act making appropriations for the support of government.

Was taken up for immediate consideration.

Senator Bartlett, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 789. An act making appropriations for the support of government.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL - Fiscal Year 2011 Appropriations Act.

Sec. A.101 PURPOSE

(a) The purpose of this act is to provide appropriations for the operations of state government during fiscal year 2011. It is the express intent of the general assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2010. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2011 so as to meet this condition unless otherwise directed by specific language in this act or other acts of the general assembly.

Sec. A.102 APPROPRIATIONS

(a) It is the intent of the general assembly that this act serve as the primary source and reference for appropriations for fiscal year 2011.

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

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending June 30, 2011.

Sec. A.103 DEFINITIONS

(a) For the purposes of this act:

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

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

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

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

Sec. A.104 RELATIONSHIP TO EXISTING LAWS

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

Sec. A.105 OFFSETTING APPROPRIATIONS

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

Sec. A.106 FEDERAL FUNDS

(a) In fiscal year 2011, the governor, with the approval of the legislature, or the joint fiscal committee if the legislature is not in session, may accept federal funds available to the state of Vermont, including block grants in lieu of or in addition to funds herein designated as federal. The governor, with the approval of the legislature or the joint fiscal committee if the legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during fiscal year 2011, federal funds available to the state of Vermont and designated as federal in this and other acts of the 2010 session of the Vermont general assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The governor may spend such funds for such purposes for no more than 45 days prior to legislative or joint fiscal committee approval. Notice shall be given to the joint fiscal committee without delay if the governor intends to use the authority granted by this section, and the joint fiscal committee shall meet in an expedited manner to review the governor's request for approval.

Sec. A.107 DEPARTMENTAL RECEIPTS

(a) All receipts shall be credited to the general fund except as otherwise provided and except the following receipts, for which this subsection shall constitute authority to credit to special funds:

Connecticut river flood control

Public service department - sale of power

Tax department - unorganized towns and gores

(b) Notwithstanding any other provision of law, departmental indirect cost recoveries (32 V.S.A. § 6) receipts are authorized, subject to the approval of the secretary of administration, to be retained by the department. All recoveries not so authorized shall be credited to the general fund or, for agency of transportation recoveries, the transportation fund.

Sec. A.108 NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized state positions, both classified and exempt, excluding temporary positions as defined in 3 V.S.A. § 311(11), shall not be increased during fiscal year 2011 except for new positions authorized by the 2010 session. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction.

Sec. A.109 LEGEND

(a) The bill is organized by functions of government. The sections between B.100 and B.9999 contain appropriation of funds. The sections between E.100 and E.9999 contain language that relates to specific appropriations and/or government functions. The function areas by section numbers are as follows:

<u>B.100–B.199 and E.100–E.199</u>	<u>General Government</u>
<u>B.200–B.299 and E.200–E.299</u>	<u>Protection to Persons and Property</u>
<u>B.300–B.399 and E.300–E.399</u>	<u>Human Services</u>
<u>B.400–B.499 and E.400–E.499</u>	<u>Labor</u>
<u>B.500–B.599 and E.500–E.599</u>	<u>General Education</u>
<u>B.600–B.699 and E.600–E.699</u>	<u>Higher Education</u>
<u>B.700–B.799 and E.700–E.799</u>	<u>Natural Resources</u>
<u>B.800–B.899 and E.800–E.899</u>	<u>Commerce and Community Development</u>
<u>B.900–B.999 and E.900–E.999</u>	<u>Transportation</u>
<u>B.1000–B.1099 and E.1000–E.1099</u>	<u>Debt Service</u>
<u>B.1100–B.1199 and E.1100–E.1199</u>	<u>One-time and other appropriation actions</u>

Sec. B.100 Secretary of administration - secretary's office

Personal services	584,928
Operating expenses	<u>73,832</u>
Total	658,760
Source of funds	

General fund	<u>658,760</u>
Total	658,760
Sec. B.101 Information and innovation - communications and information technology	
Personal services	6,842,098
Operating expenses	2,505,878
Grants	<u>700,000</u>
Total	10,047,976
Source of funds	
General fund	20,911
Internal service funds	<u>10,027,065</u>
Total	10,047,976
Sec. B.102 Finance and management - budget and management	
Personal services	880,871
Operating expenses	<u>234,515</u>
Total	1,115,386
Source of funds	
General fund	882,783
Interdepartmental transfers	<u>232,603</u>
Total	1,115,386
Sec. B.103 Finance and management - financial operations	
Personal services	2,474,557
Operating expenses	<u>552,210</u>
Total	3,026,767
Source of funds	
Internal service funds	<u>3,026,767</u>
Total	3,026,767
Sec. B.104 Human resources - operations	
Personal services	2,543,406
Operating expenses	<u>414,786</u>
Total	2,958,192
Source of funds	
General fund	1,689,278
Special funds	280,835
Interdepartmental transfers	<u>988,079</u>
Total	2,958,192

Sec. B.105 Human resources - employee benefits and wellness	
Personal services	1,152,032
Operating expenses	<u>647,868</u>
Total	1,799,900
Source of funds	
Internal service funds	1,760,047
Interdepartmental transfers	<u>39,853</u>
Total	1,799,900
Sec. B.106 Libraries	
Personal services	1,857,236
Operating expenses	1,804,985
Grants	<u>62,500</u>
Total	3,724,721
Source of funds	
General fund	2,534,917
Special funds	132,656
Federal funds	955,372
Interdepartmental transfers	<u>101,776</u>
Total	3,724,721
Sec. B.107 Tax - administration/collection	
Personal services	12,586,124
Operating expenses	<u>3,138,092</u>
Total	15,724,216
Source of funds	
Tobacco fund	58,000
General fund	14,399,315
Special funds	1,069,901
Interdepartmental transfers	<u>197,000</u>
Total	15,724,216
Sec. B.108 Buildings and general services - administration	
Personal services	1,487,119
Operating expenses	<u>153,311</u>
Total	1,640,430
Source of funds	
Interdepartmental transfers	<u>1,640,430</u>
Total	1,640,430

Sec. B.109 Buildings and general services - engineering	
Personal services	2,124,181
Operating expenses	<u>341,604</u>
Total	2,465,785
Source of funds	
Interdepartmental transfers	<u>2,465,785</u>
Total	2,465,785
Sec. B.110 Buildings and general services - information centers	
Personal services	3,060,509
Operating expenses	1,324,371
Grants	<u>45,000</u>
Total	4,429,880
Source of funds	
General fund	4,379,880
Special funds	<u>50,000</u>
Total	4,429,880
Sec. B.111 Buildings and general services - purchasing	
Personal services	642,843
Operating expenses	<u>149,518</u>
Total	792,361
Source of funds	
General fund	<u>792,361</u>
Total	792,361
Sec. B.112 Buildings and general services - postal services	
Personal services	636,412
Operating expenses	<u>148,967</u>
Total	785,379
Source of funds	
General fund	35,716
Internal service funds	<u>749,663</u>
Total	785,379
Sec. B.113 Buildings and general services - copy center	
Personal services	715,491
Operating expenses	<u>122,107</u>
Total	837,598
Source of funds	
Internal service funds	<u>837,598</u>
Total	837,598

Sec. B.114 Buildings and general services - fleet management services	
Personal services	473,550
Operating expenses	<u>119,974</u>
Total	593,524
Source of funds	
Internal service funds	<u>593,524</u>
Total	593,524
Sec. B.115 Buildings and general services - federal surplus property	
Personal services	91,690
Operating expenses	<u>44,687</u>
Total	136,377
Source of funds	
Enterprise funds	<u>136,377</u>
Total	136,377
Sec. B.116 Buildings and general services - state surplus property	
Personal services	66,974
Operating expenses	<u>99,806</u>
Total	166,780
Source of funds	
Internal service funds	<u>166,780</u>
Total	166,780
Sec. B.117 Buildings and general services - property management	
Personal services	1,120,071
Operating expenses	<u>1,457,881</u>
Total	2,577,952
Source of funds	
Internal service funds	<u>2,577,952</u>
Total	2,577,952
Sec. B.118 Buildings and general services - workers' compensation insurance	
Personal services	1,295,161
Operating expenses	<u>271,331</u>
Total	1,566,492
Source of funds	
Internal service funds	<u>1,566,492</u>
Total	1,566,492

Sec. B.119 Buildings and general services - general liability insurance	
Personal services	304,042
Operating expenses	<u>76,203</u>
Total	380,245
Source of funds	
Internal service funds	<u>380,245</u>
Total	380,245
Sec. B.120 Buildings and general services - all other insurance	
Personal services	39,531
Operating expenses	<u>30,469</u>
Total	70,000
Source of funds	
Internal service funds	<u>70,000</u>
Total	70,000
Sec. B.121 Buildings and general services - fee for space	
Personal services	13,357,546
Operating expenses	<u>13,886,975</u>
Total	27,244,521
Source of funds	
Internal service funds	<u>27,244,521</u>
Total	27,244,521
Sec. B.122 Geographic information system	
Grants	<u>408,700</u>
Total	408,700
Source of funds	
Special funds	<u>408,700</u>
Total	408,700
Sec. B.123 Executive office - governor's office	
Personal services	1,169,079
Operating expenses	<u>391,275</u>
Total	1,560,354
Source of funds	
General fund	1,366,854
Interdepartmental transfers	<u>193,500</u>
Total	1,560,354

Sec. B.124 Legislative council	
Personal services	2,090,029
Operating expenses	<u>192,964</u>
Total	2,282,993
Source of funds	
General fund	<u>2,282,993</u>
Total	2,282,993
Sec. B.125 Legislature	
Personal services	3,608,557
Operating expenses	<u>3,329,011</u>
Total	6,937,568
Source of funds	
General fund	<u>6,937,568</u>
Total	6,937,568
Sec. B.126 Legislative information technology	
Personal services	376,107
Operating expenses	<u>504,480</u>
Total	880,587
Source of funds	
General fund	<u>880,587</u>
Total	880,587
Sec. B.127 Joint fiscal committee	
Personal services	1,391,465
Operating expenses	<u>113,201</u>
Total	1,504,666
Source of funds	
General fund	<u>1,504,666</u>
Total	1,504,666
Sec. B.128 Sergeant at arms	
Personal services	477,005
Operating expenses	<u>82,428</u>
Total	559,433
Source of funds	
General fund	<u>559,433</u>
Total	559,433

Sec. B.129 Lieutenant governor

Personal services	150,836
Operating expenses	<u>16,376</u>
Total	167,212
Source of funds	
General fund	<u>167,212</u>
Total	167,212

Sec. B.130 Auditor of accounts

Personal services	3,494,631
Operating expenses	<u>139,445</u>
Total	3,634,076
Source of funds	
General fund	399,951
Special funds	53,099
Internal service funds	<u>3,181,026</u>
Total	3,634,076

Sec. B.131 State treasurer

Personal services	2,522,619
Operating expenses	331,089
Grants	<u>16,484</u>
Total	2,870,192
Source of funds	
General fund	1,130,500
Special funds	1,636,099
Interdepartmental transfers	<u>103,593</u>
Total	2,870,192

Sec. B.132 State treasurer - unclaimed property

Personal services	670,521
Operating expenses	<u>243,474</u>
Total	913,995
Source of funds	
Private purpose trust funds	<u>913,995</u>
Total	913,995

Sec. B.133 Vermont state retirement system

Personal services	6,370,747
Operating expenses	<u>27,934,748</u>
Total	34,305,495
Source of funds	

Pension trust funds	<u>34,305,495</u>
Total	34,305,495
Sec. B.134 Municipal employees' retirement system	
Personal services	2,002,388
Operating expenses	<u>451,355</u>
Total	2,453,743
Source of funds	
Pension trust funds	<u>2,453,743</u>
Total	2,453,743
Sec. B.135 State labor relations board	
Personal services	161,823
Operating expenses	<u>38,452</u>
Total	200,275
Source of funds	
General fund	194,699
Special funds	2,788
Interdepartmental transfers	<u>2,788</u>
Total	200,275
Sec. B.136 VOSHA review board	
Personal services	42,635
Operating expenses	<u>10,531</u>
Total	53,166
Source of funds	
General fund	26,583
Interdepartmental transfers	<u>26,583</u>
Total	53,166
Sec. B.137 Homeowner rebate	
Grants	<u>16,720,000</u>
Total	16,720,000
Source of funds	
General fund	<u>16,720,000</u>
Total	16,720,000
Sec. B.138 Renter rebate	
Grants	<u>8,300,000</u>
Total	8,300,000
Source of funds	
General fund	2,500,000

Education fund	<u>5,800,000</u>
Total	8,300,000
Sec. B.139 Tax department - reappraisal and listing payments	
Grants	<u>3,243,196</u>
Total	3,243,196
Source of funds	
Education fund	<u>3,243,196</u>
Total	3,243,196
Sec. B.140 Municipal current use	
Grants	<u>11,700,000</u>
Total	11,700,000
Source of funds	
General fund	<u>11,700,000</u>
Total	11,700,000
Sec. B.141 Lottery commission	
Personal services	1,658,986
Operating expenses	<u>1,096,215</u>
Total	2,755,201
Source of funds	
Enterprise funds	<u>2,755,201</u>
Total	2,755,201
Sec. B.142 Payments in lieu of taxes	
Grants	<u>5,650,000</u>
Total	5,650,000
Source of funds	
Special funds	<u>5,650,000</u>
Total	5,650,000
Sec. B.143 Payments in lieu of taxes - Montpelier	
Grants	<u>184,000</u>
Total	184,000
Source of funds	
Special funds	<u>184,000</u>
Total	184,000
Sec. B.144 Payments in lieu of taxes - correctional facilities	
Grants	<u>40,000</u>
Total	40,000
Source of funds	

Special funds	<u>40,000</u>
Total	40,000
Sec. B.145 Total general government	190,068,094
Source of funds	
General fund	71,764,967
Education fund	9,043,196
Special funds	9,508,078
Tobacco fund	58,000
Federal funds	955,372
Enterprise funds	2,891,578
Internal service funds	52,181,680
Pension trust funds	36,759,238
Private purpose trust funds	913,995
Interdepartmental transfers	<u>5,991,990</u>
Total	190,068,094
Sec. B.200 Attorney general	
Personal services	6,942,359
Operating expenses	<u>1,095,205</u>
Total	8,037,564
Source of funds	
Tobacco fund	625,000
General fund	3,785,911
Special funds	990,000
Federal funds	707,526
Interdepartmental transfers	<u>1,929,127</u>
Total	8,037,564
Sec. B.201 Vermont court diversion	
Grants	<u>1,724,773</u>
Total	1,724,773
Source of funds	
General fund	1,204,776
Special funds	<u>519,997</u>
Total	1,724,773
Sec. B.202 Defender general - public defense	
Personal services	7,631,450
Operating expenses	<u>890,945</u>
Total	8,522,395
Source of funds	
General fund	8,009,107

Special funds	<u>513,288</u>
Total	8,522,395
Sec. B.203 Defender general - assigned counsel	
Personal services	3,414,589
Operating expenses	<u>41,909</u>
Total	3,456,498
Source of funds	
General fund	3,331,234
Special funds	<u>125,264</u>
Total	3,456,498
Sec. B.204 Judiciary	
Personal services	27,415,175
Operating expenses	10,118,692
Grants	<u>70,000</u>
Total	37,603,867
Source of funds	
Tobacco fund	39,871
General fund	30,944,988
Special funds	3,105,455
Federal funds	1,435,418
Interdepartmental transfers	<u>2,078,135</u>
Total	37,603,867
Sec. B.205 State's attorneys	
Personal services	9,398,345
Operating expenses	<u>1,137,233</u>
Total	10,535,578
Source of funds	
General fund	8,329,655
Special funds	32,775
Federal funds	31,000
Interdepartmental transfers	<u>2,142,148</u>
Total	10,535,578
Sec. B.206 Special investigative unit	
Grants	<u>1,060,950</u>
Total	1,060,950
Source of funds	
General fund	<u>1,060,950</u>
Total	1,060,950

Sec. B.207 Sheriffs	
Personal services	3,261,904
Operating expenses	<u>283,826</u>
Total	3,545,730
Source of funds	
General fund	<u>3,545,730</u>
Total	3,545,730
Sec. B.208 Public safety - administration	
Personal services	1,619,185
Operating expenses	<u>197,234</u>
Total	1,816,419
Source of funds	
General fund	1,776,694
Federal funds	<u>39,725</u>
Total	1,816,419
Sec. B.209 Public safety - state police	
Personal services	45,090,220
Operating expenses	8,211,814
Grants	<u>854,866</u>
Total	54,156,900
Source of funds	
ARRA funds	969,703
General fund	19,301,332
Transportation fund	27,635,057
Special funds	2,116,262
Federal funds	2,826,886
Interdepartmental transfers	<u>1,307,660</u>
Total	54,156,900
Sec. B.210 Public safety - criminal justice services	
Personal services	6,625,882
Operating expenses	3,291,327
Grants	<u>5,977,000</u>
Total	15,894,209
Source of funds	
ARRA funds	640,956
General fund	5,546,732
Special funds	1,972,320
Federal funds	7,645,784

Interdepartmental transfers	<u>88,417</u>
Total	15,894,209
Sec. B.211 Public safety - emergency management	
Personal services	2,716,202
Operating expenses	879,113
Grants	<u>1,602,000</u>
Total	5,197,315
Source of funds	
General fund	63,969
Special funds	224,014
Federal funds	4,889,332
Interdepartmental transfers	<u>20,000</u>
Total	5,197,315
Sec. B.212 Public safety - fire safety	
Personal services	4,953,243
Operating expenses	1,281,790
Grants	<u>55,000</u>
Total	6,290,033
Source of funds	
General fund	714,083
Special funds	5,275,683
Federal funds	255,267
Interdepartmental transfers	<u>45,000</u>
Total	6,290,033
Sec. B.213 Public safety - homeland security	
Personal services	9,213,757
Operating expenses	718,374
Grants	<u>2,380,000</u>
Total	12,312,131
Source of funds	
ARRA funds	295,267
General fund	430,545
Federal funds	<u>11,586,319</u>
Total	12,312,131
Sec. B.214 Radiological emergency response plan	
Personal services	657,163
Operating expenses	215,438
Grants	<u>876,975</u>
Total	1,749,576

Source of funds	
Special funds	<u>1,749,576</u>
Total	1,749,576
Sec. B.215 Military - administration	
Personal services	548,148
Operating expenses	198,427
Grants	<u>100,000</u>
Total	846,575
Source of funds	
General fund	<u>846,575</u>
Total	846,575
Sec. B.216 Military - air service contract	
Personal services	4,618,657
Operating expenses	<u>1,214,629</u>
Total	5,833,286
Source of funds	
General fund	468,392
Federal funds	<u>5,364,894</u>
Total	5,833,286
Sec. B.217 Military - army service contract	
Personal services	3,729,599
Operating expenses	<u>9,185,720</u>
Total	12,915,319
Source of funds	
General fund	112,380
Federal funds	<u>12,802,939</u>
Total	12,915,319
Sec. B.218 Military - building maintenance	
Personal services	983,598
Operating expenses	<u>386,580</u>
Total	1,370,178
Source of funds	
General fund	<u>1,370,178</u>
Total	1,370,178
Sec. B.219 Military - veterans' affairs	
Personal services	467,788
Operating expenses	132,754
Grants	<u>163,815</u>

Total	764,357
Source of funds	
General fund	605,099
Special funds	83,529
Federal funds	<u>75,729</u>
Total	764,357
Sec. B.220 Center for crime victims' services	
Personal services	1,314,211
Operating expenses	302,306
Grants	<u>9,634,587</u>
Total	11,251,104
Source of funds	
ARRA funds	571,809
General fund	1,118,448
Special funds	5,550,448
Federal funds	<u>4,010,399</u>
Total	11,251,104
Sec. B.221 Criminal justice training council	
Personal services	1,222,580
Operating expenses	<u>1,265,675</u>
Total	2,488,255
Source of funds	
General fund	1,592,462
Special funds	531,285
Interdepartmental transfers	<u>364,508</u>
Total	2,488,255
Sec. B.222 Agriculture, food and markets - administration	
Personal services	764,915
Operating expenses	323,363
Grants	<u>538,351</u>
Total	1,626,629
Source of funds	
General fund	1,097,260
Special funds	377,465
Federal funds	109,904
Interdepartmental transfers	<u>42,000</u>
Total	1,626,629

Sec. B.223 Agriculture, food and markets - food safety and consumer protection

Personal services	2,717,103
Operating expenses	635,855
Grants	<u>2,400,000</u>
Total	5,752,958
Source of funds	
General fund	2,147,861
Special funds	3,095,426
Federal funds	502,671
Interdepartmental transfers	<u>7,000</u>
Total	5,752,958

Sec. B.224 Agriculture, food and markets - agricultural development

Personal services	1,062,108
Operating expenses	398,437
Grants	<u>1,718,200</u>
Total	3,178,745
Source of funds	
General fund	319,093
Special funds	1,536,567
Federal funds	1,023,085
Interdepartmental transfers	<u>300,000</u>
Total	3,178,745

Sec. B.225 Agriculture, food and markets - laboratories, agricultural resource management and environmental stewardship

Personal services	2,877,085
Operating expenses	857,259
Grants	<u>880,952</u>
Total	4,615,296
Source of funds	
General fund	1,764,182
Special funds	2,148,284
Federal funds	518,072
Interdepartmental transfers	<u>184,758</u>
Total	4,615,296

Sec. B.226 Banking, insurance, securities, and health care administration - administration

Personal services	2,094,388
Operating expenses	<u>110,601</u>

Total	2,204,989
Source of funds	
Special funds	<u>2,204,989</u>
Total	2,204,989
Sec. B.227 Banking, insurance, securities, and health care administration - banking	
Personal services	1,338,504
Operating expenses	<u>243,041</u>
Total	1,581,545
Source of funds	
Special funds	<u>1,581,545</u>
Total	1,581,545
Sec. B.228 Banking, insurance, securities, and health care administration - insurance	
Personal services	2,768,091
Operating expenses	<u>433,803</u>
Total	3,201,894
Source of funds	
Special funds	<u>3,201,894</u>
Total	3,201,894
Sec. B.229 Banking, insurance, securities, and health care administration - captive	
Personal services	3,237,368
Operating expenses	<u>439,405</u>
Total	3,676,773
Source of funds	
Special funds	<u>3,676,773</u>
Total	3,676,773
Sec. B.230 Banking, insurance, securities, and health care administration - securities	
Personal services	447,065
Operating expenses	<u>140,714</u>
Total	587,779
Source of funds	
Special funds	<u>587,779</u>
Total	587,779
Sec. B.231 Banking, insurance, securities, and health care administration - health care administration	

Personal services	4,421,102
Operating expenses	<u>320,805</u>
Total	4,741,907
Source of funds	
Special funds	2,843,083
Global Commitment fund	<u>1,898,824</u>
Total	4,741,907
Sec. B.232 Secretary of state	
Personal services	5,639,766
Operating expenses	2,010,915
Grants	<u>1,000,000</u>
Total	8,650,681
Source of funds	
General fund	1,741,157
Special funds	4,834,524
Federal funds	2,000,000
Interdepartmental transfers	<u>75,000</u>
Total	8,650,681
Sec. B.233 Public service - regulation and energy	
Personal services	7,227,506
Operating expenses	703,315
Grants	<u>21,203,466</u>
Total	29,134,287
Source of funds	
ARRA funds	15,796,250
Special funds	12,180,237
Federal funds	<u>1,157,800</u>
Total	29,134,287
Sec. B.234 Public service board	
Personal services	2,716,697
Operating expenses	<u>364,000</u>
Total	3,080,697
Source of funds	
ARRA funds	265,834
Special funds	<u>2,814,863</u>
Total	3,080,697
Sec. B.235 Enhanced 9-1-1 Board	
Personal services	2,441,508
Operating expenses	1,252,574

Grants	<u>911,721</u>
Total	4,605,803
Source of funds	
Special funds	<u>4,605,803</u>
Total	4,605,803
Sec. B.236 Human rights commission	
Personal services	402,730
Operating expenses	<u>86,264</u>
Total	488,994
Source of funds	
General fund	318,255
Federal funds	<u>170,739</u>
Total	488,994
Sec. B.237 Liquor control - administration	
Personal services	1,442,422
Operating expenses	<u>625,578</u>
Total	2,068,000
Source of funds	
Tobacco fund	6,661
Enterprise funds	1,811,339
Interdepartmental transfers	<u>250,000</u>
Total	2,068,000
Sec. B.238 Liquor control - enforcement and licensing	
Personal services	1,930,027
Operating expenses	<u>377,524</u>
Total	2,307,551
Source of funds	
Tobacco fund	289,645
Enterprise funds	<u>2,017,906</u>
Total	2,307,551
Sec. B.239 Liquor control - warehousing and distribution	
Personal services	813,769
Operating expenses	<u>329,615</u>
Total	1,143,384
Source of funds	
Enterprise funds	<u>1,143,384</u>
Total	1,143,384

Sec. B.240 Total protection to persons and property	290,020,924
Source of funds	
General fund	101,547,048
Transportation fund	27,635,057
Special funds	68,479,128
Tobacco fund	961,177
Global Commitment fund	1,898,824
Federal funds	57,153,489
ARRA funds	18,539,819
Enterprise funds	4,972,629
Interdepartmental transfers	<u>8,833,753</u>
Total	290,020,924
Sec. B.300 Human services - agency of human services - secretary's office	
Personal services	8,997,483
Operating expenses	2,427,168
Grants	<u>5,195,241</u>
Total	16,619,892
Source of funds	
Tobacco fund	423,330
General fund	4,911,040
Special funds	7,517
Global Commitment fund	415,000
Federal funds	7,444,102
Interdepartmental transfers	<u>3,418,903</u>
Total	16,619,892
Sec. B.301 Secretary's office - global commitment	
Grants	<u>1,069,564,058</u>
Total	1,069,564,058
Source of funds	
ARRA funds	114,748,181
Tobacco fund	35,848,873
General fund	66,312,737
Special funds	11,398,028
State health care resources fund	176,395,700
Catamount fund	19,076,195
Federal funds	645,426,677
Interdepartmental transfers	<u>357,667</u>
Total	1,069,564,058

Sec. B.302 Rate setting

Personal services	858,339
Operating expenses	<u>70,029</u>
Total	928,368
Source of funds	
Global Commitment fund	<u>928,368</u>
Total	928,368

Sec. B.303 Developmental disabilities council

Personal services	269,694
Operating expenses	51,991
Grants	<u>220,000</u>
Total	541,685
Source of funds	
Federal funds	<u>541,685</u>
Total	541,685

Sec. B.304 Human services board

Personal services	282,894
Operating expenses	<u>67,804</u>
Total	350,698
Source of funds	
General fund	49,713
Federal funds	150,493
Interdepartmental transfers	<u>150,492</u>
Total	350,698

Sec. B.305 AHS - administrative fund

Personal services	250,000
Operating expenses	<u>4,750,000</u>
Total	5,000,000
Source of funds	
Interdepartmental transfers	<u>5,000,000</u>
Total	5,000,000

Sec. B.306 Department of Vermont health access - administration

Personal services	44,647,574
Operating expenses	2,593,853
Grants	<u>7,625,573</u>
Total	54,867,000
Source of funds	
General fund	1,549,943

Special funds	3,016,174
Global Commitment fund	37,417,425
Federal funds	<u>12,883,458</u>
Total	54,867,000

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

Grants	<u>632,073,546</u>
Total	632,073,546
Source of funds	
Global Commitment fund	<u>632,073,546</u>
Total	632,073,546

Sec. B.308 Department of Vermont health access - Medicaid program - long term care waiver

Grants	<u>206,544,910</u>
Total	206,544,910
Source of funds	
ARRA funds	22,351,327
General fund	62,936,176
Federal funds	<u>121,257,407</u>
Total	206,544,910

Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	<u>18,026,949</u>
Total	18,026,949
Source of funds	
General fund	16,296,293
Global Commitment fund	<u>1,730,656</u>
Total	18,026,949

Sec. B.310 Department of Vermont health access - Medicaid nonwaiver matched

Grants	<u>48,367,662</u>
Total	48,367,662
Source of funds	
General fund	17,328,535
Federal funds	<u>31,039,127</u>
Total	48,367,662

 Sec. B.311 Health - administration and support

Personal services	5,741,814
Operating expenses	2,182,153
Grants	<u>2,612,000</u>
Total	10,535,967

Source of funds

General fund	1,070,058
Special funds	232,148
Global Commitment fund	3,400,011
Federal funds	<u>5,833,750</u>
Total	10,535,967

Sec. B.312 Health - public health

Personal services	31,006,247
Operating expenses	7,030,217
Grants	<u>30,531,561</u>
Total	68,568,025

Source of funds

Tobacco fund	1,166,803
General fund	7,737,787
Special funds	4,783,956
Global Commitment fund	20,959,163
Catamount fund	2,510,319
Federal funds	30,795,573
Permanent trust funds	10,000
Interdepartmental transfers	<u>604,424</u>
Total	68,568,025

Sec. B.313 Health - alcohol and drug abuse programs

Personal services	2,931,722
Operating expenses	709,845
Grants	<u>28,007,483</u>
Total	31,649,050

Source of funds

Tobacco fund	2,382,834
General fund	2,929,387
Special funds	232,084
Global Commitment fund	17,503,430
Federal funds	8,341,315
Interdepartmental transfers	<u>260,000</u>
Total	31,649,050

Sec. B.314 Mental health - mental health

Personal services	5,363,774
Operating expenses	904,685
Grants	<u>128,312,179</u>
Total	134,580,638
Source of funds	
General fund	792,412
Special funds	6,836
Global Commitment fund	127,939,561
Federal funds	5,821,829
Interdepartmental transfers	<u>20,000</u>
Total	134,580,638

Sec. B.315 Mental health - Vermont state hospital

Personal services	20,934,634
Operating expenses	2,234,840
Grants	<u>82,335</u>
Total	23,251,809
Source of funds	
General fund	22,687,045
Special funds	50,000
Global Commitment fund	1,200
Federal funds	213,564
Interdepartmental transfers	<u>300,000</u>
Total	23,251,809

Sec. B.316 Department for children and families - administration and support services

Personal services	37,767,592
Operating expenses	7,451,074
Grants	<u>842,829</u>
Total	46,061,495
Source of funds	
General fund	15,044,158
Global Commitment fund	17,233,385
Federal funds	<u>13,783,952</u>
Total	46,061,495

Sec. B.317 Department for children and families - family services

Personal services	22,899,710
Operating expenses	3,344,491
Grants	<u>63,133,025</u>

Total	89,377,226
Source of funds	
ARRA funds	705,724
Tobacco fund	275,000
General fund	21,230,731
Special funds	1,691,637
Global Commitment fund	37,870,954
Federal funds	27,503,180
Interdepartmental transfers	<u>100,000</u>
Total	89,377,226
Sec. B.318 Department for children and families - child development	
Personal services	3,265,859
Operating expenses	498,925
Grants	<u>56,136,434</u>
Total	59,901,218
Source of funds	
ARRA funds	2,282,687
General fund	23,198,997
Special funds	1,820,000
Global Commitment fund	5,448,940
Federal funds	27,011,087
Interdepartmental transfers	<u>139,507</u>
Total	59,901,218
Sec. B.319 Department for children and families - office of child support	
Personal services	9,071,791
Operating expenses	<u>4,122,248</u>
Total	13,194,039
Source of funds	
ARRA funds	431,230
General fund	2,690,672
Special funds	455,718
Federal funds	9,228,819
Interdepartmental transfers	<u>387,600</u>
Total	13,194,039
Sec. B.320 Department for children and families - aid to aged, blind and disabled	
Personal services	1,801,009
Grants	<u>10,738,080</u>
Total	12,539,089
Source of funds	

General fund	8,789,089
Global Commitment fund	<u>3,750,000</u>
Total	12,539,089
Sec. B.321 Department for children and families - general assistance	
Grants	<u>5,850,928</u>
Total	5,850,928
Source of funds	
ARRA funds	1,699,412
General fund	2,700,196
Global Commitment fund	340,000
Federal funds	<u>1,111,320</u>
Total	5,850,928
Sec. B.322 Department for children and families - food stamp cash out	
Grants	<u>22,610,178</u>
Total	22,610,178
Source of funds	
ARRA funds	575,000
Federal funds	<u>22,035,178</u>
Total	22,610,178
Sec. B.323 Department for children and families - reach up	
Grants	<u>49,229,159</u>
Total	49,229,159
Source of funds	
ARRA funds	1,127,346
General fund	19,927,750
Special funds	19,916,856
Global Commitment fund	374,400
Federal funds	<u>7,882,807</u>
Total	49,229,159
Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP	
Personal services	20,000
Operating expenses	90,000
Grants	<u>11,502,664</u>
Total	11,612,664
Source of funds	
Federal funds	<u>11,612,664</u>
Total	11,612,664

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	266,289
Operating expenses	78,339
Grants	<u>4,747,762</u>
Total	5,092,390
Source of funds	
General fund	1,241,285
Special funds	57,990
Federal funds	<u>3,793,115</u>
Total	5,092,390

Sec. B.326 Department for children and families - OEO - weatherization assistance

Personal services	183,254
Operating expenses	130,762
Grants	<u>14,959,936</u>
Total	15,273,952
Source of funds	
ARRA funds	8,421,288
Special funds	4,602,998
Federal funds	<u>2,249,666</u>
Total	15,273,952

Sec. B.327 Department for children and families - Woodside rehabilitation center

Personal services	3,453,113
Operating expenses	<u>578,399</u>
Total	4,031,512
Source of funds	
General fund	3,976,620
Interdepartmental transfers	<u>54,892</u>
Total	4,031,512

Sec. B.328 Department for children and families - disability determination services

Personal services	4,353,948
Operating expenses	<u>1,133,361</u>
Total	5,487,309
Source of funds	
Global Commitment fund	246,517

Federal funds	<u>5,240,792</u>
Total	5,487,309
Sec. B.329 Disabilities, aging and independent living - administration and support	
Personal services	24,109,012
Operating expenses	<u>3,661,592</u>
Total	27,770,604
Source of funds	
General fund	7,131,010
Special funds	889,246
Global Commitment fund	6,014,470
Federal funds	11,246,096
Interdepartmental transfers	<u>2,489,782</u>
Total	27,770,604
Sec. B.330 Disabilities, aging and independent living - advocacy and independent living grants	
Grants	<u>22,233,616</u>
Total	22,233,616
Source of funds	
ARRA funds	404,000
General fund	9,908,037
Global Commitment fund	3,638,762
Federal funds	7,645,317
Interdepartmental transfers	<u>637,500</u>
Total	22,233,616
Sec. B.331 Disabilities, aging and independent living - blind and visually impaired	
Grants	<u>1,481,457</u>
Total	1,481,457
Source of funds	
General fund	364,064
Special funds	223,450
Global Commitment fund	245,000
Federal funds	<u>648,943</u>
Total	1,481,457
Sec. B.332 Disabilities, aging and independent living - vocational rehabilitation	
Grants	<u>7,302,971</u>
Total	7,302,971

Source of funds	
ARRA funds	1,334,000
General fund	1,535,695
Global Commitment fund	7,500
Federal funds	4,132,389
Interdepartmental transfers	<u>293,387</u>
Total	7,302,971
Sec. B.333 Disabilities, aging and independent living - developmental services	
Grants	<u>149,922,473</u>
Total	149,922,473
Source of funds	
General fund	155,125
Special funds	15,463
Global Commitment fund	149,392,028
Federal funds	<u>359,857</u>
Total	149,922,473
Sec. B.334 Disabilities, aging and independent living -TBI home and community based waiver	
Grants	<u>4,044,899</u>
Total	4,044,899
Source of funds	
Global Commitment fund	<u>4,044,899</u>
Total	4,044,899
Sec. B.335 Corrections - administration	
Personal services	1,984,192
Operating expenses	<u>215,304</u>
Total	2,199,496
Source of funds	
General fund	<u>2,199,496</u>
Total	2,199,496
Sec. B.336 Corrections - parole board	
Personal services	328,861
Operating expenses	<u>60,198</u>
Total	389,059
Source of funds	
General fund	<u>389,059</u>
Total	389,059

Sec. B.337 Corrections - correctional education

Personal services	4,419,709
Operating expenses	<u>306,274</u>
Total	4,725,983
Source of funds	
General fund	368,863
Special funds	696,991
Interdepartmental transfers	<u>3,660,129</u>
Total	4,725,983

Sec. B.338 Corrections - correctional services

Personal services	80,054,352
Operating expenses	33,761,401
Grants	<u>3,722,953</u>
Total	117,538,706
Source of funds	
Tobacco fund	87,500
General fund	113,305,822
Special funds	483,963
Global Commitment fund	3,094,144
Federal funds	170,962
Interdepartmental transfers	<u>396,315</u>
Total	117,538,706

Sec. B.339 Correctional services - out of state beds

Personal services	<u>17,008,240</u>
Total	17,008,240
Source of funds	
General fund	<u>17,008,240</u>
Total	17,008,240

Sec. B.340 Corrections - correctional facilities - recreation

Personal services	475,506
Operating expenses	<u>342,362</u>
Total	817,868
Source of funds	
General fund	125,000
Special funds	<u>692,868</u>
Total	817,868

Sec. B.341 Corrections - Vermont offender work program	
Personal services	986,255
Operating expenses	<u>554,103</u>
Total	1,540,358
Source of funds	
Internal service funds	<u>1,540,358</u>
Total	1,540,358
Sec. B.342 Vermont veterans' home - care and support services	
Personal services	15,385,424
Operating expenses	<u>3,673,019</u>
Total	19,058,443
Source of funds	
Special funds	11,615,802
Global Commitment fund	1,410,956
Federal funds	<u>6,031,685</u>
Total	19,058,443
Sec. B.343 Commission on women	
Personal services	235,132
Operating expenses	<u>66,690</u>
Total	301,822
Source of funds	
General fund	296,822
Special funds	<u>5,000</u>
Total	301,822
Sec. B.344 Retired senior volunteer program	
Grants	<u>131,096</u>
Total	131,096
Source of funds	
General fund	<u>131,096</u>
Total	131,096
Sec. B.345 Total human services	3,038,198,507
Source of funds	
General fund	456,318,953
Special funds	62,894,725
Tobacco fund	40,184,340
Global Commitment fund	1,075,480,315
State health care resources fund	176,395,700
Catamount fund	21,586,514

Federal funds	1,031,436,809
ARRA funds	154,080,195
Permanent trust funds	10,000
Internal service funds	1,540,358
Interdepartmental transfers	<u>18,270,598</u>
Total	3,038,198,507
Sec. B.400 Labor - administration	
Personal services	2,746,693
Operating expenses	577,547
Grants	<u>30,000</u>
Total	3,354,240
Source of funds	
ARRA funds	348,824
General fund	272,756
Special funds	459,031
Catamount fund	76,844
Federal funds	2,001,785
Interdepartmental transfers	<u>195,000</u>
Total	3,354,240
Sec. B.401 Labor - programs	
Personal services	23,010,309
Operating expenses	5,488,024
Grants	<u>3,719,147</u>
Total	32,217,480
Source of funds	
ARRA funds	4,222,948
General fund	2,288,674
Special funds	2,912,759
Catamount fund	317,228
Federal funds	21,170,870
Interdepartmental transfers	<u>1,305,001</u>
Total	32,217,480
Sec. B.402 Total labor	
	35,571,720
Source of funds	
General fund	2,561,430
Special funds	3,371,790
Catamount fund	394,072
Federal funds	23,172,655
ARRA funds	4,571,772

Interdepartmental transfers	<u>1,500,001</u>
Total	35,571,720
Sec. B.500 Education - finance and administration	
Personal services	5,666,454
Operating expenses	1,715,341
Grants	<u>11,384,730</u>
Total	18,766,525
Source of funds	
General fund	3,103,135
Education fund	427,526
Special funds	12,395,755
Global Commitment fund	823,092
Federal funds	2,012,287
Interdepartmental transfers	<u>4,730</u>
Total	18,766,525
Sec. B.501 Education - education services	
Personal services	12,293,389
Operating expenses	1,598,645
Grants	<u>166,683,243</u>
Total	180,575,277
Source of funds	
ARRA funds	46,719,169
General fund	4,805,426
Education fund	1,131,751
Special funds	2,061,526
Federal funds	125,832,574
Interdepartmental transfers	<u>24,831</u>
Total	180,575,277
Sec. B.502 Education - special education: formula grants	
Grants	<u>142,687,975</u>
Total	142,687,975
Source of funds	
Education fund	142,457,975
Global Commitment fund	<u>230,000</u>
Total	142,687,975
Sec. B.503 Education - state-placed students	
Grants	<u>15,700,000</u>
Total	15,700,000
Source of funds	

Education fund	<u>15,700,000</u>
Total	15,700,000
Sec. B.504 Education - adult education and literacy	
Grants	<u>6,463,656</u>
Total	6,463,656
Source of funds	
General fund	787,995
Education fund	4,800,000
Federal funds	<u>875,661</u>
Total	6,463,656
Sec. B.505 Education - adjusted education payment	
Grants	<u>1,138,075,036</u>
Total	1,138,075,036
Source of funds	
ARRA interdepartmental transfer	38,575,036
Education fund	<u>1,099,500,000</u>
Total	1,138,075,036
Sec. B.506 Education - transportation	
Grants	<u>15,782,031</u>
Total	15,782,031
Source of funds	
Education fund	<u>15,782,031</u>
Total	15,782,031
Sec. B.507 Education - small school grants	
Grants	<u>7,000,000</u>
Total	7,000,000
Source of funds	
Education fund	<u>7,000,000</u>
Total	7,000,000
Sec. B.508 Education - capital debt service aid	
Grants	<u>180,000</u>
Total	180,000
Source of funds	
Education fund	<u>180,000</u>
Total	180,000

Sec. B.509 Education - tobacco litigation

Personal services	129,931
Operating expenses	46,222
Grants	<u>812,764</u>
Total	988,917
Source of funds	
Tobacco fund	<u>988,917</u>
Total	988,917

Sec. B.510 Education - essential early education grant

Grants	<u>5,679,216</u>
Total	5,679,216
Source of funds	
Education fund	<u>5,679,216</u>
Total	5,679,216

Sec. B.511 Education - technical education

Grants	<u>12,784,382</u>
Total	12,784,382
Source of funds	
Education fund	<u>12,784,382</u>
Total	12,784,382

Sec. B.512 Education - Act 117 cost containment

Personal services	1,059,820
Operating expenses	131,887
Grants	<u>91,000</u>
Total	1,282,707
Source of funds	
Special funds	<u>1,282,707</u>
Total	1,282,707

Sec. B.513 Appropriation and transfer to education fund

Grants	<u>240,803,945</u>
Total	240,803,945
Source of funds	
General fund	<u>240,803,945</u>
Total	240,803,945

Sec. B.514 State teachers' retirement system

Personal services	7,269,278
Operating expenses	20,964,109

Grants	<u>46,913,381</u>
Total	75,146,768
Source of funds	
General fund	46,913,381
Pension trust funds	<u>28,233,387</u>
Total	75,146,768
Sec. B.515 Total general education	1,861,916,435
Source of funds	
General fund	296,413,882
Education fund	1,305,442,881
Special funds	15,739,988
Tobacco fund	988,917
Global Commitment fund	1,053,092
Federal funds	128,720,522
ARRA funds	46,719,169
Pension trust funds	28,233,387
Interdepartmental transfers	29,561
ARRA interdepartmental transfer	<u>38,575,036</u>
Total	1,861,916,435
Sec. B.600 University of Vermont	
Grants	<u>40,746,633</u>
Total	40,746,633
Source of funds	
General fund	36,740,477
Global Commitment fund	<u>4,006,156</u>
Total	40,746,633
Sec. B.601 Vermont Public Television	
Grants	<u>547,683</u>
Total	547,683
Source of funds	
General fund	<u>547,683</u>
Total	547,683
Sec. B.602 Vermont state colleges	
Grants	<u>23,107,247</u>
Total	23,107,247
Source of funds	
General fund	<u>23,107,247</u>
Total	23,107,247

 Sec. B.603 Vermont state colleges - allied health

Grants	<u>1,116,503</u>
Total	1,116,503
Source of funds	
General fund	711,096
Global Commitment fund	<u>405,407</u>
Total	1,116,503

Sec. B.604 Vermont interactive television

Grants	<u>785,679</u>
Total	785,679
Source of funds	
General fund	<u>785,679</u>
Total	785,679

Sec. B.605 Vermont student assistance corporation

Grants	<u>18,363,607</u>
Total	18,363,607
Source of funds	
General fund	<u>18,363,607</u>
Total	18,363,607

Sec. B.606 New England higher education compact

Grants	<u>84,000</u>
Total	84,000
Source of funds	
General fund	<u>84,000</u>
Total	84,000

Sec. B.607 University of Vermont - Morgan Horse Farm

Grants	<u>1</u>
Total	1
Source of funds	
General fund	<u>1</u>
Total	1

Sec. B.608 Total higher education

Source of funds	
General fund	80,339,790
Global Commitment fund	<u>4,411,563</u>
Total	84,751,353

Sec. B.700 Natural resources - agency of natural resources - administration	
Personal services	3,496,740
Operating expenses	1,107,048
Grants	<u>70,510</u>
Total	4,674,298
Source of funds	
General fund	4,269,265
Special funds	17,797
Federal funds	174,332
Interdepartmental transfers	<u>212,904</u>
Total	4,674,298
Sec. B.701 Natural resources - state land local property tax assessment	
Operating expenses	<u>2,128,733</u>
Total	2,128,733
Source of funds	
General fund	1,707,233
Interdepartmental transfers	<u>421,500</u>
Total	2,128,733
Sec. B.702 Fish and wildlife - support and field services	
Personal services	12,803,506
Operating expenses	4,897,176
Grants	<u>904,333</u>
Total	18,605,015
Source of funds	
General fund	1,157,253
Fish and wildlife fund	17,113,525
Interdepartmental transfers	<u>334,237</u>
Total	18,605,015
Sec. B.703 Forests, parks and recreation - administration	
Personal services	918,024
Operating expenses	621,179
Grants	<u>1,815,491</u>
Total	3,354,694
Source of funds	
ARRA funds	50,000
General fund	1,033,816
Special funds	1,307,878
Federal funds	<u>963,000</u>
Total	3,354,694

 Sec. B.704 Forests, parks and recreation - forestry

Personal services	4,511,199
Operating expenses	531,567
Grants	<u>501,000</u>
Total	5,543,766

Source of funds

ARRA funds	252,750
General fund	3,221,738
Special funds	679,372
Federal funds	1,259,906
Interdepartmental transfers	<u>130,000</u>
Total	5,543,766

Sec. B.705 Forests, parks and recreation - state parks

Personal services	5,503,357
Operating expenses	<u>1,984,815</u>
Total	7,488,172

Source of funds

ARRA funds	70,000
General fund	532,197
Special funds	6,751,451
Interdepartmental transfers	<u>134,524</u>
Total	7,488,172

Sec. B.706 Forests, parks and recreation - lands administration

Personal services	450,413
Operating expenses	<u>1,209,166</u>
Total	1,659,579

Source of funds

General fund	385,374
Special funds	179,205
Federal funds	1,050,000
Interdepartmental transfers	<u>45,000</u>
Total	1,659,579

Sec. B.707 Forests, parks and recreation - youth conservation corps

Grants	<u>670,541</u>
Total	670,541

Source of funds

General fund	42,320
Special funds	284,221
Federal funds	94,000

Interdepartmental transfers	<u>250,000</u>
Total	670,541
Sec. B.708 Forests, parks and recreation - forest highway maintenance	
Personal services	20,000
Operating expenses	<u>134,925</u>
Total	154,925
Source of funds	
General fund	<u>154,925</u>
Total	154,925
Sec. B.709 Environmental conservation - management and support services	
Personal services	3,745,984
Operating expenses	1,119,601
Grants	<u>100,000</u>
Total	4,965,585
Source of funds	
General fund	691,248
Special funds	2,366,427
Federal funds	1,397,800
Interdepartmental transfers	<u>510,110</u>
Total	4,965,585
Sec. B.710 Environmental conservation - air and waste management	
Personal services	7,715,537
Operating expenses	6,426,547
Grants	<u>1,756,800</u>
Total	15,898,884
Source of funds	
ARRA funds	540,966
General fund	560,448
Special funds	10,909,314
Federal funds	3,583,156
Interdepartmental transfers	<u>305,000</u>
Total	15,898,884
Sec. B.711 Environmental conservation - office of water programs	
Personal services	13,400,525
Operating expenses	1,967,669
Grants	<u>2,246,681</u>
Total	17,614,875
Source of funds	
ARRA funds	553,471

General fund	5,708,472
Special funds	4,705,975
Federal funds	6,136,957
Interdepartmental transfers	<u>510,000</u>
Total	17,614,875
Sec. B.712 Environmental conservation - tax-loss-Connecticut river flood control	
Operating expenses	<u>34,700</u>
Total	34,700
Source of funds	
General fund	3,470
Special funds	<u>31,230</u>
Total	34,700
Sec. B.713 Natural resources board	
Personal services	2,375,663
Operating expenses	<u>356,939</u>
Total	2,732,602
Source of funds	
General fund	766,716
Special funds	<u>1,965,886</u>
Total	2,732,602
Sec. B.714 Total natural resources	
	85,526,369
Source of funds	
General fund	20,234,475
Fish and wildlife fund	17,113,525
Special funds	29,198,756
Federal funds	14,659,151
ARRA funds	1,467,187
Interdepartmental transfers	<u>2,853,275</u>
Total	85,526,369
Sec. B.800 Commerce and community development - agency of commerce and community development - administration	
Personal services	1,925,799
Operating expenses	1,078,886
Grants	<u>1,486,390</u>
Total	4,491,075
Source of funds	
ARRA funds	350,000
General fund	2,726,075

Federal funds	800,000
Interdepartmental transfers	<u>615,000</u>
Total	4,491,075
Sec. B.801 Economic, housing, and community development	
Personal services	4,364,330
Operating expenses	1,360,756
Grants	<u>18,162,346</u>
Total	23,887,432
Source of funds	
ARRA funds	90,195
General fund	6,108,660
Special funds	4,131,257
Federal funds	<u>13,557,320</u>
Total	23,887,432
Sec. B.802 Historic sites - special improvements	
Personal services	40,000
Operating expenses	<u>40,670</u>
Total	80,670
Source of funds	
Special funds	20,000
Federal funds	40,000
Interdepartmental transfers	<u>20,670</u>
Total	80,670
Sec. B.803 Community development block grants	
Grants	<u>8,535,530</u>
Total	8,535,530
Source of funds	
ARRA funds	1,089,000
Federal funds	<u>7,446,530</u>
Total	8,535,530
Sec. B.804 Downtown transportation and capital improvement fund	
Personal services	79,326
Grants	<u>320,674</u>
Total	400,000
Source of funds	
Special funds	<u>400,000</u>
Total	400,000

Sec. B.805 Tourism and marketing

Personal services	1,503,826
Operating expenses	1,651,984
Grants	<u>130,000</u>
Total	3,285,810

Source of funds

General fund	3,279,810
Special funds	<u>6,000</u>
Total	3,285,810

Sec. B.806 Vermont life

Personal services	723,536
Operating expenses	<u>89,881</u>
Total	813,417

Source of funds

Enterprise funds	<u>813,417</u>
Total	813,417

Sec. B.807 Vermont council on the arts

Grants	<u>507,607</u>
Total	507,607

Source of funds

General fund	<u>507,607</u>
Total	507,607

Sec. B.808 Vermont symphony orchestra

Grants	<u>113,821</u>
Total	113,821

Source of funds

General fund	<u>113,821</u>
Total	113,821

Sec. B.809 Vermont historical society

Grants	<u>795,669</u>
Total	795,669

Source of funds

General fund	<u>795,669</u>
Total	795,669

Sec. B.810 Vermont housing and conservation board

Grants	<u>23,789,348</u>
Total	23,789,348

Source of funds	
Special funds	6,606,662
Federal funds	<u>17,182,686</u>
Total	23,789,348
Sec. B.811 Vermont humanities council	
Grants	<u>172,670</u>
Total	172,670
Source of funds	
General fund	<u>172,670</u>
Total	172,670
Sec. B.812 Total commerce and community development	66,873,049
Source of funds	
General fund	13,704,312
Special funds	11,163,919
Federal funds	39,026,536
ARRA funds	1,529,195
Enterprise funds	813,417
Interdepartmental transfers	<u>635,670</u>
Total	66,873,049
Sec. B.900 Transportation - finance and administration	
Personal services	9,737,904
Operating expenses	2,720,073
Grants	<u>385,000</u>
Total	12,842,977
Source of funds	
Transportation fund	11,883,975
Federal funds	<u>959,002</u>
Total	12,842,977
Sec. B.901 Transportation - aviation	
Personal services	2,643,444
Operating expenses	20,173,198
Grants	<u>160,000</u>
Total	22,976,642
Source of funds	
ARRA funds	3,500,000
Transportation fund	3,035,642
Federal funds	<u>16,441,000</u>
Total	22,976,642

 Sec. B.902 Transportation - buildings

Operating expenses	<u>2,467,500</u>
Total	2,467,500
Source of funds	
TIB fund	190,000
Transportation fund	1,517,500
Federal funds	<u>760,000</u>
Total	2,467,500

Sec. B.903 Transportation - program development

Personal services	36,339,478
Operating expenses	220,453,550
Grants	<u>26,819,421</u>
Total	283,612,449
Source of funds	
ARRA funds	45,034,600
TIB fund	14,856,273
Transportation fund	18,937,922
Local match	1,434,254
Federal funds	199,707,420
Interdepartmental transfers	<u>3,641,980</u>
Total	283,612,449

Sec. B.904 Transportation - rest areas

Personal services	270,000
Operating expenses	<u>4,550,000</u>
Total	4,820,000
Source of funds	
TIB fund	283,800
Transportation fund	405,144
Federal funds	<u>4,131,056</u>
Total	4,820,000

Sec. B.905 Transportation - maintenance state system

Personal services	34,530,658
Operating expenses	32,821,229
Grants	<u>30,000</u>
Total	67,381,887
Source of funds	
Transportation fund	65,552,943
Federal funds	1,728,944

Interdepartmental transfers	<u>100,000</u>
Total	67,381,887
Sec. B.906 Transportation - planning, outreach and community affairs	
Personal services	3,080,461
Operating expenses	1,350,317
Grants	<u>4,969,488</u>
Total	9,400,266
Source of funds	
Transportation fund	1,986,265
Federal funds	7,166,001
Interdepartmental transfers	<u>248,000</u>
Total	9,400,266
Sec. B.907 Transportation - rail	
Personal services	3,344,027
Operating expenses	<u>48,385,856</u>
Total	51,729,883
Source of funds	
ARRA funds	26,231,846
TIB fund	1,609,000
Transportation fund	10,026,291
Local match	250,000
Federal funds	<u>13,612,746</u>
Total	51,729,883
Sec. B.908 Transportation - public transit	
Personal services	707,567
Operating expenses	168,602
Grants	<u>23,863,535</u>
Total	24,739,704
Source of funds	
ARRA funds	2,000,000
Transportation fund	6,842,927
Federal funds	<u>15,896,777</u>
Total	24,739,704
Sec. B.909 Transportation - central garage	
Personal services	3,347,147
Operating expenses	<u>14,130,716</u>
Total	17,477,863
Source of funds	

Internal service funds	<u>17,477,863</u>
Total	17,477,863
Sec. B.910 Department of motor vehicles	
Personal services	15,786,441
Operating expenses	8,303,553
Grants	<u>136,476</u>
Total	24,226,470
Source of funds	
Transportation fund	23,022,730
Federal funds	<u>1,203,740</u>
Total	24,226,470
Sec. B.911 Transportation - town highway structures	
Grants	<u>5,833,500</u>
Total	5,833,500
Source of funds	
Transportation fund	<u>5,833,500</u>
Total	5,833,500
Sec. B.912 Transportation - town highway Vermont local roads	
Grants	<u>390,000</u>
Total	390,000
Source of funds	
Transportation fund	235,000
Federal funds	<u>155,000</u>
Total	390,000
Sec. B.913 Transportation - town highway class 2 roadway	
Grants	<u>7,248,750</u>
Total	7,248,750
Source of funds	
Transportation fund	<u>7,248,750</u>
Total	7,248,750
Sec. B.914 Transportation - town highway bridges	
Personal services	3,600,000
Operating expenses	<u>15,489,340</u>
Total	19,089,340
Source of funds	
ARRA funds	3,990,070
TIB fund	1,616,014
Transportation fund	658,224

Local match	766,631
Federal funds	<u>12,058,401</u>
Total	19,089,340
Sec. B.915 Transportation - town highway aid program	
Grants	<u>24,982,744</u>
Total	24,982,744
Source of funds	
Transportation fund	<u>24,982,744</u>
Total	24,982,744
Sec. B.916 Transportation - town highway class 1 supplemental grants	
Grants	<u>128,750</u>
Total	128,750
Source of funds	
Transportation fund	<u>128,750</u>
Total	128,750
Sec. B.917 Transportation - town highway emergency fund	
Grants	<u>750,000</u>
Total	750,000
Source of funds	
Transportation fund	<u>750,000</u>
Total	750,000
Sec. B.918 Transportation - municipal mitigation grant program	
Grants	<u>2,112,998</u>
Total	2,112,998
Source of funds	
Transportation fund	247,998
Federal funds	<u>1,865,000</u>
Total	2,112,998
Sec. B.919 Transportation - public assistance grant program	
Grants	<u>200,000</u>
Total	200,000
Source of funds	
Federal funds	<u>200,000</u>
Total	200,000
Sec. B.920 Transportation board	
Personal services	75,633
Operating expenses	<u>10,911</u>

Total	86,544
Source of funds	
Transportation fund	<u>86,544</u>
Total	86,544
Sec. B.921 Total transportation	582,498,267
Source of funds	
Transportation fund	183,382,849
TIB fund	18,555,087
Local match	2,450,885
Federal funds	275,885,087
ARRA funds	80,756,516
Internal service funds	17,477,863
Interdepartmental transfers	<u>3,989,980</u>
Total	582,498,267
Sec. B.1000 Debt service	
Debt service	<u>71,576,314</u>
Total	71,576,314
Source of funds	
ARRA funds	667,565
TIB fund	600,000
General fund	65,804,622
Transportation fund	3,477,902
Special funds	<u>1,026,225</u>
Total	71,576,314
Sec. B.1001 Total debt service	71,576,314
Source of funds	
General fund	65,804,622
Transportation fund	3,477,902
TIB fund	600,000
Special funds	1,026,225
ARRA funds	<u>667,565</u>
Total	71,576,314

Sec. B.1100 FISCAL YEAR 2011 NEXT GENERATION APPROPRIATION
AND TRANSFERS

(a) In fiscal year 2011, \$4,793,000 is appropriated or transferred from the next generation initiative fund, created in 16 V.S.A. § 2887, as prescribed below:

(1) Workforce development: \$1,948,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of \$1,300,500 is transferred to the Vermont workforce education and training fund and subsequently appropriated to the department of labor for workforce development. Up to seven percent of the funds may be used for administration of the program.

(B) Adult Technical Education Programs. The amount of \$410,500 is appropriated to the department of labor working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults. Centers receiving funding shall provide to the department the Social Security number of each individual who has completed a training program within 30 days of the completion of the program. The department shall include the Adult Education Program in the table required by Sec. 6(b) of No. 46 of the Acts of 2007 as added by Sec. 8 of No. 54 of the Acts of 2009.

(C) UVM Technology Transfer Program. The amount of \$118,750 is appropriated to the University of Vermont. This appropriation is for patent development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(D) Vermont center for emerging technologies. The amount of \$118,750 is appropriated to the agency of commerce and community development for a grant to the Vermont center for emerging technologies to enhance development of high technology businesses and next generation employment opportunities throughout Vermont.

(2) Loan repayment: The sum of \$300,000 is appropriated to the agency of human services Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health-care-related education or training owed by persons living and working in Vermont in the health care field.

(3) Scholarships and grants: \$2,544,500 as follows:

(A) Nondegree VSAC Grants. The amount of \$494,500 is appropriated to the Vermont Student Assistance Corporation. These funds shall be for the purpose of providing nondegree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, including adult technical education that is not part of a degree or accredited certificate program. A portion of these funds shall be used for grants for indirect educational expenses

to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of these funds shall be used for administrative overhead.

(B) The sum of \$150,000 is appropriated to the Vermont Student Assistance Corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856.

(C) Scholarships. The sum of \$1,500,000 is appropriated to the University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation for need-based scholarships to Vermont residents. These funds shall be divided equally among the University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation. The Vermont Student Assistance Corporation shall reserve these funds for students attending institutions other than the University of Vermont or the Vermont State Colleges. None of these funds shall be used for administrative overhead.

(D) Dual Enrollment Programs. The sum of \$400,000 is appropriated to the Vermont State Colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institution are better academically or geographically suited to student need.

Sec. B.1101 FISCAL YEAR 2011 BASE REDUCTIONS

(a) In fiscal year 2011, the secretary of administration is authorized to reduce the following amounts from appropriations and shall provide a report to the joint fiscal committee by November 15, 2010 on these reductions:

(1) Labor contract savings due to negotiated contract. The secretary of administration is authorized to reduce fiscal year 2011 appropriations consistent with these contract savings:

<u>General fund</u>	<u>\$5,548,030</u>
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(2) Adjustment to state employees' retirement.

<u>General fund</u>	<u>\$1,768,800</u>
<u>Transportation fund</u>	<u>\$686,400</u>

(b) In fiscal year 2011, the secretary of administration is authorized to reduce the following amounts from appropriations for savings associated with the consolidation of servers and other information technology changes.

<u>General fund</u>	<u>\$1,636,574</u>
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Sec. B.1102 FISCAL YEAR 2011 CONTRACT IMPLEMENTATION

(a) There is appropriated to the secretary of administration for contract nonsalary items, to be transferred to departments as the secretary may determine to be necessary:

	<u>General fund</u>	<u>\$556,500</u>
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Sec. B.1103 FISCAL YEAR 2011 ONE-TIME APPROPRIATIONS

(a) In fiscal year 2011, the following amounts are appropriated:

(1) To the secretary of administration for the 27th payday in fiscal year 2011, to be transferred to departments as the secretary may determine to be necessary:

	<u>General fund</u>	<u>\$9,485,885</u>
	<u>Transportation fund</u>	<u>\$2,288,340</u>

(2) To the department of finance and management, for the governor's transition. These funds are for costs incurred by the transitions of the executive office. No funds shall be used for inaugural celebrations. Any unexpended portion of these funds shall revert to the general fund:

	<u>General fund</u>	<u>\$75,000</u>
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(3) To the secretary of state for the 2010 elections:

	<u>General fund</u>	<u>\$610,000</u>
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(4) To the agency of commerce and community development for communities to utilize the sales tax reallocation in fiscal year 2011 pursuant to Sec. 54 of H.783 of 2010:

	<u>General fund</u>	<u>\$600,000</u>
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(5) To the department of environmental conservation for transition of the geological survey program to the University of Vermont:

	<u>General fund</u>	<u>\$125,000</u>
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(6) To the military department, division of veterans' affairs for Supplemental Assistance to Survivors (DeptID 2150890501) to be used in accordance with the guidelines as set forth in Sec. 72b of No. 66 of the Acts of 2003, as amended by Sec. 16 of No. 80 and Sec. 72 of No. 122 of the Acts of the 2003 Adj. Sess. (2004):

	<u>General fund</u>	<u>\$30,000</u>
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(7) To the department of finance and management for ARRA audits:

	<u>General fund</u>	<u>\$351,000</u>
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(8) To the University of Vermont: General fund \$2,587,646

(9) To the Vermont State Colleges: General fund \$1,722,837

(10) To the Vermont Student Assistance Corporation:

	<u>General fund</u>	<u>\$1,244,995</u>
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(11) To the department of health to be allocated by the tobacco evaluation and review board:

General fund \$1,200,000

(12) To the department of tourism and marketing for a grant to the Shires of Vermont:

General fund \$20,000

(13) To the department of mental health for a grant to the Howard center for mental health services provided to Vermont National Guard personnel and their families:

General fund \$100,000

(14) To the secretary of state for initial costs associated with reapportionment; it is anticipated that in fiscal year 2012 additional costs will be incurred:

General fund \$30,000

(15) To the department of Vermont health access for a grant to Porter Hospital for costs incurred related to closure of the Crown Point Lake Champlain Bridge:

General fund \$40,000

(16) To the agency of commerce and community development for a grant to the Bennington County industrial corporation for expansion of the composites industry cluster:

General fund \$25,000

(b) In fiscal year 2011, the following amount is appropriated to the secretary of administration (DeptID 1100020000) from the American Recovery and Reinvestment Act: State Fiscal Stabilization Fund to be transferred and expended in Sec. B.505 – adjusted education payment:

\$38,575,036

Sec. C.100 Sec. B.309 of No. 1 of the Acts of the 2009 Special Session as amended by Sec. 21 of No. 67 of the Acts of the 2009 Adj. Sess. (2010) is further amended to read:

Sec. B.309 Office of Vermont health access - Medicaid program - state only

Grants	<u>34,701,782</u>	<u>24,801,782</u>
Total	<u>34,701,782</u>	<u>24,801,782</u>
Source of funds		
General fund	<u>26,015,203</u>	<u>16,115,203</u>
Global Commitment fund	<u>1,550,377</u>	<u>1,550,377</u>
Catamount fund	<u>7,136,202</u>	<u>7,136,202</u>
Total	<u>34,701,782</u>	<u>24,801,782</u>

Sec. C.100.1 Sec. B.345 of No. 1 of the Acts of the 2009 Special Session as amended by Sec. 40 of No. 67 of the Acts of the 2009 Adj. Sess. (2010) is further amended to read:

Sec. B.345 Total human services	2,882,737,164	2,872,837,164
Source of funds		
ARRA funds	167,300,631	167,300,631
General fund	454,794,342	444,894,342
Special funds	62,339,324	62,339,324
Tobacco fund	40,173,740	40,173,740
Global Commitment fund	967,449,491	967,449,491
State health care resources fund	154,368,435	154,368,435
Catamount fund	27,895,990	27,895,990
Federal funds	988,751,818	988,751,818
Permanent trust funds	10,000	10,000
Internal service funds	1,709,076	1,709,076
Interdepartmental transfers	<u>17,944,317</u>	<u>17,944,317</u>
Total	2,882,737,164	2,872,837,164

Sec. C.100.2 CHITTENDEN COUNTY COMMUNITY COORDINATOR

(a) The \$100,000 of funds allocated in fiscal year 2010 in the department of corrections justice reinvestment for recovery center expansion but remaining unexpended as of May 12, 2010, shall be used to provide a grant for a community coordinator initiative to be developed by the Chittenden County state’s attorney and the Burlington police department in consultation with the judiciary, the department for children and families, and the department of corrections to reduce the number of Vermont youths and young adults who are at risk of incarceration or re-incarceration. The department of corrections shall develop measures to evaluate the success of this grant-funded program. This evaluation shall be submitted with the fiscal year 2012 budget materials to the house and senate committees on appropriations.

Sec. C.101 Sec. 60 of No. 67 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 60. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2010:

(1) The following amounts shall be transferred to the general fund from the funds indicated:

21405	Fidelity/interest earnings	51,797	Approx.
21500	Inter-Unit Transfer (Bus Unit #01150) - Buildings and General Services	186,135	
21500	Inter-Unit Transfers Spec Fd (Bus Unit #01120) - Human Resources	23,020	

21525	Conference Fee Special Fund (Bus Unit #05100) - Education	3,000
21584	Surplus Property (Bus Unit #1130) - Libraries	2,237
21584	Surplus Property (Bus Unit #04100) - Labor	741
21585	Pers-Human Resources Development	13,282
21638	Attny Gen Fees - Reimbursements	1,500,000 Approx.
21844	PERS - Recruitment Services	12,506
21904	Wallace Foundation - SAELP	1,406
21991	Clean Energy Development Fund (VEDA - Food & Fuel)	150,000
21991	Clean Energy Development Fund	143,672
<u>21500</u>	<u>Inter-unit Transfers Special Fund (Bus Unit # 01110) - Finance and Management</u>	<u>293,672</u>
22005	AHS Central Office earned federal receipts	1,500,000
50300	Liquor Control	836,516
62100	Abandoned property	1,993,024 Approx.
	Caledonia Fair	5,000
	North Country Hospital Loan	24,250

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Sec. C.102 FISCAL YEAR 2010 CONTINGENT RESERVES, TRANSFERS, AND APPROPRIATIONS

(a) Notwithstanding 32 V.S.A. §308c and 32 V.S.A. §308d, after the general fund budget stabilization reserve attains its statutory maximum, up to \$15,110,000 of any additional unreserved and undesignated general fund balance shall be retained in the general fund for expenditure during fiscal year 2011 consistent with the enacted budget. The amount of \$15,110,000 shall be adjusted by any expenditure of general funds authorized in subsection (d) of Sec. 9 of No. 68 of the Acts of the 2009 Adj. Sess. (2010) and any funds expended under Sec. 9(d) of No. 68 of the Acts of the 2009 Adj. Sess. (2010) shall not be included for the purposes of 32 V.S.A. §308.

(b) Notwithstanding 32 V.S.A. § 308d, after satisfying subsection (a) of this section, any additional unreserved and undesignated general fund balance shall be reserved in accordance with 32 V.S.A. § 308c. Of the funds reserved in accordance with 32 V.S.A. § 308c:

(1) To the extent that said funds are reserved, up to \$6,890,000 shall be unreserved and a like amount of funds which would otherwise be deposited

into the general fund in accordance with Sec. D.104 of this act shall not be deposited into the general fund but shall be deposited into the education fund.

(2) If the provisions of Sec. D.106(a) of this act result in the preclusion of the provisions of Sec.D.106(c)(2)(B) of this act, then in fiscal year 2011 the next \$6,400,000 shall be unreserved and appropriated for expenditure as follows:

(A) \$3,000,000 to implement the computer server and e-mail consolidation project;

(B) \$3,000,000 for the financial and human resource system development project; and

(C) \$400,000 for a case management system in the department of the attorney general.

(c) After satisfying subsections (a) and (b) of this section, any additional unreserved and undesignated general fund balance shall be reserved in accordance with 32 V.S.A. § 308d.

Sec. C.103 RADIO TRANSMITTER REPLACEMENT

(a) The appropriation in Sec. B.214 of No. 1 of the Acts of the 2009 Special Session for Public Safety – emergency management – radiological emergency response fund shall be used to pay for 50 percent of transmitter replacement at WTSA, which has a contract with the public safety department for the emergency alert system in the emergency planning zone around Vermont Yankee.

Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of \$233,000 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$233,000 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of \$6,101,662 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 \$6,101,662 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of \$3,449,427 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above \$3,449,427 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The \$3,449,427 shall be allocated as follows:

(A) \$2,632,027 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) \$408,700 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) \$408,700 to the Vermont center for geographic information.

Sec. D.101 FUND TRANSFERS AND RESERVES

(a) The following amounts are transferred or reserved from the funds indicated:

(1) from the general fund to the:

(A) communications and information technology internal service fund established by 22 V.S.A. § 902a: \$300,000.

(B) next generation initiative fund established by 16 V.S.A. § 2887: \$4,793,000.

(C) reserved for expenditure in fiscal year 2011 in the human services caseload reserve created by 32 V.S.A. § 308b: \$62,264,000.

(2) from the transportation fund to the downtown transportation and related capital improvement fund established by 24 V.S.A. § 2796 to be used by the Vermont downtown development board for the purposes of the fund: \$400,000.

Sec. D.102 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. § 9502(b), the actual balances at the end of fiscal year 2010 in the tobacco litigation settlement fund shall remain for appropriation in fiscal year 2011.

Sec. D.103 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. § 9502(a)(3) and (4), the actual amount of investment earnings of the tobacco trust fund at the end of fiscal year 2011 shall be transferred from the tobacco trust fund to the tobacco litigation settlement fund in fiscal year 2011.

Sec. D.104 EDUCATION MEDICAID RECEIPTS IN FISCAL YEAR 2011

(a) Notwithstanding 16 V.S.A. § 2959a(g), during fiscal year 2011, after the application of subsections 2959a(a) through (f), any remaining Medicaid reimbursement funds shall be deposited in the general fund.

Sec. D.105 GROSS RECEIPTS TAX IN FISCAL YEAR 2011

(a) In fiscal year 2011, notwithstanding 33 V.S.A. § 2503(c), the first \$2,300,000 of gross receipts tax revenue shall be deposited in the general fund.

Sec. D.106 HUMAN SERVICES CASELOAD RESERVE

(a) If the commissioner of finance and management determines that state funding needed to support the Medicaid program including the “Part D Clawback” payment is not adequate as a result of the federal government not extending the ARRA Enhanced Federal Medical Assistance Percentage (EFMAP) to June 30, 2011, then the amount determined to be inadequate by the commissioner shall be appropriated from the human services caseload reserve established in 32 V.S.A. § 308b in fiscal year 2011 and the commissioner shall report such action to the joint fiscal committee.

(b) Of the reserve balance remaining after the requirements of subsection (a) of this section have been met, the secretary of administration in fiscal year 2011 shall authorize the secretary of human services to include up to \$13,500,000 of funds available in the reserve as an available state match when setting the per-member per-month actuarial rates for Medicaid eligibility groups in the Global Commitment program for federal fiscal year 2011 and submitting these rates for approval by the Centers for Medicare and Medicaid Services.

(c) Any balance remaining after the requirements of subsections (a) and (b) of this section have been met shall be allocated to the extent available as follows:

(1) \$10,000,000 is appropriated to the department of buildings and general services for planning and construction of replacement for Vermont State Hospital beds.

(2) \$12,035,000 shall be appropriated to the secretary of administration for use as follows:

(A) In addition to any amount provided as a result of Sec. C.102 (b)(2)(A), up to a total of \$3,000,000 shall be used to implement the computer server and e-mail consolidation and virtualization project. The commissioner of the department of information and innovation is authorized to implement the server consolidation and virtualization plan for state government. All units of the executive branch shall participate in this initiative. Any proposal for the

purchases and implementation of servers shall be approved by the commissioner to ensure that projects are aligned. The commissioner of finance and management is authorized to capture savings of departments related to this project of \$1,636,574 consistent with the authority in Sec. B.1101(b) in fiscal year 2011 and \$2,000,000 in fiscal year 2012. The fiscal year 2012 assessment shall be used to fund the fiscal year 2012 implementation costs of this project.

(B) \$3,635,000 shall be used for expenditures related to the Vermont Integrated Eligibility Workflow System (VIEWS). These funds, in addition to funds appropriated in the capital bill process shall be available to cover fiscal year 2011 and 2012 project expenditures;

(C) In addition to any amount provided as a result of Sec. C.102(b)(2)(B), up to a total of \$5,000,000 shall be used for expenditures related to the VISION Financial and Human Resource System. The commissioner of information and innovation is authorized to enter into a contract for up to \$7,000,000 for full implementation of this project. In fiscal year 2013, the commissioner of finance and management is authorized to assess up to \$2,000,000 to all units of the executive branch for project costs from savings that the project will produce.

(D) In addition to any amount provided as a result of Sec. C.102(b)(2)(C), up to a total of \$400,000 shall be used for expenditures related to the Attorney General's case management system development costs. It is the intent of the general assembly to the extent possible to create a unified multidepartment case management system built on the same system platform. The commissioner of the department of information and innovation with the approval of the secretary of administration is authorized to ensure that all appropriations and investments in new case management software by the executive branch be done in a manner that shall promote a unified case management system. A report on this effort shall be submitted to the house and senate committees on appropriations and on government operations by January 15, 2011.

(3) \$2,000,000 shall be appropriated for investments consistent with Sec. C.35 of H. 792 of 2010 which will result in a reduction in the number of people entering the criminal justice system and decrease the recidivism of those who enter the system; and

(4) \$3,164,500 shall be appropriated to lower long-term expenses within the correctional system consistent with Sec. D.9 of H.792 of 2010.

(5) \$1,000,000 shall be appropriated to the department of Vermont health access to be used to provide payment amounts for outpatient hospital services closer to levels paid by Medicare. The department of Vermont health access shall increase payment rates to hospitals by an amount estimated to

equal a total of \$2,800,000 for outpatient hospital services. The department of Vermont health access shall provide quarterly reports to hospitals indicating the additional amounts paid for outpatient hospital services.

(6) Contingent Appropriations and Transfers:

(A) \$2,100,000 shall be appropriated to the department of Vermont health access to fund a 53rd week of claims in the long-term care program in fiscal year 2011 if funding is not available within the appropriation provided.

(B) In the event that provisions of Sec. C.102(b)(1) do occur, then \$6,890,000 is unreserved and a like amount of funds which would otherwise be deposited into the general fund in accordance with Sec. D.104 of this act shall not be deposited into the general fund but shall be deposited into the education fund.

(C) \$3,000,000 is transferred to the education fund to the extent that it is needed to bring the reserve to 3.5 percent. This transfer shall be repaid to the general fund in fiscal year 2012.

(d) Any remaining funds shall be reserved for expenditure or transfer during the fiscal year 2011 budget adjustment process.

Sec. D.107 AMERICAN RECOVERY AND REINVESTMENT ACT:
STATE FISCAL STABILIZATION FUND PROGRAM FOR THE
SUPPORT OF PUBLIC ELEMENTARY, SECONDARY, AND HIGHER
EDUCATION

(a) The governor is authorized to submit an application as soon as practicable for Vermont's share of the American Recovery and Reinvestment Act (ARRA) State Fiscal Stabilization Fund Program (SFSF) consistent with the intent of the act and this section. The amount of \$38,575,036, which is one-half of Vermont's SFSF funds, is available to school districts as part of the funding of the state's adjusted education payment under Sec. B.505 of this act.

(b) The commissioner of education shall ensure that federal reporting is carried out as to:

(1) the use of funds provided under the SFSF program;

(2) the estimated number of jobs created or saved with program funds;

(3) estimated tax increases that were averted as a result of program funds;

(4) the state's progress in the areas covered by the application assurances; and

(5) maintaining records to ensure the ability to effectively monitor, evaluate, and audit the state fiscal stabilization fund.

* * * GENERAL GOVERNMENT * * *

Sec. E.100 [DELETED]

Sec. E.100.1 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

(a) In addition to the duties expressly set forth elsewhere by law the secretary shall:

* * *

(9) Submit to the general assembly concurrent with the governor's annual budget request required under 32 V.S.A. § 306, a strategic plan for information technology which outlines the significant deviations from the previous year's information technology plan, and which details the plans for information technology activities of state government for the following fiscal year as well as the administration's financing recommendations for these activities. All such plans shall be reviewed and approved by the commissioner of information and innovation prior to being included in the governor's annual budget request. The plan shall identify the proposed sources of funds for each project identified. The plan shall also contain a review of the state's information technology and an identification of priority projects by agency. The plan shall include, for any proposed ~~new computer system or system upgrade~~ information technology activity with a cost in excess of ~~\$150,000.00~~ \$100,000.00:

* * *

(E) a statewide budget for all information technology activities with a cost in excess of \$100,000.

(10) The secretary shall annually submit to the general assembly a five-year information technology plan which indicates the anticipated information technology activities of the legislative, executive, and judicial branches of state government. For purposes of this ~~subdivision~~ section, "information technology activities" shall mean:

* * *

Sec. E.100.2 22 V.S.A. § 901 is amended to read:

§ 901. ~~Creation of department~~ DEPARTMENT OF INFORMATION AND INNOVATION

~~There is created the~~ The department of information and innovation ~~within the agency of administration. The department~~ , created in 3 V.S.A. Sec. 2283b, shall have all the responsibilities assigned to it by law, including the following:

* * *

(5) to review and approve computer systems or computer system upgrades in all departments with a cost in excess of ~~\$150,000.00~~ \$100,000.00, and annually submit to the general assembly a strategic plan for information technology as required of the secretary of administration by subdivision 2222(a)(9) of Title 3;

(6) to review and approve information technology activities in all departments with a cost in excess of \$100,000.00, and annually submit to the general assembly a budget for information technology as required of the secretary of administration by subdivision 2222(a)(9) of Title 3. For purposes of this section, "information technology activities" is defined in 3 V.S.A. § 2222(a)(10);

(7) to administer the independent review responsibilities of the secretary of administration described in subsection 2222(g) of Title 3;

~~(7)~~(8) to perform the responsibilities of the secretary of administration under section 227b of Title 30;

~~(8)~~(9) to administer communication, information, and technology services, which are transferred from the department of buildings and general services;

~~(9)~~(10) to inventory technology assets within state government;

~~(10)~~(11) to coordinate information technology training within state government;

~~(11)~~(12) to support the statewide development of broadband telecommunications infrastructure and services, in a manner consistent with the telecommunications plan prepared pursuant to 30 V.S.A. § 202d and community development objectives established by the agency of commerce and community development, by:

* * *

~~(12)~~(13) to provide technical support and services to the departments of human resources and of finance and management for the statewide central accounting and encumbrance system, the statewide budget development system, the statewide human resources management system, and other agency of administration systems as may be assigned by the secretary.

Sec E.100.3 INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDS

(a) In order for state government operations to be effective and efficient, timely and reasonable replacement and upgrading of information technology systems is appropriate and necessary. Therefore the secretary of

administration, working in collaboration with the state treasurer, shall study long term options for financing information technology infrastructure needs. The study shall include:

(1) A comprehensive review of the budget projections for information technology activities of more than \$100,000 for all departments as presented in the five-year information technology plan written pursuant to 3 V.S.A. § 2222(a)(10) or through other methods of data collection the secretary may deem appropriate in order to conduct the study.

(2) Specific strategies to pay for information technology investments that consider maximization of all available funding sources, including match opportunities. Options to be examined include:

(A) Reviewing how other states fund information technology projects.

(B) Reinvesting the savings that are a result of information technology projects

(C) Creating and capitalizing a revolving loan fund for information technology infrastructure needs. This fund would be used for buying or leasing information technology infrastructure and contain repayment protocols, where possible, for agencies and departments. Examination of this concept shall include capitalization funding options from the general fund, capital funds, or other funds including examination of the option of using: two-thirds of one percent of the prior year appropriations from the general fund, the transportation fund, and, as determined by the commissioner of finance and management, up to two-thirds of one percent of the prior year appropriations from special funds. Special fund participation should relate to past, present, or future information system investments.

(D) Dedicating ongoing funding from annual funds or capital funds, or both.

(E) Establishing special agency funds supported by agency revenues such as fees.

(F) Authorizing occasional increases in the debt limit to accommodate specific projects.

(G) Other options.

(b) On or before December 1, 2010, the secretary shall submit a report to the house and senate committees on appropriations, the house committee on institutions and corrections, and the senate committee on institutions presenting the various options and recommendations for setting up and funding these needs.

Sec. E.100.4 IN CASE OF FISCAL YEAR 2011 PROPOSAL TO REDUCE STATE WORK FORCE BY MORE THAN ONE PERCENT

(a) Due to the current and continuing fiscal stress that will impact the Vermont fiscal year 2011 state budget and the unique interplay between the underlying state budget and the Challenges for Change reductions which have been delegated to the administration, it may become necessary to take further significant measures to achieve savings in order to ensure a balanced budget in the general fund. If, after all savings required by the 2010 Challenges for Change legislation in Act 68 and H. 792 as enacted have been identified by the secretary of administration, the secretary of administration determines that in order to ensure a balanced fiscal year 2011 budget it is also necessary, when the general assembly is not in session, to eliminate by reduction in force or positions identified for elimination or both more than one percent of the entire state workforce in fiscal year 2011, with the one percent measured cumulatively from July 1, 2010, the secretary shall first submit a plan which complies with the standards outlined in subdivisions (1) through (6) of this section to the joint fiscal committee for its consideration. For the purposes of this section, "entire state workforce" means all full-time, permanent, classified, and exempt state employees.

(1) The plan shall outline the proportional impacts on exempt employees, classified confidential employees, and all other employee classifications and shall not have an unduly disproportionate impact on any employee classification;

(2) The plan shall not have an unduly disproportionate effect on any single function, program, service, or benefit;

(3) The plan shall describe how it will minimize any negative impacts on delivery of services to the public, on public health, and on public safety;

(4) The plan shall describe how it will minimize cost impacts on other departments, agencies, or areas of government;

(5) The plan shall describe all proposed reductions in expenditures authorized by a general appropriations or budget adjustment act; and

(6) The plan shall reflect the priorities established by the general assembly in law.

(b) A plan developed under subsection (a) of this section shall be submitted to the joint fiscal committee and shall not be implemented before 28 days after submission to the joint fiscal committee as set forth under this section. The joint fiscal committee shall meet within 14 days of the date the secretary's plan is filed to review and act upon the plan in accordance with the standards in subsection (a) of this section. If the plan does not meet the standards of

subsection (a) of this section or if all savings required by the 2010 Challenges for Change legislation in Act 68 and H. 792 as enacted have not been identified by the secretary of administration at the time the plan is submitted to the committee, the committee may disapprove the plan and, if disapproved, the plan may not be implemented.

Sec. E.100.5 STATE MONITORING OF INTERNET USE; FINDINGS; AUTHORITY; AGENCIES COVERED; WEB-CONTENT FILTERING COMMITTEE

(a) Findings. The general assembly finds that:

(1) The Personnel Policies and Procedures Manual (PPPM) for the state of Vermont authorizes limited personal use of Internet services. Number 5.6 of the PPPM specifies that “employees shall not use, or attempt to use, state personnel, property, or equipment for their private use or for any use not required for the proper discharge of their official duties.” Pursuant to policy 11.7 of the PPPM, “that policy has been interpreted to allow a limited degree of personal use of state telephones for private call when such use meets certain guidelines,” and similar allowances are permitted for Internet, electronic and wireless communication devices and services, and e-mail capabilities.

(2) Further, the rules for Internet services under Number 11.7 of the PPPM give agencies the right to monitor their systems and the Internet activities of their employees. For example, Rule 10 of Number 11.7 specifies that Internet monitoring “may occur in, but is not limited to, circumstances when there is a reason to suspect that an employee is involved in activities that are prohibited by law, violate state policy or regulations, or jeopardize the integrity and/or performance of the computer systems of the state government.” The rule goes on to further specify that “[m]onitoring may also occur in the normal course of network administration and trouble-shooting, or on a random basis using electronic tools designed to monitor internet usage.”

(b) The general assembly anticipates that Internet and computer monitoring software, such as Marshall 86, shall be administered consistently with stated policies in PPPM Numbers 5.6 and 11.7.

Sec. E.101 Information and innovation - communications and information technology (Sec. B.101, #1105500000)

(a) Of this appropriation, \$300,000 is for a grant to the Vermont telecommunications authority established in 30 V.S.A. § 8061.

Sec. E.103 Finance and management – financial operations (Sec. B.103, #1115001000)

(a) Pursuant to 32 V.S.A. § 307(e), financial management fund charges not to exceed \$6,266,531 plus the costs of fiscal year 2011 salary adjustments

bargained as part of the state/VSEA agreement are hereby approved. Of this amount, \$3,239,764 plus the costs of fiscal year 2011 salary adjustments bargained as part of the state/VSEA agreement shall be used to support the HCM system that is operated by the department of information and innovation.

Sec. E.107 Tax – administration/collection (Sec. B.107, #1140010000)

(a) Pursuant to Sec. 79 of No. 67 of the Acts of the 2009 Adj. Sess. (2010), the timing of hiring and filling the six additional positions in fiscal year 2011 and the five additional positions in fiscal year 2012 designed to augment the department of taxes' compliance efforts shall be determined by the commissioner. However, the commissioner shall ensure that fiscal year 2011 and fiscal year 2012 compliance revenue targets are achieved. These targets, relative to the close of fiscal year 2010, are an increase of \$2,721,276 in revenue in fiscal year 2011 and an increase of \$4,543,506 in fiscal year 2012.

(b) Of this appropriation, \$30,000 is from the current use special fund and shall be appropriated for programming changes to the CAPTAP software used for the valuation of property tax.

(c) Notwithstanding any law or regulation to the contrary, the department is authorized to pay up to \$20.00 an hour for interns to assist with the tax expenditure work required of the department during calendar year 2010.

Sec. E.109 Buildings and general services - engineering (Sec. B.109, #1150300000)

(a) The \$2,465,785 interdepartmental transfer in this appropriation shall be from the general bond fund appropriation in the Capital Appropriations Act of the 2010 session.

Sec. E.114 Buildings and general services – fleet management services (Sec. B.114, #1160150000)

(a) The commissioner of the department of buildings and general services shall submit a report to the house and senate committees on appropriations by January 15th of each year detailing the number of state employees, by department, that exceed a \$14,000 mileage reimbursement amount for use of their private vehicle.

Sec. E.118 Buildings and general services – workers' compensation insurance (Sec. B.118, #1160450000)

(a) Pursuant to 32 V.S.A. § 307(e), workers' compensation fund charges not to exceed \$9,800,000 are hereby approved.

Sec. E.121 Buildings and general services – fee-for-space (Sec. B.121, #1160550000)

(a) Pursuant to 29 V.S.A. § 160a(b)(3), facilities operations fund charges not to exceed \$27,244,521 plus the costs of fiscal year 2011 salary adjustments bargained as part of the state/VSEA agreement are hereby approved.

Sec. E.125 Legislature (Sec. B.125, #1210002000)

(a) It is the intent of the general assembly that funding for the legislature in fiscal year 2012 and beyond be included at a level sufficient to support an 18-week legislative session.

Sec. E.127 Joint Fiscal Committee (Sec. B.127, #1220000000)

(a) Notwithstanding 3 V.S.A. § 2222(g) and the general requirements of the bulletin 3.5 (Contracting Procedures), up to \$149,700 shall be used for the purposes of retaining a consultant on health care information technology. In that the consultant's services are provided in part to executive branch entities, the joint fiscal committee is authorized to negotiate interdepartmental transfers to offset some of the consultant's cost.

Sec. E.127.1 Sec. 5.012.2 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 5.012.2. JOINT FISCAL COMMITTEE – NUCLEAR ENERGY ANALYSIS (Sec. 2.031)

(a) The joint fiscal committee may authorize or retain consultant services to assist the general assembly in any legislative proceeding commenced under or related to 30 V.S.A. § 248(e) or chapter 157 of Title 10.

(b) Consultants retained pursuant to subsection (a) of this section shall work under the direction of a special committee consisting of the chairs of the house and senate committees on natural resources and energy and the joint fiscal committee.

(c) The public service board shall allocate expenses incurred pursuant to subsection (a) of this section to the applicant or the public service company or companies involved in those proceedings and such allocation and expense may be reviewed by the public service board pursuant to 30 V.S.A. § 21.

Sec. E.127.2 32 V.S.A. Sec. 5(a)(2) is amended to read:

(2) The governor's approval shall be final unless within 30 days of receipt of such information a member of the joint fiscal committee requests such grant be placed on the agenda of the joint fiscal committee, or, when the general assembly is in session, be held for legislative approval. In the event of such request, the grant shall not be accepted until approved by the joint fiscal

committee or the legislature. The 30-day period may be reduced where expedited consideration is warranted in accordance with adopted joint fiscal committee policies. During the legislative session the joint fiscal committee shall file a notice with the house and senate clerks for publication in the respective calendars of any grant approval requests that are submitted by the administration.

Sec. E.128 REVERSION; SERGEANT AT ARMS FUNDS

(a) Notwithstanding any other provisions of law, the first \$50,000 of general funds carried forward from fiscal year 2010 in the sergeant at arms appropriation shall revert to the general fund in fiscal year 2011.

Sec. E.131 State treasurer (Sec. B.131, #1260010000)

(a) Of this general fund appropriation, \$16,484 shall be deposited into the armed services scholarship fund established in 16 V.S.A. § 2541.

Sec. E.131.1 [DELETED]

Sec. E.133 Vermont state retirement system (Sec. B.133, #1265020000):

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2011, investment fees shall be paid from the corpus of the fund.

Sec. E.139 16 V.S.A. § 4025(c) is amended to read:

(c) An equalization and reappraisal account is established within the education fund. Moneys from this account are to be used by the division of property valuation and review to assist towns with maintenance or reappraisal on a case-by-case basis; and for reappraisal and grand list maintenance assistance payments pursuant to ~~section 32 V.S.A. §§ 4041a of Title 32 and 5405(f).~~

Sec. E.141 Lottery commission (Sec. B.141, #2310010000)

(a) Of this appropriation, the lottery commission shall transfer \$150,000 to the department of health, office of alcohol and drug abuse programs, to support the gambling addiction program.

(b) The Vermont state lottery shall provide assistance and work with the Vermont council on problem gambling on systems and program development.

Sec. E.142 Payments in lieu of taxes (Sec. B.142, #1140020000)

(a) This appropriation is for state payments in lieu of property taxes under subchapter 4 of chapter 123 of Title 32, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act.

Sec. E.143 Payments in lieu of taxes - Montpelier (Sec. B.143, #1150800000)

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. § 3709.

Sec. E.144 Payments in lieu of taxes – correctional facilities (Sec. B.144, #1140030000)

(a) Payments in lieu of taxes under this section shall be paid from the pilot special fund under 32 V.S.A. § 3709.

* * * PROTECTION TO PERSONS AND PROPERTY * * *

Sec. E.200 Attorney general (Sec. B.200, #2100001000)

(a) Notwithstanding any other provisions of law, the office of the attorney general, Medicaid fraud control unit, is authorized to retain, subject to appropriation, one-half of any civil monetary penalty proceeds from global Medicaid fraud settlements. All penalty funds retained shall be used to finance Medicaid fraud and residential abuse unit activities.

(b) Of the revenue available to the attorney general under 9 V.S.A. § 2458(b)(4), \$510,000 is appropriated in Sec. B.200 of this act.

(c) The establishment of one new exempt position—enforcement attorney—is authorized in fiscal year 2011. This position shall be transferred and converted from existing vacant positions in the executive branch of state government.

(d) The attorney general shall develop measures to evaluate the success of the position carrying out the purpose in subsection (c) of this section. This evaluation shall be submitted with the fiscal year 2012 budget materials to the house and senate committees on appropriations.

Sec. E.201 3 V.S.A. § 163(c)(9) is amended to read:

(9) Each participant shall pay a fee to the local juvenile court diversion project. The amount of the fee shall be determined by project officers based upon the financial capabilities of the participant. The fee shall not exceed \$150.00. The fee shall be a debt due from the participant, and payment of such shall be required for successful completion of the program. ~~Fees~~ Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall be ~~paid to the court diversion fund and shall be~~ retained and used solely for the purpose of the court diversion program.

Sec. E.201.1 3 V.S.A. § 164(c)(9) is amended to read:

(9) Each participant shall pay a fee to the local adult court diversion project. The amount of the fee shall be determined by project officers or employees based upon the financial capabilities of the participant. The fee

shall not exceed \$300.00. The fee shall be a debt due from the participant, and payment of such shall be required for successful completion of the program. ~~Fees— Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall be paid to the court diversion fund and shall be retained and used solely for the purposes of the court diversion program.~~

Sec. E.201.2 3 V.S.A. § 166 is amended to read:

§ 166. COURT DIVERSION FUND

The court diversion fund is hereby established in the state treasury. All fees and assessments of the juvenile and adult court diversion programs shall be ~~deposited~~ recorded in the fund. ~~Interest earned on the fund and any remaining balance shall be retained in the fund for the purposes of this subchapter.~~ Annually Quarterly, the director of each court diversion program shall report to the attorney general in a manner as prescribed by the attorney general's office on all fees paid under sections 163 and 164 of this title. An independent audit that includes all state funding sources shall be required biennially.

Sec. E.204 Judiciary (Sec. B.204, #2120000000)

(a) For compensation paid from July 1, 2010 to June 30, 2011, the supreme court is authorized to reduce by up to five percent salaries established by statute that are paid by the judicial department appropriation and to reduce by up to five percent the hourly rates of nonbargaining unit employees.

(b) The chief justice is authorized to apply provisions of the judiciary collective bargaining unit to exempt permanent state employees of the judicial branch who are not judicial officers.

Sec. E.205 24 V.S.A. § 362 is amended to read:

§ 362. FULL-TIME STATE'S ATTORNEYS; PRIVATE LAW PRACTICE

~~State's Elected state's attorneys and all full-time deputy state's attorneys shall devote full time to their duties and during their terms shall not engage in the private practice of law nor be a partner or associate of any person practicing law. However, a full-time state's attorney or full-time deputy state's attorney may render legal assistance to a municipality or a municipal planning agency provided a fee is not charged.~~ The state's attorneys of Essex and Grand Isle counties shall not serve on a full-time basis and shall not be subject to this section.

Sec. E.206 24 V.S.A. § 1940(c) is amended to read:

(c) A specialized investigative unit grants board is created which shall be comprised of the attorney general, the secretary of administration, the executive director of the department of state's attorneys, the commissioner of

the department of public safety, a representative of the Vermont sheriffs' association, a representative of the Vermont association of chiefs of police, the executive director of the center for crime victim services, and the executive director of the Vermont League of Cities and Towns, Inc. Specialized investigative units organized and operating under this section for the investigation of sex crimes, child abuse, elder abuse, domestic violence, or crimes against those with physical or developmental disabilities may apply to the board for a grant or grants covering the costs of salaries and employee benefits to be expended during a given year for the performance of unit duties as well as unit operating costs for rent, utilities, equipment, training, and supplies. Grants under this section shall be approved by a majority of the entire board and shall not exceed 50 percent of the yearly salary and employee benefit costs of the unit. Preference shall be given to grant applications which include the participation of the department of public safety, the department for children and families, sheriffs' departments, community victims' advocacy organizations, and municipalities within the region. However, a sheriff's department in a county with a population of less than 8,000 residents shall upon application receive a grant of up to \$20,000.00 for 50 percent of the yearly salary and employee benefits costs of a part-time specialized investigative unit investigator which shall be paid to the department as time is billed on a per hour rate as agreed by contract up to the maximum amount of the grant.

Sec. E.207 Sheriffs (Sec. B.207, #2130200000)

(a) In fiscal year 2011, the annual salaries of sheriffs earning \$60,000 or more shall be reduced by five percent from the salaries which would otherwise be paid under the provisions of 32 V.S.A. § 1182, and the annual salaries of sheriffs earning less than \$60,000 shall be reduced by three percent from the salaries which would otherwise be paid under the provision of 32 V.S.A. § 1182.

Sec. E.209 Public safety - state police (Sec. B.209, #2140010000)

(a) Of this appropriation, \$32,000 shall be used to make a grant to the Essex County sheriff's department for law enforcement purposes.

(b) Of this appropriation, \$35,000 in special funds shall be available for snowmobile law enforcement activities and \$35,000 in general funds shall be available to the southern Vermont wilderness search and rescue team, which comprises state police, the department of fish and wildlife, county sheriffs, and local law enforcement personnel in Bennington, Windham, and Windsor Counties, for snowmobile enforcement.

(c) Of the \$255,000 allocated for local heroin interdiction grants funded in this section, \$190,000 shall be used by the Vermont drug task force to fund

three town task force officers. These town task force officers will be dedicated to heroin and heroin-related drug (e.g., methadone, oxycontin, crack cocaine, and methamphetamine) enforcement efforts. Any additional available funds shall remain as a “pool” available to local and county law enforcement to fund overtime costs associated with heroin investigations. Any unexpended funds from prior fiscal years’ allocations for local heroin interdiction shall be carried forward.

Sec. E.212 Public safety - fire safety (Sec. B.212, #2140040000)

(a) Of this general fund appropriation, \$55,000 shall be granted to the Vermont rural fire protection task force for the purpose of designing dry hydrants.

Sec. E.214 Public safety - emergency management - radiological emergency response plan (Sec. B.214, #2140080000)

(a) Of this special fund appropriation, up to \$30,000 shall be available to contract with any radio station serving the emergency planning zone for the emergency alert system.

Sec. E.215 Military – administration (Sec. B.215, #2150010000)

(a) Of this appropriation, \$100,000 shall be disbursed to the Vermont student assistance corporation for the national guard educational assistance program established in 16 V.S.A. § 2856.

Sec. E.219 Military - veterans’ affairs (Sec. B.219, #2150050000):

(a) Of this appropriation, \$5,000 shall be used for continuation of the Vermont medal program, \$4,800 shall be used for the expenses of the governor’s veterans’ advisory council, \$7,500 shall be used for the Veterans’ Day parade, \$5,000 shall be granted to the Vermont state council of the Vietnam Veterans of America to fund the service officer program, and \$5,000 shall be used for the military, family, and community network.

Sec. E.220 Center for crime victim services (Sec. B.220, #2160010000)

(a) Of this appropriation, the amount of \$806,195 from the victims’ compensation fund created by 13 V.S.A. § 5359 is appropriated for the Vermont network against domestic and sexual violence initiative. Expenditures for this initiative shall not exceed the revenues raised in fiscal year 2011 from the \$10.00 increase authorized by Sec. 20 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the assessment in 13 V.S.A. § 7282(a)(8)(B) and from the \$20.00 authorized by Sec. 21 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the fee in 32 V.S.A. § 1712(1).

(b) Of the appropriation in this section, \$50,000 shall be for a grant to certified batterer intervention programs.

(c) Of the appropriation in this section, \$65,000 shall be for a grant for the anti-violence partnership at the University of Vermont.

Sec. E.220.1 20 V.S.A. § 2365 is amended to read:

§ 2365. DOMESTIC VIOLENCE TRAINING

(a) In order to remain certified, law enforcement officers shall receive by ~~2010~~ 2011 at least eight hours of domestic violence training in a program approved by the Vermont criminal justice training council and the Vermont network against domestic and sexual violence.

(b) Law enforcement officers shall receive domestic violence retraining every two years in a program approved by the Vermont criminal justice training council.

(c) The Vermont police academy shall employ a domestic violence trainer for the sole purpose of training Vermont law enforcement and related practitioners on issues related to domestic violence. Funding for this position shall be transferred by the center for crime victims services from the victims' compensation fund created by 13 V.S.A. § 5359.

Sec. E.222 Agriculture, food and markets – administration

(a) It is the intent of the general assembly that when the fiscal year 2012 budget is prepared for the two plus two scholarship program, the agency of agriculture, food and markets examine whether there would be potential cost savings if the funds were appropriated directly to the Vermont state colleges and the University of Vermont through the next generation fund. The agency shall report its finding to the house and senate committees on appropriations during the fiscal year 2012 budget presentations.

Sec. E.230 FEDERAL HEALTH CARE GRANT FUNDING TO SUPPORT CATAMOUNT HEALTH

(a) It is the intent of the general assembly that the state maximize federal funding opportunities to expand access to health care coverage for uninsured and underinsured Vermonters. The general assembly is aware of upcoming federal funding opportunities related to the creation of a high-risk pool and supports using the Catamount Health program, to the extent practicable, to leverage applicable federal funds while keeping eligibility standards consistent across all of the state's health care programs.

(b) The commissioner of banking, insurance, securities, and health care administration shall notify the members of the joint fiscal committee by

telephone and provide the members with a copy of the application by electronic mail prior to applying for federal funding under the high-risk health insurance pool program authorized by Section 1101 of the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, for the purpose of supporting the Catamount Health program or the market security trust provided for in 8 V.S.A. § 4062d. If feasible given the federal time lines, the commissioner shall make reasonable efforts to provide notice, a copy of the application, and an opportunity for the members to respond at least three business days prior to the application deadline.

(c)(1) Notwithstanding 32 V.S.A. § 5, and with the approval of the secretary of administration, the commissioner of banking, insurance, securities, and health care administration shall request approval from the joint fiscal committee to accept federal funding under the high-risk health insurance pool program authorized by Section 1101 of the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, for the purpose of supporting the Catamount Health program or the market security trust provided for in 8 V.S.A. § 4062d.

(2) The commissioner of banking, insurance, securities, and health care administration shall provide the joint fiscal committee with information on whether the proposal is budget neutral or financially beneficial to the state, as determined by the commissioner in consultation with the commissioner of the department of Vermont health access. If the grant meets the criteria under this subsection and notwithstanding 32 V.S.A. § 5, the commissioner may accept the grant after approval by a majority of voting members of the joint fiscal committee.

(d) Upon approval by the joint fiscal committee as part of the review under subsection (c) of this section or at a later meeting and notwithstanding 8 V.S.A. § 4080f (Catamount Health), 33 V.S.A. § 1973 (Vermont health access program), 33 V.S.A. § 1974 (employer-sponsored insurance assistance program) and 33 V.S.A. Chapter 19, Subchapter 3A (Catamount Health assistance program), the commissioner of banking, insurance, securities, and health care administration and the secretary of human services may waive the statutory requirements establishing the 12-month uninsured requirement and the pre-existing condition exclusion provisions if necessary to permit the state to accept grant funds under the federal high-risk pool program. The request to waive the statutory requirements shall specify a time period ending no later than June 30, 2011.

Sec. E.230.1 8 V.S.A. § 4062d is amended to read:

§ 4062d. ~~NONGROUP~~ MARKET SECURITY TRUST

(a) The commissioner ~~shall~~ may establish ~~the nongroup a~~ market security trust for the purpose of lowering the cost of and thereby increasing access to health care coverage in the ~~individual or nongroup~~ health insurance market.

(b) ~~The commissioner shall permit nongroup carriers to transfer five percent of the carriers' claims costs to the nongroup market security trust, based on the earned premium as reported on the most recent annual statement of the carrier. At the close of the year, the commissioner shall reconcile the amount paid against the actual expenses of the carriers and collect or expend the necessary funds to ensure that five percent of the actual expenses are paid under this section. The individuals incurring the claims shall remain enrolled policyholders, members, or subscribers of the carrier's or insurer's plan, and shall be subject to the same terms and conditions of coverage, premiums, and cost sharing as any other policyholder, member, or subscriber.~~

(e) ~~The~~ If the commissioner ~~may develop the nongroup~~ develops a market security trust pursuant to this section, the commissioner shall do so in a manner that permits the trust to be eligible for a federal grant grants to administer the trust, including a grant grants under the federal Trade Adjustment Act Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

(d)(c) ~~All of the revenues appropriated shall be deposited into the nongroup market security trust to be administered by the commissioner for the sole purpose of providing financial support for the nongroup market security trust authorized by this section. The trust shall be administered in accordance with subchapter 5 of chapter 7 of Title 32, except that interest earned shall remain in the trust. A market security trust established pursuant to this section shall be budget neutral or financially beneficial to the state.~~

(e)(d) The commissioner may adopt rules pursuant to chapter 25 of Title 3 for the ~~nongroup~~ market security trust relating to:

(1) ~~Criteria governing the circumstances under which a nongroup carrier may transfer five percent of the claims expenses of the carrier to the trust as provided for in this section.~~

(2) Eligibility criteria for providing financial support to carriers under this section, including carrier claims' expenses eligible for financial support, standards and procedures for the treatment and chronic care management as defined in section 701 of Title 18, and any other eligibility criteria established by the commissioner.

~~(3)~~(2) The operation of the trust.

~~(4)~~(3) Any other standards or procedures necessary or desirable to carry out the purposes of this section.

~~(f) As used in this section, "nongroup carrier" means a nongroup carrier registered under section 4080b of this title that has an annual earned premium in excess of \$100,000.00.~~

Sec. E.231 Banking, insurance, securities, and health care administration – health care administration (Sec. B.231, #2210040000)

(a) The department of banking, insurance, securities, and health care administration (BISHCA) shall use the Global Commitment funds appropriated in this section for health care administration for the purpose of funding certain health care-related BISHCA programs, projects, and activities to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.232 Secretary of state (Sec. B.232, #2230010000)

(a) Of this special fund appropriation, \$492,991 represents the corporation division of the secretary of state's office, and these funds shall be from the securities regulation and supervision fund in accordance with 9 V.S.A. § 5613.

Sec. E.235 Enhanced 9-1-1 Board (Sec. B.238, #2260001000)

(a) The director shall develop a plan, for implementation in fiscal year 2012, to equitably fund E 9-1-1 call handling equipment seats at the 9-1-1 public safety answering points operated by the Vermont enhanced 9-1-1 board. This plan shall be submitted to the house and senate committees on appropriations by January 15, 2011.

* * * HUMAN SERVICES * * *

Sec. E.300 DEPARTMENT FOR CHILDREN AND FAMILY GRANT REDUCTIONS

(a) The department for children and families shall not reduce the following grants or programs: financial assistance provided by the division of family services to families who have adopted a child, financial assistance provided by the division of family services to foster families, grants to substitute care programs, and grants to emergency housing shelters.

(b) Of the funds appropriated, \$100,000 is to be granted to Vermont Legal Aid for a pilot project through the Vermont parent representation center for participation in pre-petition hearings.

Sec. E.301 Secretary's office – Global Commitment (Sec. B.301, #3400004000)

(a) The agency of human services shall use the funds appropriated in this section for payment of the actuarially certified premium required under the intergovernmental agreement between the agency of human services and the managed care organization in the department of Vermont health access as provided for in the Global Commitment for Health Waiver (“Global Commitment”) approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) In addition to the state funds appropriated in this section, a total estimated sum of \$30,608,548 is anticipated to be certified as state matching funds under the Global Commitment as follows:

(1) \$12,395,683 certified state match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with \$28,104,317 of federal funds appropriated in Sec. B.301 equals a total estimated expenditure of \$40,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment fund to the Medicaid reimbursement special fund created in 16 V.S.A. § 2959a.

(2) \$8,956,247 certified state match available from local education agencies for direct school-based health services, including school nurse services, that increases the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(3) \$1,775,817 certified state match available from local education agencies for eligible services as allowed by federal regulation for early periodic screening, diagnosis, and treatment programs for school-aged children.

(4) \$1,913,490 certified state match available via the University of Vermont's child health improvement program for quality improvement initiatives for the Medicaid program.

(5) \$547,113 certified state match available via the University of Vermont's child health improvement program for expanded quality improvement initiatives for the Medicaid program.

(6) \$5,020,198 certified state match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

Sec. E.301.1 RETAINING ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP)

(a) Notwithstanding 16 V.S.A. § 2959a, to the extent possible, any additional federal funds received as a result of an enhanced FMAP (Federal Medical Assistance Percentage) that are associated with the certified expenditures specified in subdivisions (b)(1) through (6) of Sec. E.301 of this act shall be retained in the Global Commitment fund and shall not be transferred to the certifying entity.

Sec. E.302 PAYMENT RATES FOR PRIVATE NONMEDICAL INSTITUTIONS PROVIDING RESIDENTIAL CHILD CARE SERVICES

(a) Notwithstanding any other provisions of law, for state fiscal year 2011, the division of rate setting shall calculate payment rates for private nonmedical institutions (PNMI) providing residential child care services as follows.

(1) General rule. The division of rate setting shall calculate PNMI per diem rates for state fiscal year 2011 as 100 percent of each program's final per diem rate in effect on June 30, 2010. These rates shall be issued as final.

(2) Reporting requirements.

(A) Providers are required to submit annual audited financial statements to the division within 30 days of receipt from the certified public accountant, but no later than four months following the end of each provider's fiscal year.

(B) Providers are not required to submit funding applications pursuant to section 3 of the PNMI rate setting rules for state fiscal year 2011.

(3) Exception to the general rule. For programs categorized by the placement authorizing departments (PADs) as crisis/stabilization programs with typical lengths of stay from 0–10 days, final rates for state fiscal year 2011 are set retroactively as follows:

(A) The allowable budget is 100 percent of the final approved budget for the rate year which includes June 30, 2010. The monthly allowable budget is the allowable budget divided by 12.

(B) Within five days of the end of each month in state fiscal year 2011, the program will submit the prior month's census to the division of rate setting. The per diem rate will be set for the prior month by dividing the monthly allowable budget amount by the total number of resident days for the month just ended.

(4) Adjustments to rates. Rate adjustment applications may not be used as a tool to circumvent the rate setting process for state fiscal year 2011 in

order to submit a new budget for the entire program or for the sole reason that actual costs incurred by the facility exceed the rate of payment.

(A) The following provisions amend section 8 of the PNMI rules regarding adjustments to rates for state fiscal year 2011.

(i) The three-month waiting period of section 8.1(b) for the submission of a rate adjustment application is waived.

(ii) In rate adjustment applications, the division will only consider budget information specific to the program change and limited to direct program costs. Providers may not apply for increases to costs that are part of the current program and rate structure before the program change.

(iii) In its findings and order, the division may elect to use financial information from prior approved budget submissions to determine allowable costs related to the program change.

(iv) The materiality test in section 8.1(c) is waived for changes to rates based on a change in licensed capacity.

(v) The effective date for approved rate adjustments based on a change in licensed capacity is the effective date of the change in licensed capacity.

(B) Adjustments to rates based on changes in licensed capacity. Programs that increase or decrease licensed capacity in state fiscal year 2011 shall provide prior written notification to the division of the change in licensed capacity.

(i) Decreased licensed capacity. In the case of programs that decrease licensed capacity in state fiscal year 2011, programs must have prior written approval from the PADs before applying to the division for an adjustment to the state fiscal year 2011 per diem rate.

(I) The allowable budget amount for state fiscal year 2011 may be no more than the final approved budget for the rate year which includes June 30, 2010.

(II) In its application for a rate adjustment, a program must provide to the division financial and staffing information directly related to the decrease in licensed capacity.

(III) In its findings and order, the division shall reduce the allowable budget amount by any decreased costs directly related to the change in licensed capacity.

(IV) The division shall divide the final allowable budget amount by the estimated occupancy level at the new licensed capacity to calculate the per diem rate.

(ii) Increased licensed capacity. In the case of programs that increase licensed capacity in state fiscal year 2011, the division shall automatically adjust the program's rate as follows.

(I) The initial allowable budget is 100 percent of the final approved budget amount for the rate year that includes June 30, 2010.

(II) With prior written approval from the PADs, programs may apply to the division for an adjustment to the allowable budget for costs directly related to the program change.

(III) The division shall divide the final allowable budget amount by the estimated occupancy level at the new licensed capacity to calculate the per diem rate.

Sec. E.306 Department of Vermont health access – administration (Sec. B.306, #3410010000)

(a) The establishment of six (6) new full-time positions is authorized in fiscal year 2011 to expand program integrity efforts. These positions shall be transferred and converted from vacant positions in the executive branch of state government.

(b) The department shall develop measures to evaluate the success of these new positions carrying out the purpose in subsection (a) of this section. This evaluation shall be submitted with the fiscal year 2012 budget materials to the house and senate committees on appropriations.

(c) Unexpended funds in the department of health in fiscal year 2010 allocated for the Vermont blueprint for health shall be transferred from the department of health to the department of Vermont health access and used in fiscal year 2011 for expansion of the blueprint program.

Sec. E.308 FISCAL YEAR 2011 NURSING HOME RATE SETTING

(a) Notwithstanding any other provisions of law, for state fiscal year 2011, the division of rate setting shall modify its methodology for calculating Medicaid rates for nursing homes as follows:

(1) Inflation. For state fiscal year 2011 rate setting, the division shall calculate the incremental inflation amount between state fiscal years 2010 and 2011 for the following cost categories: nursing care, director of nursing, resident care, and indirect. The division shall add that incremental inflation amount to the inflation percentages used in state fiscal year 2010 rate setting.

(2) Case-mix weights. For state fiscal year 2011, the division shall decrease by one-half the case-mix weights for the following resource utilization groups: Impaired Cognition A (IA1), Challenging Behavior A (BA1), Reduced Physical Functioning A 2 (PA2) and Reduced Physical Functioning A 1 (PA1).

Sec. E.309 HOSPITAL RATES

(a) In order to provide payment amounts for inpatient hospital services closer to levels paid by Medicare, the department of Vermont health access shall increase payment rates to hospitals by an amount estimated to equal a total of \$20,000,000 for inpatient hospital services. The department of Vermont health access shall provide quarterly reports to hospitals indicating the additional amounts paid for inpatient hospital services.

Sec. E.309.1 MEDICAID; BENEFIT LIMITATIONS; RATES

(a) The department of Vermont health access may impose the following limitations and process requirements on benefits for adults in Medicaid and VHAP:

(1) Physical, occupational, or speech therapy visits may be limited to 30 visits per year, except that the department shall allow additional visits through the prior authorization process for individuals with the following diagnoses: spinal cord injury, traumatic brain injury, stroke, amputation, or severe burn. This limit shall not apply to therapy services provided by home health agencies.

(2) Urine drug tests may be limited to eight tests per month. The department of Vermont health access shall adopt SAMSHA guidelines, as available, for appropriate use of urine drug tests, including the frequency of testing, and shall develop protocols for exceptions to the limitation to eight tests.

(3) Emergency room visits may be limited to 12 visits per year, except that the department shall not include in the limitation emergency room visits resulting in the individual being admitted to the facility, resulting in the individual being transferred to another inpatient facility, or during which the individual becomes deceased.

(b) The department of Vermont health access may institute a prior authorization process for high-tech imaging, including scans such as computed tomography (CT), computed tomographic angiography (CTA), magnetic resonance imaging (MRI), magnetic resonance angiography (MRA), positron emission tomography (PET), positron emission tomography-computed tomography (PET-CT). The prior authorization process shall not apply to X-ray, ultrasound, mammogram, or dual X-ray absorptiometry (DXA) images

and shall not apply to imaging ordered by emergency departments or during an inpatient admission. The prior authorization process shall include the following requirements:

(1) Approval guidelines shall be transparent, readily available to health care professionals upon request, based on peer-reviewed, published clinical standards, and include citations for the sources of the standards.

(2) Decisions on prior authorization requests shall be made in a timely manner and the department shall have sufficient clinical staff to provide timely access by health care professionals making requests.

(3) The department shall form an advisory committee comprised of health care professionals to comment on: the evidence-based guidelines used and the process for prior authorization with the goal of minimizing the administrative burden on health care professionals, including any forms and the timelines for the process.

(4) If the department uses a vendor for prior authorization of imaging, the terms of the contract shall prohibit the vendor from creating financial incentives for the utilization management reviewer to deny requests for imaging services. The vendor chosen shall have relevant business experience and the department shall ensure that the vendor has information about the imaging-related findings in the report required by No. 49 of the Acts of 2009 that found Vermont health care professionals' imaging rates are among the lowest in the country.

(5) The department or its vendor shall conduct training about the prior authorization process at least 60 days prior to the implementation of the process. This training shall include:

(A) face to face regional meetings and demonstrations;

(B) webinars; and

(C) other training as requested by health care professionals.

(6) The department or its vendor shall distribute information about the prior authorization approval guidelines and the process to all participating providers at least 60 days prior to the implementation of the prior authorization process. The department or its vendor shall provide an on-line tool to allow health care professionals to determine if prior authorization is required for a particular service.

(7) The department shall track and report the following information:

(A) imaging usage rates, including usage in emergency departments; the aggregate amount reimbursed for imaging by the department; and net savings from implementing the prior authorization process;

(B) the number of requests processed, including numbers of approvals and denials, and number of requests by method, including through a website, by telephone, by fax, and by mail;

(C) the average transaction time by method of request, including web response time, call waiting time, and fax response time.

(D) the number of requests where additional clinical information was requested by the department or its vendor;

(E) the average time between the receipt of clinical information and the decision on the request; and

(F) the number of prior authorization requests where a professional requesting prior authorization asked for a discussion with a health care professional peer, including the average number of contacts required to engage in this discussion.

(8) The department or its vendor shall perform a satisfaction survey of health care professionals annually and meet with health care professionals and the Vermont medical society to discuss the survey results.

(9) The department or its vendor shall establish a process to exempt health care professionals from the prior authorization process when the health care professionals routinely order imaging consistent with the department's evidence-based guidelines and whose prior authorization requests are routinely granted by the department. In developing this exemption, the department shall review its data and meet with health care professionals and the Vermont medical society to discuss the appropriate process for this exemption.

(c) The department of Vermont health access may reduce the reimbursement rate to a laboratory for urine drug testing to \$10.49 per test.

(d) The department of Vermont health access may modify the reimbursement amount paid pharmacies for any drug priced utilizing the Average Wholesale Price (AWP) methodology to reflect the current published price.

Sec. E.309.2 HEALTH INSURANCE PREMIUM PROGRAM

(a) The department of Vermont health access may expand the health insurance premium program to new applicants to Medicaid, which enrolls a Medicaid beneficiary in employer-sponsored or private health insurance plan available to the beneficiary if it is cost-effective to the state to do so. The

department may offer current beneficiaries the option of enrolling in an employer-sponsored or private health insurance plan available to the beneficiary.

Sec. E.309.3 SUSPENSION OF AUTOMATIC PREMIUM INCREASES;
MAINTENANCE OF ELIGIBILITY REQUIREMENTS

(a) It is the intent of the general assembly to ensure compliance with Section 5001(f) of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 and Section 2001 of the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010 (maintenance of eligibility) by maintaining the premiums at levels due on June 15, 2008 for individuals enrolled in health benefit plans or premium assistance funded by Medicaid. By maintaining the premiums and eligibility for programs included in Global Commitment to Health and Choices for Care, the state will remain eligible for funds available for Medicaid and Medicaid-waiver programs.

(b) Notwithstanding 33 V.S.A. §§ 1974(j) and 1984(b), individuals receiving Catamount Health premium assistance or employer-sponsored premium assistance shall not have the premiums automatically indexed.

(c) This section of this act shall supersede any agency rules establishing premium amounts above the amounts due on June 15, 2008.

(d) By January 15, 2011, if the state has or is projected to have a budget deficit in state fiscal years 2011 or 2012, the secretary of human services may propose to the house committees on appropriations, on health care, and on human services and the senate committees on appropriations and health and welfare a proposal for certifying the proposed or actual deficit to the secretary of the U.S. Department of Health and Human Services under Section 2001 of the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, including a proposal for modifying eligibility requirements for adults with incomes above 133 percent of the federal poverty guidelines who are not pregnant and do not have a disability, including by increasing premium amounts in the Vermont Health Access Plan, VPharm, VermontRx, employer-sponsored premium assistance, or Catamount Health assistance.

Sec. E.309.4 33 V.S.A. § 1953 is amended to read:

§ 1953. HOSPITAL ASSESSMENT

(a) Hospitals shall be subject to an annual assessment as follows:

(1) ~~Beginning January 1, 2008, each~~ Each hospital's annual assessment, except for hospitals assessed under subdivision (2) of this subsection, shall be

5.5 percent of its net patient revenues (less chronic, skilled, and swing bed revenues) for the hospital's fiscal year as determined annually by the ~~director~~ commissioner of Vermont health access from the hospital's financial reports and other data filed with the department of banking, insurance, securities, and health care administration. The annual assessment shall be based on data from a hospital's ~~third~~ most recent full fiscal year for which data has been reported to the department of banking, insurance, securities, and health care administration.

(2) Beginning July 1, 2004, each mental hospital or psychiatric facility's annual assessment shall be 4.21 percent, provided that the United States Department of Health and Human Services grants a waiver to the uniform assessment rate, pursuant to 42 C.F.R. § 433.68(e). If the United States Department of Health and Human Services fails to grant a waiver, mental hospitals and psychiatric facilities shall be assessed under subdivision (1) of this subsection.

(b) Each hospital shall be notified in writing by the ~~office~~ department of the assessment made pursuant to this section. If no hospital submits a request for reconsideration under section 1958 of this title, the assessment shall be considered final.

(c) Each hospital shall submit its assessment to the ~~office~~ department according to a payment schedule adopted by the ~~director~~ commissioner. Variations in payment schedules shall be permitted as deemed necessary by the ~~director~~ commissioner.

(d) Any hospital that fails to make a payment to the ~~office~~ department on or before the specified schedule, or under any schedule for delayed payments established by the ~~director~~ commissioner, shall be assessed not more than \$1,000.00. The ~~director~~ commissioner may waive this late payment assessment provided for in this subsection for good cause shown by the hospital.

~~(e) [Repealed.]~~

Sec. E.309.5 8 V.S.A. § 4080f(c)(1) is amended to read:

(c)(1) Catamount Health shall provide coverage for primary care, preventive care, chronic care, acute episodic care, and hospital services. The benefits for Catamount Health shall be a preferred provider organization plan with:

(A) a ~~\$250.00~~ \$500.00 deductible for an individual and a ~~\$500.00~~ \$1,000.00 deductible for a family for health services received in network, and a ~~\$500.00~~ \$1,000.00 deductible for an individual and a ~~\$1,000.00~~ \$2,000.00 deductible for a family for health services received out of network;

(B) 20 percent co-insurance, in and out of network;

(C) a \$10.00 office co-payment;

(D) prescription drug coverage without a deductible, \$10.00 co-payments for generic drugs, ~~\$30.00~~ \$35.00 co-payments for drugs on the preferred drug list, and ~~\$50.00~~ \$55.00 co-payments for nonpreferred drugs;

(E) out-of-pocket maximums of ~~\$800.00~~ \$1,050.00 for an individual and ~~\$1,600.00~~ \$2,100.00 for a family for in-network services and ~~\$1,500.00~~ \$2,100.00 for an individual and ~~\$3,000.00~~ \$4,000.00 for a family for out-of-network services; and

(F) a waiver of the deductible and other cost-sharing payments for chronic care for individuals participating in chronic care management and for preventive care.

Sec. E.309.6 21 V.S.A. § 2003(b) is amended to read:

(b) For any quarter in fiscal years 2007 and 2008, the amount of the health care fund contribution shall be \$91.25 for each full-time equivalent employee in excess of eight. For each fiscal year after fiscal year 2008, the number of excluded full-time equivalent employees shall be adjusted in accordance with subsection (a) of this section, and the amount of the health care fund contribution shall be adjusted by a percentage equal to any percentage change in premiums for Catamount Health for that fiscal year; provided, however, that to the extent that Catamount Health premiums decrease due to changes in benefit design or deductible amounts, the health care fund contribution shall not be decreased by the percentage change attributable to such benefit design or deductible changes.

Sec. E.309.7 33 V.S.A. § 1984(b) is amended to read:

(b) The agency of administration or designee shall establish individual and family contribution amounts for Catamount Health under this subchapter based on the individual contributions established in subsection (c) of this section and shall index the contributions annually to the overall growth in spending per enrollee in Catamount Health as established in section 4080f of Title 8; provided, however, that to the extent that spending per Catamount Health enrollee decreases as a result of changes in benefit design or deductible amounts, contributions shall not be decreased by the percentage change attributable to such benefit design or deductible changes. The agency shall establish family contributions by income bracket based on the individual contribution amounts and the average family size.

Sec. E.309.8 33 V.S.A. § 1984(c)(1)(B) is amended to read:

(B) Income greater than 175 percent and less than or equal to 200 percent of FPL: ~~\$65.00~~ \$60.00 per month.

Sec. E.309.9 33 V.S.A. § 2073(d)(2) is amended to read:

(2) An individual shall contribute the following base cost-sharing amounts which shall be indexed to the increases established under 42 C.F.R. § 423.104(d)(5)(iv) and then rounded to the nearest dollar amount:

(A) In the case of recipients whose household income is no greater than 150 percent of the federal poverty level, such premium shall be ~~\$17.00~~ \$15.00 per month.

(B) In the case of recipients whose household income is greater than 150 percent of the federal poverty level and no greater than 175 percent of the federal poverty level, the premium shall be ~~\$23.00~~ \$20.00 per month.

* * *

Sec. E.309.10 33 V.S.A. § 2074(c) is amended to read:

(c) Benefits under VermontRx shall be subject to payment of a premium and co-payment amounts by the recipient in accordance with the provisions of this section.

(1) In the case of recipients whose household income is no greater than 150 percent of the federal poverty level, the premium shall be ~~\$17.00~~ \$15.00 per month.

(2) In the case of recipients whose household income is greater than 150 percent of the federal poverty level and no greater than 175 percent of the federal poverty level, the premium shall be ~~\$23.00~~ \$20.00 per month.

* * *

Sec. E.309.11 MEDICARE PRESCRIPTION DRUG BENEFIT; ONE-TIME PAYMENT

(a) Notwithstanding 33 V.S.A. § 2073 (VPharm assistance program), the agency of human services or designee or the department of human resources or designee may utilize one or more of the strategies provided for in subsection (b) of this section to seek reimbursement for the rebate or refund provided by the U.S. Department of Health and Human Services (HHS) as described in Sec. 3315 of the Patient Protection and Affordability Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010. The agency shall not recoup an amount greater than the refund or rebate paid to the individual by HHS nor an amount greater than that paid by the agency on behalf of an individual enrolled in VPharm after the individual exceeded the initial

coverage limit under Section 1860D-2(b)(3) of the Social Security Act for 2010.

(b)(1) The agency of human services or designee or the department of human resources or designee may recoup the refund or rebate amount from the individual enrolled in VPharm, from HHS or the Medicare program, or from a Medicare prescription drug plan.

(2) The agency of human services or designee may require that an individual eligible for the refund incur up to \$250 in out-of-pocket expenses for the Medicare prescription drug benefit during the calendar year in which the rebate is received by the individual.

Sec. E.309.12 HIT FUND

(a) Health information technology funds shall not be used for the implementation or purchase of software creating an electronic health record (EHR) unless the EHR is capable of providing data to the Blueprint for Health established in 18 V.S.A. chapter 13 through the state health information exchange network using the current interoperability exchange standards approved by the United States Department of Health and Human Services.

Sec. E.309.13 MEDICAID SUPPLEMENTAL DRUG REBATES

(a) The department of Vermont health access shall make every effort to increase the supplemental rebates provided by pharmaceutical manufacturers in order to offset the reduction in supplemental rebate amounts anticipated from the modifications to the mandatory federal drug rebates as provided for in the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010.

Sec. E.309.14 EMERGENCY RULEMAKING; MEDICAID

(a) In order to administer Sec. E.309.1(a) (benefit limits) and (b) (high-tech imaging) of this act relating to limiting the annual number of covered visits for physical therapy, occupational therapy, speech therapy, emergency room services, instituting a prior authorization for imaging, and limiting the monthly number of drug tests, and Sec. E.309.11 (Medicare drug benefit), the agency of human services shall be deemed to have met the standard for adoption of emergency rules as required by 3 V.S.A. § 844(a). Notwithstanding 3 V.S.A. § 844, the agency shall provide a minimum of five business days for public comment in advance of filing the emergency rules as provided for in 3 V.S.A. § 844(c).

Sec. E.309.15 33 V.S.A. § 1901(a)(4) is added to read:

(4) A manufacturer of pharmaceuticals purchased by individuals receiving state pharmaceutical assistance in programs administered under this

chapter shall pay to the department of Vermont health access, as the secretary's designee, a rebate on all pharmaceuticals for which state-only funds are expended in an amount at least as favorable as the rebates provided under 42 U.S.C. section 1396r-8 paid to the department in connection with Medicaid and programs funded under the Global Commitment to Health Medicaid Section 1115 waiver.

Sec. E.309.16 33 V.S.A. § 2073(f) is amended to read:

(f) A manufacturer of pharmaceuticals purchased by individuals receiving assistance from VPharm established under this section shall pay to ~~OVHA DVHA, as a condition of participation in the program as required by section 1901 of this title,~~ a rebate on all pharmaceuticals for which state-only funds are expended in an amount at least as favorable as the rebate paid to ~~OVHA DVHA~~ in connection with the Medicaid program.

Sec. E.309.17 33 V.S.A. § 2074(d) is amended to read:

(d) Any manufacturer of pharmaceuticals purchased by individuals receiving assistance from VermontRx established under this section shall pay to ~~OVHA DVHA, as a condition of participation in the program as required by section 1901 of this title,~~ a rebate on all pharmaceuticals for which state-only funds are expended in an amount at least as favorable as the rebate paid to ~~OVHA DVHA~~ in connection with the Medicaid program.

Sec. E.309.18 PEDIATRIC PALLIATIVE CARE

(a) The agency of human services shall request a provision allowing Vermont to provide its Medicaid- and SCHIP-eligible children who have life-limiting illnesses with concurrent palliative services and curative care, either as part of its renewal of the state's Global Commitment for Health Medicaid Section 1115 waiver or as an amendment following renewal.

Sec. E.312 Health - public health (Sec. B.312, #3420021000)

(a) AIDS/HIV funding:

(1) In fiscal year 2011 and as provided for in this section, the department of health shall provide grants in the amount of \$335,000 in Global Commitment funds to Vermont AIDS service and peer-support organizations for client-based support services. It is the intent of the general assembly that if the Global Commitment funds appropriated in this subsection are unavailable, the funding for Vermont AIDS service and peer-support organizations for client-based support services shall be maintained through the general fund or other state-funding sources. The department of health AIDS program shall meet at least quarterly with the community advisory group (CAG) with current

information and data relating to service initiatives. The funds shall be allocated as follows:

- (A) AIDS Project of Southern Vermont, \$74,059;
- (B) A Community Resource Network or its successor, \$36,750;
- (C) VT CARES, \$155,491;
- (D) Twin States Network, \$31,850;
- (E) People with AIDS Coalition, \$36,850.

(2) Ryan White Title II funds for AIDS services and the AIDS Medication Assistance Program shall be distributed in accordance with federal guidelines. The federal guidelines shall not apply to programs or services funded solely by state general funds.

(3)(A) Notwithstanding the provisions of Sec. E.312(a)(6) of Act 1 of the 2009 special session, the department of health shall carry forward \$140,000 in general funds from fiscal year 2009 to provide assistance to individuals in the HIV/AIDS Medication Assistance Program (AMAP), including the costs of prescribed medications, related laboratory testing, and nutritional supplements. These funds may not be used for any administrative purposes by the department of health or by any other state agency or department. Before using the general fund allocation to cover the costs of AMAP, the department of health shall use pharmaceutical rebate special funds to cover the costs of AMAP. Any carry-forward general funds remaining at the end of fiscal year 2011 shall be distributed to AIDS service organizations in the same proportion as those outlined in this subsection.

(B) The secretary of human services shall immediately notify the joint fiscal committee if at any time there are insufficient funds in AMAP to assist all eligible individuals. The secretary shall work in collaboration with persons living with HIV/AIDS to develop a plan to continue access to AMAP medications until such time as the general assembly can take action.

(C) As provided for in this section, the secretary of human services shall work in collaboration with the AMAP advisory committee, which shall be composed of no less than 50 percent of members who are living with HIV/AIDS. If a modification to the program's eligibility requirements or benefit coverage is considered, the committee shall make recommendations regarding the program's formulary of approved medication, related laboratory testing, nutritional supplements, and eligibility for the program.

(4) In fiscal year 2011, the department of health shall provide grants in the amount of \$100,000 in general funds to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for

community-based HIV prevention programs and services. These funds shall be used for HIV/AIDS prevention purposes, including improving the availability of confidential and anonymous HIV testing; prevention work with at-risk groups such as women, intravenous drug users, and people of color; anti-stigma campaigns; and promotion of needle exchange programs. No more than 15 percent of the funds may be used for the administration of such services by the recipients of these funds. The method by which these prevention funds are distributed shall be determined by mutual agreement of the department of health and the Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers.

(b) Funding for the tobacco programs in fiscal year 2011 shall consist of the \$1,166,803 in tobacco funds and \$529,704 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. The tobacco evaluation and review board shall determine how these funds are allocated to tobacco cessation, community based, media, public education, surveillance, and evaluation activities. This allocation shall include funding for tobacco cessation programs that serve pregnant women.

Sec. E.313 Health - alcohol and drug abuse programs (Sec. B.313, #3420060000)

(a) For the purpose of meeting the need for outpatient substance abuse services when the preferred provider system has a waiting list of five days or more or there is a lack of qualified clinicians to provide services in a region of the state, a state-qualified alcohol and drug abuse counselor may apply to the department of health, division of alcohol and drug abuse programs, for time-limited authorization to participate as a Medicaid provider to deliver clinical and case coordination services, as authorized.

(b) For fiscal year 2011, the department of Vermont health access and the office of drug and alcohol programs shall determine a means, notwithstanding any other provision of law to the contrary, of opening the preferred provider network to expand Medicaid funded substance abuse services from licensed alcohol and drug abuse counselors in geographic areas in which there are waiting lists for services for referrals from the department of corrections, the department for children and families, and the judiciary. The Vermont addiction professionals association shall be consulted in determining the means of expanding treatment access. The commissioners shall report on this directive to the joint fiscal committee at the September 2010 meeting.

(c)(1) In accordance with federal law, the division of alcohol and drug abuse programs may use the following criteria to determine whether to enroll a state-supported Medicaid and uninsured population substance abuse program

in the division's network of designated providers, as described in the state plan:

(A) The program is able to provide the quality, quantity, and levels of care required under the division's standards, licensure standards, and accreditation standards established by the commission of accreditation of rehabilitation facilities, the joint commission on accreditation of health care organizations, or the commission on accreditation for family services.

(B) Any program that is currently being funded in the existing network shall continue to be a designated program until further standards are developed, provided the standards identified in this subdivision (c)(1) are satisfied.

(C) All programs shall continue to fulfill grant or contract agreements.

(2) The provisions of subdivision (1) of this subsection shall not preclude the division's "request for bids" process.

(d) An amount of \$240,000 in Global Commitment funds is allocated to the Howard Center for the integrated Howard Center/Maple Leaf Farm Intensive Outpatient Program.

(e) A performance based contract for \$150,000 shall be issued to Maple Leaf Farm by July 1, 2010. This contract shall be in addition to other grants and contracts for Maple Leaf Farm and shall be to support enhanced medical and psychiatric services intended to reduce psychiatric and detoxification utilization at hospitals.

(f) Of the interdepartmental funds, \$110,000 are from the department of corrections justice reinvestment funds and shall be added to the recovery center base funding for fiscal year 2011. Grants of \$45,000 each shall be made for two new recovery centers.

Sec. E.314 DEPARTMENT OF MENTAL HEALTH; GRANT REDUCTION

(a) The department of mental health shall implement a five-percent reduction in general funds, totaling \$7,472 to community support programs for mental health treatment by allowing the programs to determine the most appropriate method to implement the reduction.

Sec. E.314.1 VERMONT STATE HOSPITAL; CANTEEN

(a) The general assembly finds that the availability of a cafeteria, also known as "the canteen," for use by patients of the Vermont state hospital is therapeutic for them and should be available for their use, as well as for their guests, hospital staff, and members of the general public.

(b) From any appropriation contained in any act of the general assembly to the department of buildings and general services, the sum of up to \$25,000 shall be used to make necessary repairs and upgrades to bring up to code the premises used as the canteen, which repairs and upgrades shall be completed by October 30, 2010.

(c) On or before November 1, 2010, the secretary of human services shall cause the canteen to reopen for no fewer than five days per week for a reasonable number of hours per day, for use by state hospital patients, their guests, staff, and members of the public. Notwithstanding any other provisions of law, the cafeteria service shall be provided either by state employees or a contracted vendor, so long as the operation is cost-neutral to the general fund. If the cafeteria service is offered by a vendor, the premises used by the vendor shall be leased at an annual cost of \$1.00, and the leased premises shall otherwise be offered to the vendor on the same terms and conditions as those offered to the vendor who operates the state house cafeteria.

(d) The canteen service shall continue in operation unless closure is authorized by act of the general assembly.

(e) The vendor shall strive to offer affordable lower-cost food prices to state hospital patients.

Sec. E.316 ELIGIBILITY DETERMINATION; QUALITY CONTROL

(a) The establishment of six (6) new full-time positions is authorized in fiscal year 2011 to enhance quality control efforts related to eligibility for Medicaid, Medicaid waiver programs, and programs administered by the agency of human services. These positions shall be transferred and converted from vacant positions in the executive branch of state government.

(b) The department shall develop measures to evaluate the success of these positions carrying out the purpose in subsection (a) of this section. This evaluation shall be submitted with the fiscal year 2012 budget materials to the house and senate committees on appropriations.

Sec. E.317 Department for children and families – family services

(a) The following grants are made to reduce the number of Vermont youth and young adults who are at risk of incarceration or re-incarceration: \$135,800 to Lamoille County people in partnership program for wrap-around services for at risk youth and \$14,550 for a grant to the project against violent encounters for a program for domestic violence prevention and mentoring for youth. The department shall develop measures to evaluate the success of these grant funded programs. This evaluation shall be submitted with the fiscal year 2012 budget materials to the house and senate committees on appropriations.

Sec. E.318 CHILD CARE ELIGIBILITY; PROCESSING

(a) Until February 1, 2011, the department for children and families shall continue to contract with community agencies for the determination of financial eligibility for the child care services program established in 33 V.S.A. § 3512. Between February 1, 2011 and June 30, 2011, the department for children and families shall continue to contract with community agencies to support families and child care providers with eligibility and payment needs so they can effectively and efficiently navigate the new system during the transition period and beyond.

(b) Before February 1, 2011, the department for children and families shall work with the community agencies to apply technology in a manner that most appropriately balances centralized services with community-based services so that these services will most efficiently and effectively address the needs of families and child care providers.

Sec. E.318.1 33 V.S.A. § 4602(a)(10) as added in Sec. 2 of S.268 of 2010 is amended to read:

(10) 12 at-large members, ~~selected on the basis of~~ appointed by the governor based on their commitment to early childhood well-being and representing a range of perspectives and geographic diversity. The governor shall consider the recommendations of the council's nominating committee. One of the at-large members shall be a representative of a local Head Start program and one shall be a member of a school board, to be ~~chosen~~ recommended by the Vermont school boards association.

Sec. E.318.2 S.268 of the 2009 Adj. Sess. (2010); TECHNICAL CORRECTION

(a) The second Sec. 2 in S.268 shall be renumbered to be Sec. 3 and Sec. 3 shall be renumbered to be Sec. 4.

Sec. E.318.3 Sec. 3 of S.268 of 2010, as enacted and as amended by this act, is amended to read:

Sec. 3. COMPOSITION OF COUNCIL

The members of the building bright futures council serving as of the effective date of this act shall continue to serve on the council after that date and shall adopt bylaws detailing the council's governance and procedures, including a procedure by which a nominating committee recommends prospective council members to the governor.

Sec. E.319 4 V.S.A. § 461 is amended to read:

§ 461. OFFICE OF MAGISTRATE; JURISDICTION; SELECTION; TERM

(a) The office of magistrate is created within the family division of the superior court. Except as provided in section 463 of this title, the office of magistrate shall have nonexclusive jurisdiction ~~concurrent with the family court~~ to hear and dispose of the following cases and proceedings:

(1) Proceedings for the establishment, modification, and enforcement of child support, including contempt proceedings instituted against an obligated party for the limited purpose of enforcing a child support order.

(2) Cases arising under the Uniform Interstate Family Support Act.

(3) Child support in parentage cases after parentage has been determined.

(4) Cases arising under ~~section 5533 of Title 33~~ 33 V.S.A. § 5116, when delegated by ~~the family~~ a presiding judge of the superior court.

(5) Proceedings to establish, modify, or enforce temporary orders for spousal maintenance in accordance with ~~sections 15 V.S.A. §§ 594a and 752 of Title 15.~~

(6) Proceedings to modify or enforce temporary or final parent-child contact orders issued pursuant to this title.

(7) Proceedings to establish parentage.

(8) Proceedings to establish temporary parental rights and responsibilities and parent-child contact.

* * *

Sec. E.319.1 15 V.S.A. § 658(f) is amended to read:

(f)(1) The court shall order either or both parents owing a duty of support to provide a cash contribution or medical coverage for a child, provided that medical coverage is available to the parent at a reasonable cost. Medical coverage is presumed to be available to a parent at a reasonable cost only if the ~~amount payable for the individual's contribution to the insurance or health benefit plan premium~~ cost of adding the child to an existing insurance or health benefit plan or the difference between providing coverage to the individual alone and family coverage under an existing insurance or health benefit plan is five percent or less of the parent's gross income. ~~The court, in its discretion, retains the right to order a parent to obtain medical coverage even if the cost exceeds five percent of the parent's gross income if the cost is deemed reasonable under all the circumstances after considering the factors pursuant to section 659 of this title.~~

(2) If private health insurance or an employer-sponsored health benefit plan is not available at a reasonable cost, the court may order one or both parents owing a duty of support to contribute a cash contribution of up to five percent of gross income ~~toward the cost of health care coverage of a child under public or private health insurance or a health benefit plan.~~ The court also may order a cash contribution if a child receives coverage or health benefits under Medicaid, a Medicaid waiver program, Dr. Dynasaur, or is uninsured. A cash contribution under this section shall be considered child support for tax purposes. ~~When calculating the contribution of a parent whose child receives coverage under Medicaid, a Medicaid waiver program, or Dr. Dynasaur, the court shall not order a contribution greater than the premium amount charged by the agency of human services for the child's coverage.~~

(3) The court, in its discretion, may order a parent to provide a cash contribution or coverage under a public or private insurance or health benefit plan even if the cost exceeds five percent of the parent's gross income, if the cost is deemed reasonable under the totality of the circumstances after considering the factors pursuant to section 659 of this title.

Sec. E.319.2 15 V.S.A. § 653 is amended to read:

§ 653. DEFINITIONS

As used in this subchapter:

(1) "Available income" means gross income, less

(A) the amount of spousal support or preexisting child support obligations actually paid;

(B) the actual cost to a parent of providing adequate health insurance coverage or a cash contribution as provided for in section 658 of this title for the children who are the subject of the order;

* * *

Sec. E.319.3 OFFICE OF CHILD SUPPORT; POSITIONS

(a) Using reinvestment funds authorized in No. 68 of the Acts of 2010, the office of child support may fill two existing full-time classified positions to increase collections of medical support and cash contributions, including from families with incomes between 185 and 300 percent of the federal poverty level.

(b) The office shall develop measures to evaluate the success of these positions carrying out the purpose in subsection (a) of this section. This evaluation shall be submitted with the fiscal year 2012 budget materials to the house and senate committees on appropriations.

Sec. E.321 Department for children and families – general assistance (Sec. B.321, #3440060000)

(a) Commencing July 1, 2010, the commissioner for children and families may amend the maximum amount for death benefits paid at public expense through the general assistance program to \$1,100 per burial.

(b) If the department for children and families receives additional funds through the recoupment of Supplemental Security Income (SSI) funds for participants in the general assistance program, the commissioner shall use up to \$500,000 of these recouped funds to fund homelessness assistance provided through general assistance under Sec. E.321.2 of this act.

(c) The department for children and families may not reduce or eliminate the personal needs (PNI) amount provided to individuals eligible for and receiving ongoing general assistance without legislative approval.

Sec. E.321.1 33 V.S.A. § 2301 is amended to read:

§ 2301. BURIAL RESPONSIBILITY

(a)(1) When a person dies in this state, or a resident of this state dies within the state or elsewhere, and the decedent was a recipient of assistance under Title IV or XVI of the Social Security Act, or nursing home care under Title XIX of the Social Security Act, or assistance under state aid to the aged, blind or disabled, or an honorably discharged veteran of any branch of the U.S. military forces to the extent funds are available and to the extent authorized by department ~~regulations~~ rules, the decedent's burial shall be arranged and paid for by the department if the decedent was without sufficient known assets to pay for burial. ~~The department shall pay burial expenses when arrangements are made other than by the department to the maximum permitted by its regulations for individuals that meet the requirements of this section in an amount not to exceed a maximum established by rule and shall establish by rule a process for reducing the maximum payment amount by the amount of other assets available from the decedent's estate or from the decedent's spouse to pay for the burial. In any case where other contributions are made, these payments shall be deducted from the amount otherwise paid by the department but in no case is the department responsible for any payment when the person arranging the burial selects a funeral the price of which exceeds the department's maximum. The maximum payment by the department does not preclude other individuals from paying for or receiving contributions to pay for additional disposition expenses.~~

(2) The department shall notify the directors of all funeral homes within the state and within close proximity to the state's borders of its ~~regulations~~ rules with respect to those services for which it ~~shall make payment~~ pays and

the amount of payment authorized for ~~such~~ those services. All payments shall be made directly to the appropriate funeral director. In order to receive payment under this section, the funeral director shall provide the department and the party making the funeral arrangements with an itemized invoice for the specific services that are to be provided at public expense.

(3) As a condition of payment when arrangements are made other than by the department, ~~funeral directors shall be required to do the following:~~

(A) the funeral director shall determine from the person making the arrangements if the decedent was a recipient of assistance or an eligible veteran as specified in subdivision (a)(1) of this section;

~~(B) If, and if the decedent was such a recipient, give notice to the party person making the arrangements of the department's regulations rules.~~

(4) If the funeral home director does not advise the person making the arrangements of the department's ~~regulations rules~~ then that person shall not be liable for expenses incurred.

* * *

(c) When a person other than one described in subsection (a) or (b) of this section dies in the town of domicile without sufficient known assets to pay for burial, the burial shall be arranged and paid for by the town. The department shall reimburse the town up to \$250.00 for expenses incurred.

(d) In all other cases the department shall arrange for and pay up to the maximum amount established by rule for the burial of eligible persons who die in this state or residents of this state who die within the state or elsewhere when ~~such~~ the persons are without sufficient known assets to pay for their burial.

~~(e) [Omitted.]~~

~~(f) In all cases where the department is responsible for funeral and/or or burial expenses under this chapter, the department shall provide, by rule, the specific services that are to be provided at public expense, and on an itemized basis the maximum price to be paid by the department for each such service.~~

~~(g)~~(e) For the purpose of this chapter, "burial" means the ~~aet~~ act of final disposition of human remains including interring or cremating the human dead a decedent and the ceremonies directly related to that cremation or interment at the gravesite; and "funeral" means the ceremonies prior to burial ~~of the body~~ by interment, cremation, or other method.

Sec. E.321.2 GENERAL ASSISTANCE BENEFITS; FLEXIBILITY PROGRAM

(a) Commencing with state fiscal year 2007, the agency of human services may establish a housing assistance program within the general assistance program to create flexibility to provide these general assistance benefits. The purpose of the program is to mitigate poverty and serve applicants more effectively than they are currently served with the same amount of general assistance funds. The program shall operate in a consistent manner within existing statutes and rules except that it may grant exceptions to this program's eligibility rules and may create programs and services as alternatives to these rules. The assistance provided under this section is not an entitlement and may be discontinued when the appropriation has been fully spent.

(b) The program may operate in up to 12 districts designated by the secretary of human services. This program will be budget neutral. For each district in which the agency operates the program, it shall establish procedures for evaluating the pilot and its effects. The agency shall report annually to the general assembly on its findings from the programs, its recommendations for changes in the general assistance program, and a plan for further implementation of the program.

(c) The agency shall continue to engage interested parties, including both statewide organizations and local agencies, in the design, implementation, and evaluation of the general assistance flexibility program.

Sec. E.321.3 HOUSING ASSISTANCE; ARRA FUNDS

(a) This section shall not apply to the administration of housing assistance funded with general funds provided through the general assistance program under Sec. E.321.2 of this act and existing rules.

(b) Commencing in fiscal year 2010, the agency of human services may establish a housing assistance program with homelessness prevention and rapid rehousing program (HPRP) funds from the American Recovery and Reinvestment Act of 2009, Public Law 111-5. HPRP funds shall be granted to direct-service community organizations which demonstrate experience and expertise in serving the homeless or those at risk for homelessness. The funds shall also be granted in accordance with requirements established by the U.S. Department of Housing and Urban Development (HUD).

(c) The agency shall engage interested parties in the ongoing delivery and evaluation of the program.

(d)(1) The agency shall maintain procedures established in fiscal year 2010 to ensure equitable access to housing assistance provided by direct service community organizations with HPRP funds, in compliance with chapter 139 of Title 9, through a standard application and assessment process.

(2) The agency shall ensure that grantees of these funds provide an appropriate grievance and appeal process for applicants and recipients of the funds, including for expedited appeals.

(e)(1) The agency shall maintain reporting procedures established in fiscal year 2010 for all grantees receiving HPRP funds to provide housing assistance and collect sufficient information to determine that grantees are following all requirements and to evaluate the program's effectiveness.

(2) The agency of human services field service directors shall monitor the housing assistance programs provided by direct service community organizations granted HPRP funds and assess the effectiveness of these programs.

Sec. E.321.4 EMERGENCY RULEMAKING FOR GENERAL ASSISTANCE PROGRAMS

(a) In order to administer Secs. E.321 and E.321.1 (general assistance burial) of this act, the department for children and families shall be deemed to have met the standard for adoption of emergency rules as required by 3 V.S.A. § 844(a). Notwithstanding 3 V.S.A. § 844, the agency shall provide a minimum of five business days for public comment in advance of filing the emergency rules as provided for in 3 V.S.A. § 844(c).

Sec. E.323 REPEAL

(a) Sec. 106 of No. 4 of the Acts of 2009 (Reach Ahead sunset) is repealed.

Sec. E.323.1 33 V.S.A. § 1116(c)(1) is amended to read:

(c)(1)(A) For a first, ~~second and third~~ month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$75.00 for each adult sanctioned.

(B) For a second month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$100.00 for each adult sanctioned.

(C) For a third month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$125.00 for each adult sanctioned.

Sec. E.323.2 33 V.S.A. § 1116(h) is amended to read:

(h)(1) To receive payments during the fiscal sanction period, an adult who is the subject of the sanction shall meet no less than once each month to report his or her circumstances to the case manager or to participate in assessments as directed by the case manager. In addition, this meeting shall be for initial assessment and development of the family development plan when such tasks have not been completed; reassessment or review and revision of the family development plan, if appropriate; and to encourage the participant to fulfill the work requirement. Meetings required under this section may take place in the district office, a community location, or in the participant's home. Facilitation of meeting the participant's family development plan goals shall be a primary consideration in determining the location of the meeting. The commissioner may waive any meeting when extraordinary circumstances prevent a participant from attending. The commissioner shall adopt rules to implement this subsection.

(2) To receive payments during the fourth month of fiscal sanction in a 12-month period, the participating adults shall engage in an assessment that includes the employability and life skills capabilities of the adult participants. If the evaluation reveals that a sanctioned adult should have had a modified or deferred work requirement during the current month of sanction or earlier months of sanction, the department shall strike the sanction, reinstate the full grant amount to which the family is entitled, and modify the participant's family development plan. The months of sanction incorrectly assessed shall be treated as if the months were forgiven as provided for under subsection (d) of this section. The assessment may be conducted by a team consisting of service providers familiar with the family and with an individual family member's needs.

Sec. E.323.3 33 V.S.A. § 1122(b) is amended to read:

(b) The program authorized by this section shall be administered by the commissioner or by a contractor designated by the commissioner; ~~and~~ The program shall be supported with funds other than federal TANF block grant funds provided under Title IV-A of the Social Security Act, except that the commissioner may fund financial assistance grants and support services of families participating in the postsecondary education program with TANF block grant or state maintenance of effort funds when the participating adult's

educational activities are a countable work activity under federal law and when it will further one or more of the purposes in subdivision 1121(c)(1) of this title.

Sec. E.323.4 POSTSECONDARY EDUCATION; CASE MANAGEMENT

(a) The department for children and families may reduce its contract by \$150,000 with postsecondary institutions for case management services to families participating in the postsecondary education program provided for in 33 V.S.A. § 1122 as follows:

(1) by renegotiating the amount in the contract attributable to administrative services provided by the postsecondary institution; and

(2) if renegotiation does not achieve the savings required in this section, then postsecondary institutions will team with Reach Up case managers in each district to provide coordinated case management services for students in the postsecondary program.

Sec. E.323.5 TANF; ARRA

(a) The department for children and families may use excess receipts authority to spend additional funds from the Temporary Assistance for Needy Families (TANF) emergency contingency fund for any of the purposes provided for in Section 2101 of the American Recovery and Reinvestment Act of 2009 (ARRA) which are subsidized employment, caseload increase, and short-term nonrecurrent benefits.

Sec. E.324 Department for children and families – home heating fuel assistance/LIHEAP (Sec. B.324, #3440090000)

(a) Of the funds appropriated for home heating fuel assistance/LIHEAP in this act, no more than \$450,000 shall be expended for crisis fuel direct service/administration exclusive of statewide after-hours crisis coverage.

Sec. E.324.1 HOME HEATING FUEL ASSISTANCE/LIHEAP

(a) For the purpose of a crisis set-aside, for seasonal home heating fuel assistance through December 31, 2010, and for program administration, the commissioner of finance and management shall transfer \$2,550,000 from the home weatherization assistance trust fund to the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are not available. An equivalent amount shall be returned to the home weatherization trust fund from the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are received. Should a transfer of funds from the home weatherization assistance trust fund be necessary for the 2010–2011 crisis set-aside and for seasonal home heating fuel assistance through December 31, 2010, and if LIHEAP funds awarded as of December 31, 2010,

for fiscal year 2011 do not exceed \$2,550,000, subsequent payments under the home heating fuel assistance program shall not be made prior to January 30, 2011. Notwithstanding any other provision of law, payments authorized by the office of home heating fuel assistance shall not exceed funds available, except that for fuel assistance payments made through December 31, 2010, the commissioner of finance and management may anticipate receipts into the home weatherization assistance trust fund.

Sec. E.325 Department for children and families – office of economic opportunity (Sec. B.325, #344010000)

(a) Of the general fund appropriation in this section, \$792,000 shall be granted to community agencies for homeless assistance by preserving existing services, increasing services, or increasing resources available statewide. These funds may be granted alone or in conjunction with federal McKinney emergency shelter funds. Grant decisions shall be made with assistance from the coalition of homeless Vermonters.

Sec. E.325.1 INDIVIDUAL DEVELOPMENT SAVINGS PROGRAM

(a) In fiscal year 2011, the funding for the individual development (IDA) savings program established in 33 V.S.A. § 1123 shall be from multiple sources, including general funds, community services block grant funds, and federal funds for economic development. It is the intent of the general assembly to fully fund the IDA program in future fiscal years as an important tool for the state's economic development through providing matched savings for starting small businesses and through promotion of financial literacy.

Sec. E.326 Department for children and families - OEO - weatherization assistance (Sec. B.326, #3440110000)

(a) Of the special fund appropriation in this section, \$400,000 is for the replacement and repair of home heating equipment.

(b) Appropriations from the weatherization trust fund may be limited based on the revenue forecast for the fund from the gross receipts tax as adopted pursuant to 32 V.S.A. § 305a.

Sec. E.329 VERMONT VETERANS' HOME; REGIONAL BED CAPACITY

(a) The agency of human services shall not include the bed count at the Vermont veterans' home when recommending and implementing policies that are based on or intended to impact regional nursing home bed capacity in the state.

Sec. E.329.1 Sec. E.308.1 of No. 1 of the Acts of 2009 (Special Session) is amended to read:

Sec. E.308.1 ~~FISCAL YEAR 2010~~ NURSING HOMES; HIT INCENTIVES

(a) ~~The~~ By fiscal year 2014, the division of rate setting shall examine the need to provide an incentive or rate adjustment by rule to nursing homes to install electronic medical records in order to improve quality of care by avoiding medical errors and to achieve savings in health care costs through streamlined administration. The incentive or rate adjustment shall be in addition to any current adjustment for capital costs. The incentive or rate adjustment shall be available to nursing homes that have installed electronic medical records prior to the adoption of the rule. In examining the need for an incentive or rate adjustment, the division shall consider the availability and likelihood of federal funding opportunities to achieve the intended purpose of this section.

Sec. E.330 Disabilities, aging, and independent living - advocacy and independent living (Sec. B.330, #3460020000)

(a) Certification of adult day providers shall require a demonstration that the new program is filling an unmet need for adult day services in a given geographic region and does not have an adverse impact on existing adult day services.

(b) Of this appropriation, \$109,995 in general funds shall be allocated for base funds to adult day programs in the same proportion as they were allocated in fiscal year 2010.

Sec E.337 Corrections – correctional education (Sec. B.337 #3480003000)

(a) The appropriation in this section shall be made, notwithstanding 28 V.S.A. § 120(g).

Sec. E. 338 Corrections – correctional services (Sec. B.338, #3480004000)

(a) In fiscal year 2011, \$110,000 of the funds allocated for recovery centers with justice reinvestment funds shall be transferred to the office of drug and alcohol programs to be added to the base funding for recovery centers.

Sec. E.342 Vermont veterans' home – care and support services (Sec. B.342, #3300010000)

(a) If Global Commitment fund monies are unavailable, the total funding for the Vermont veterans' home shall be maintained through the general fund or other state funding sources.

(b) The Vermont veterans' home will use the Global Commitment funds appropriated in this section for the purpose of increasing the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

* * * LABOR * * *

Sec. E.401 Labor - programs (Sec. B.401, 4100500000)

(a) The workforce development council shall allocate funding to the workforce investment boards based upon the performance of the local workforce investment boards, measured according to standards established by the council.

Sec. E.401.1 21 V.S.A. chapter 17, subchapter 4 is added to read:

Subchapter 4. Benefits for Approved Job Training Program

§ 1471. TRAINING BENEFIT PROGRAM

(a) An individual who is otherwise eligible for benefits under this chapter, but who has exhausted his or her maximum benefit amount under section 1340 of this chapter and any other available federally funded extension, is entitled to a maximum of an additional 26 weeks of benefits in the same amount as the weekly benefit amount established in the individual's most recent benefit year if the individual is enrolled in and making satisfactory progress in either a state-approved training program or a job training program authorized under the workforce investment act of 1998.

(b) To be eligible for training benefits under this section an individual shall be in compliance with both the following:

(1) The individual has been separated from a declining occupation or has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment.

(2) The individual is enrolled in a program designed to train the individual for entry into a high demand occupation.

Sec. E.401.2 21 V.S.A. § 1101 is amended to read:

§ 1101. APPRENTICESHIP DIVISION AND COUNCIL

The apprenticeship division and state apprenticeship council, hereinafter referred to as the "council," shall be located within the department of labor. The commissioner of labor shall supervise the work of the division. The council shall consist of ~~11~~ 10 members, ~~five~~ four ex officio members and six members who shall be appointed by the governor. Of the ex officio members, one shall be the commissioner of labor, ~~one shall be the director of workforce~~

~~development~~, one shall be the ~~chief of licensing within the department of~~ commissioner of public safety, or designee, one shall be the ~~director of career and lifelong learning within the department~~ commissioner of education or designee, and one shall be the ~~state~~ director of the apprenticeship division who shall act as secretary of the council without vote. Of the appointive members, three shall be individuals who on account of previous vocation, employment, occupation, or affiliation can be classed as employers and three shall be individuals who on account of previous vocation, employment, occupation, or affiliation can be classed as employees. Appointment of the employer and the employee members shall be made for the term of three years except the employer and employee members first appointed shall be appointed for the term of one, two, and three years respectively. The governor shall annually designate one member of the council as chair. Each member of the council who is not a salaried official or employee of the state shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

Sec. 401.3 21 V.S.A. § 1340 is amended to read:

§ 1340. ~~COMPUTATION~~ DURATION OF BENEFITS

Except as provided in ~~subchapter 2~~ subchapters 2 and 4 of this chapter, the maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed 26 times his or her weekly benefit amount.

Sec. 401.4 REPEAL

(a) 21 V.S.A. § 1423b (relating to extended benefits; approved training programs) is repealed.

* * * K-12 EDUCATION * * *

Sec. E.500 Education – finance and administration (Sec. B.500, #5100010000)

(a) The Global Commitment funds appropriated in this section for school health services, including school nurses, shall be used for the purpose of funding certain health-care-related projects. It is the goal of these projects to reduce the rate of uninsured or underinsured persons or both in Vermont and to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.500.1 16 V.S.A. § 4001(1) is amended to read:

§ 4001. DEFINITIONS

For the purpose of this chapter:

(1) "Average daily membership" of a school district, or if needed in order to calculate the appropriate homestead tax rate, of the municipality as defined in 32 V.S.A. § 5401(9), in any year means:

* * *

(C) The full-time equivalent enrollment for each prekindergarten child as follows: If a child is enrolled in 10 or more hours of prekindergarten education per week or receives 10 or more hours of essential early education services per week, the child shall be counted as one full-time equivalent pupil. If a child is enrolled in six or more but fewer than 10 hours of prekindergarten education per week or if a child receives fewer than 10 hours of essential early education services per week, the child shall be counted as a percentage of one full-time equivalent pupil, calculated as one multiplied by the number of hours per week divided by ten. A child enrolled in prekindergarten education for fewer than six hours per week shall not be included in the district's average daily membership. Although there is no limit on the total number of children who may be enrolled in prekindergarten education or who receive essential early education services, the total number of prekindergarten children that a district may include within its average daily membership shall be ~~limited~~ determined as follows:

(i) All children receiving essential early education services may be included.

(ii) Of the children enrolled in prekindergarten education offered by or through a school district who are not receiving essential early education services, the greater of the following may be included:

(I) ten children; or

(II) the number resulting from: (aa) one plus the average annual percentage increase or decrease in the district's first grade average daily membership as counted in the census period of the previous five years; multiplied by (bb) the most immediately previous year's first grade average daily membership; or

(III) the total number of children residing in the district who are enrolled in the prekindergarten program or programs and who are eligible to enter kindergarten in the district in the following academic year; or

(IV) one-fifth of the total number of children in grades 1-5 who were included in the district's average daily membership for the previous year.

(iii) Notwithstanding subdivision (ii) of this subdivision or any other provision limiting the number of prekindergarten children a district may include within its average daily membership, if the commissioner determines

that a school district or a school within the district has made insufficient progress in improving student performance as required by subsection 165(b) of this title or federal law, then until the commissioner determines that sufficient progress is being made, the school district may include within its average daily membership the total number of children enrolled in prekindergarten education offered by or through a school district; provided, however, that the number included in the average daily membership shall not exceed the maximum number of children who can be accommodated in all qualified prekindergarten education programs, as defined in state board rule, that are offered by or through the school district and by private providers within the district as of:

(I) June 30, 2010 if the commissioner's determination of insufficient progress is made on or before that date; or

(II) June 30 of the year the commissioner's determination of insufficient progress is made for districts added to the list after June 30, 2010.

Sec. E.501 Sec. E. 501(a) of No. 1 of the Acts of 2009 (Special Session) is amended to read:

(a) In fiscal year 2010 and fiscal year 2011, \$1,131,751 shall be paid by the education fund for early education initiative grants for at-risk preschoolers. These payments shall be made notwithstanding 16 V.S.A. § 4025(b)(1). In fiscal year 2012, these expenses shall revert to the general fund, and the general fund transfer shall be adjusted accordingly.

Sec. E.501.1 Sec. 9.001(d) of No. 192 of the Acts of 2008 (sunset; teen parent education programs), as amended by Sec. E.501.1 of No. 1 of the Acts of the Special Session of 2009, is amended to read:

(d) Sec. 5.304.1 of this act shall take effect on July 1, 2008 ~~and shall remain in effect until July 1, 2010.~~

Sec. E.502 Education – special education: formula grants (Sec. B.502, #5100040000)

(a) The education fund appropriated in this section shall be made notwithstanding 16 V.S.A. §§ 2963(c)(3) and 2967(b).

(b) Of the appropriation authorized in this section, and notwithstanding any other provision of law, an amount not to exceed \$3,300,654 shall be used by the department of education in fiscal year 2011 as funding for 16 V.S.A. § 2967(b)(2)–(6). In distributing such funds, the commissioner shall not be limited by the restrictions contained within 16 V.S.A. § 2969(c) and (d). In addition to funding for 16 V.S.A. § 2967(b)(2)–(6), up to \$169,061 may be used by the department of education for its participation in the higher education partnership plan.

Sec. E.503 Education – state-placed students (Sec. B.503, #5100050000)

(a) The independence place program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

Sec. E.504 Education – adult education and literacy (Sec. B.504, #5100060000)

(a) Of this appropriation, the amount from the education fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. § 1049a(c).

(b) The education fund appropriated in this section shall be notwithstanding 16 V.S.A. § 1049a(c).

Sec. E.505 Education – adjusted education payment (Sec. B.505, #5100090000)

(a) Any calculations required to identify funding levels for the education fund budget stabilization reserve under 16 V.S.A. § 4026(b) shall be calculated as if in fiscal year 2011, those revenues and appropriations included \$38,575,036 in additional revenues and \$38,575,036 in additional expenditures.

Sec. E.505.1 COMMUNITY HIGH SCHOOL OF VERMONT GRANT

(a) From the education funds appropriated in Sec. B.505 in fiscal year 2011, a base education payment shall be paid to the community high school of Vermont for full-time equivalent students studying high school equivalency coursework. For fiscal year 2011, this total grant shall be set at the base education amount for 355 full-time equivalent pupils. This amount shall be transferred from the funds appropriated in Sec. B.505 to the department of corrections - correctional education program. These payments shall be made, notwithstanding 16 V.S.A. § 4025(b)(1). In fiscal year 2012, these expenses shall revert to the general fund, and the general fund transfer shall be adjusted accordingly.

Sec. E.512 Education – Act 117 cost containment (Sec. B.512, #5100310000)

(a) Notwithstanding any provisions of law, expenditures made from this section shall be counted under 16 V.S.A. § 2967(b) as part of the state's 60 percent of the statewide total special education expenditures of funds which are not derived from federal sources.

Sec. E.513 Appropriation and transfer to education fund (Sec. B.513, #1110020000)

(a) Notwithstanding 16 V.S.A. § 4025(a)(2), for fiscal year 2011, the general fund transfer to the education fund shall be \$240,803,945.

Sec. E.514 State teachers' retirement system (Sec. B.514, #1265010000):

(a) In accordance with 16 V.S.A. § 1944(g)(2), the amount of annual contribution to the Vermont state teachers' retirement system shall be \$48,233,006 in fiscal year 2011.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, \$10,270,041 is the "normal contribution," and \$37,962,965 is the "accrued liability contribution."

(c) A combination of \$46,913,381 in general fund, and an estimated \$1,319,625 of Medicare Part D reimbursement funds is utilized to achieve funding at the actuarially recommended level.

* * * HIGHER EDUCATION * * *

Sec. E.600 University of Vermont (Sec. B.600, #1110006000)

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$407,113 shall be transferred to EPSCoR (Experimental Program to Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

(c) If Global Commitment fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the general fund or other state funding sources.

(d) The University of Vermont will use the Global Commitment funds appropriated in this section to support Vermont physician training. The University of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high quality health care services to Medicaid beneficiaries and to the uninsured or underinsured persons or both in Vermont and across the nation.

Sec. E.602 Vermont state colleges (Sec. B.602, #1110009000)

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the Vermont state colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$459,801 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

Sec. E.603 Vermont state colleges – allied health (Sec. B.603, #1110010000)

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont state colleges shall be maintained through the general fund or other state funding sources.

(b) The Vermont state colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs which graduate approximately 250 health care providers annually. These graduates deliver direct, high quality health care services to Medicaid beneficiaries and uninsured or underinsured persons or both.

Sec. E.605 Vermont student assistance corporation (Sec. B.605, #1110012000)

(a) Of this appropriation, \$25,000 is appropriated from the general fund to the Vermont Student Assistance Corporation to be deposited into the trust fund established in 16 V.S.A. § 2845.

(b) Except as provided in subsection (a) of this section, not less than 93 percent of grants shall be used for direct student aid.

(c) Of state funds available to the Vermont Student Assistance Corporation pursuant to Secs. E.215(a) and B.1100(a)(3)(B) of this act, \$250,000 shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

Sec. E. 605.1 VERMONT STUDENT ASSISTANCE CORPORATION;
REPORT

(a) The Vermont student assistance corporation (VSAC) shall file a report with the general assembly and the higher education subcommittee of the prekindergarten-16 council by January 15, 2011. The report shall detail VSAC's changing role as a result of changes made in March 2010 to the federal higher education act through the enactment of the health care and education reconciliation act of 2010 (HCERA), Pub.L. 111-152 and HCERA's impacts on VSAC's operating revenues, its ability to provide state services to

Vermonters, its strategic direction, and its spending and staffing levels. VSAC shall give updating reports to the higher education subcommittee of the prekindergarten-16 council at the council's meetings in 2010, and the council shall submit its comments on the reports to the general assembly.

Sec. E.605.2 ADVANCED PLACEMENT COURSES; DUAL ENROLLMENT AND OTHER POSTSECONDARY COURSES; POSTSECONDARY CREDIT

(a) On or before January 15, 2011, each Vermont postsecondary institution that receives general fund or capital appropriations from the state shall consider and provide recommendations to the house and senate committees on education regarding ways in which it could improve secondary completion and postsecondary aspiration rates by awarding postsecondary academic credit for the successful completion of one or more of the following:

(1) An advanced placement course at a Vermont secondary school and a score of three or higher on the advanced placement examination.

(2) A postsecondary-level course in a dual enrollment program.

(3) A postsecondary-level course offered online or by correspondence with an accredited college or university.

* * * NATURAL RESOURCES * * *

Sec. E.701 REPEAL

(a) 10 V.S.A. § 7553(h)(4) is repealed and the subsequent subdivisions of 10 V.S.A. § 7553(h) are renumbered accordingly.

(b) Subsections 6b(b) and (c) (transfer of funds from the solid waste management account for implementation of electronic waste program) of S.77 of 2010 as enacted are repealed.

Sec. E.701.1 Sec. 6c of S.77 of 2010 as enacted is amended to read:

Sec. 6c. ANR DISBURSEMENTS; APPROPRIATIONS

(a) In fiscal ~~years~~ year 2011 ~~and 2012~~, the secretary of natural resources may authorize disbursements from the electronic waste collection and recycling account within the waste management assistance fund for the purpose of paying the costs of administering and implementing the electronic waste collection program set forth under chapter 166 of Title 10.

(b) In addition to any other funds appropriated to the agency of natural resources in fiscal year 2011, there is appropriated ~~from the general fund~~ to the agency \$50,000.00 in fiscal year 2011 from the waste management assistance fund under 10 V.S.A. § 6618 from fees assessed under 10 V.S.A. § 7553(g) for

the purpose of administering and implementing the electronic waste collection and recycling program under chapter 166 of Title 10.

(c) Pursuant to 32 V.S.A. § 588(4)(C), the commissioner of finance and management may authorize the secretary to pay from anticipated receipts of the waste management assistance fund from fees assessed under 10 V.S.A. section 7553 the costs incurred by the secretary in implementing the standard plan established under 10 V.S.A. section 7552 in the first quarter of the program year beginning July 1, 2011.

Sec. E.702 Fish and wildlife - support and field services (Sec. B.702, #6120000000)

(a) It is the intent of the general assembly that the fiscal year 2011 budget provides funding to fill five (5) game warden positions that are vacant as of January 1, 2010, and funds two (2) limited service Fish and Wildlife Scientist II positions (position numbers 640148 and 640150). The Scientist II positions shall continue to implement the landowner Incentive Program and Community Wildlife Program.

(b) The department shall develop measures to evaluate the success of the Scientist II positions in carrying out the purposes in subsection (a) of this section. This evaluation shall be submitted with the fiscal year 2012 budget materials to the house and senate committees on appropriations.

Sec. E.702.1 TRANSFER OF REGULATORY OVERSIGHT AND SPECIAL REQUIREMENTS FOR FACILITY AND HERD MANAGEMENT

(a) The general assembly finds and declares that:

(1) Vermont has long recognized that the protection and management of the state's native cervidae population is in the interest of the public welfare.

(2) An abundant, healthy deer herd is a primary goal of wildlife management, and hunting is a time-honored Vermont tradition.

(3) Vermont's captive cervidae herds are regulated as game farms under authority of the secretary of agriculture, food and markets under chapter 102 of Title 6 and the agency of agriculture, food and markets' rules governing captive cervidae.

(4) Captive cervidae herds provide economic benefit to Vermont in the same manner as farms producing cattle, sheep, pigs, and other amenable livestock.

(5) Tuberculosis is a transmissible disease that can infect species of both the cervidae and bovidae families and is zoonotic. The family bovidae includes cattle. The family cervidae include white-tailed deer, moose, and elk.

(6) Chronic wasting disease is a transmissible spongiform encephalopathy that has been identified in both free-ranging and captive cervidae populations in other parts of the United States, including New York state.

(7) Tuberculosis can be transmitted in cervidae and bovidae by nose-to-nose contact and through the sharing of watering and feeding troughs. It is not known exactly how chronic wasting disease is transmitted, but the most likely route of transmission is nose-to-nose contact. The agency of agriculture, food and markets' rules governing captive cervidae contain provisions both for managing herds that may be susceptible to chronic wasting disease and for testing cervidae to monitor for the control of zoonotic diseases contagious to livestock, including tuberculosis.

(8) The captive cervidae facility located in Irasburg manages a special-purpose herd established in 1994 within a 700-acre enclosure. At the time of the enclosure, the 700 acres contained a small population of native cervidae that currently falls outside the jurisdiction of the agency of agriculture, food and markets.

(9) In order to align state regulatory oversight of the facility and balance the state's responsibility to protect and manage its native cervidae populations with the economic benefit contributed by the 700-acre captive cervidae facility, it is necessary to transfer to the agency of agriculture, food and markets full jurisdiction and authority for regulatory oversight of the Irasburg facility and full authority for herd management of the facility and all cervidae currently contained within the 700-acre enclosure.

(b) Notwithstanding any law to the contrary, for the purposes of this section, the term "cervidae" shall include all white-tailed deer and moose currently entrapped in the Irasburg captive cervidae facility that contains a special-purpose herd, as "special-purpose herd" is defined in the agency of agriculture, food and markets' rules governing captive cervidae.

(c) The Irasburg captive cervidae facility that contains a special-purpose herd shall:

(1) Erect a secondary-perimeter fence inside the existing, primary-perimeter fence sufficient to reduce the possibility of contact between native cervidae and any cervidae within the facility. The secondary fencing shall be approved by the secretary of agriculture, food and markets and shall be erected no later October 1, 2010.

(2) Submit a written herd management plan for all cervidae, including entrapped native cervidae, within the facility to the secretary of agriculture, food and markets for approval. The plan shall:

(A) contain a specific disease surveillance component acceptable to the secretary of agriculture, food and markets that presents at least 30 mature native cervidae to the secretary of agriculture, food and markets for tuberculosis and chronic wasting disease testing per year. For purposes of this subdivision, "mature" means an animal older than 16 months of age;

(B) provide for the culling of antlerless native cervidae at a rate that prevents the herd size from overpopulating the enclosed area. The culling program shall include a provision to allow members of the Vermont National Guard who did not participate in the Vermont regular deer or moose hunting seasons and who were awarded or are eligible to receive a campaign ribbon for Operation Iraqi Freedom or Operation Enduring Freedom to assist with the cull; and

(C) be filed with the secretary of agriculture, food and markets no later than August 1, 2010.

(3) Comply with all disease testing protocols established and required by the secretary of agriculture, food and markets.

(4) Demonstrate by no later than September 1, 2010, substantial compliance with the agency of agriculture, food and markets' rules governing captive cervidae.

(5) Remain in good regulatory standing with the secretary of agriculture, food and markets.

(d) The secretary of agriculture, food and markets may grant a variance from the agency of agriculture, food and markets' rules for the design and construction of the secondary-perimeter fence required under subdivision (c)(1) of this section if the fence design proposed by the owner of the Irasburg facility serves the underlying purpose of reducing the possibility of contact between free-ranging native cervidae and any cervidae enclosed within the facility. The secretary of agriculture, food and markets may grant variances to other provisions of the agency of agriculture, food and markets' rules governing captive cervidae provided that the health and welfare of free-ranging native cervidae are not compromised or put at risk.

(e) In order to ensure that the appropriate number of native cervidae are provided to the secretary of agriculture, food and markets for disease surveillance as required under subdivision (c)(2)(A) of this section and that the facility is able to meet the cull rate required under subdivision (c)(2)(B) of this section, the facility may harvest cervidae during a special season, if necessary.

Any special harvest shall be approved in advance by the secretary of agriculture, food and markets after consultation with the commissioner of fish and wildlife. Notice of approval for a special season shall be posted at least 10 days in advance of the season in the office of the town clerk of Irasburg.

(f) Any native cervidae discovered between the primary and secondary fences at the Irasburg captive cervidae facility or any cervidae carcass discovered within the Irasburg facility shall be immediately presented to the secretary of agriculture, food and markets for disease surveillance.

(g) The secretary of agriculture, food and markets may enforce a failure to comply with the requirements of this section under chapter 1 or 102 of Title 6.

(h) It shall be a violation of chapter 103 or 113 of Title 10 if a person knowingly or intentionally entraps or allows a person to knowingly or intentionally entrap a native cervidae within the Irasburg captive cervidae facility.

Sec. E.704 Forests, parks and recreation - forestry (Sec. B.704, #6130020000)

(a) This special fund appropriation shall be authorized, notwithstanding 3 V.S.A. § 2807(c).

* * * COMMERCE AND COMMUNITY DEVELOPMENT * * *

Sec. E.800 [DELETED]

Sec. E.800.1 [DELETED]

Sec. E.801 [DELETED]

Sec. E.801.1 REPEAL

(a) 10 V.S.A. § 1 (commission on the future of economic development) is repealed.

Sec. E.801.2 [DELETED]

Sec. E.801.3 [DELETED]

Sec. E.801.4 [DELETED]

Sec. E.803 Community development block grants (Sec. B.803, #7110030000)

(a) Community development block grants shall carry forward until expended.

(b) Community development block grant (CDBG) funds shall be expended in accordance with and in the order of the following priorities.

(1) The greatest priority for the use of CDBG funds will be the creation and retention of the affordable housing and jobs.

(2) The overarching priority and fundamental objective in the use of funds for all affordable housing is to achieve perpetual affordability through the use of mechanisms that produce housing resources that will continue to remain affordable over time. It is the goal of the state to maintain at least 45 to 55 percent of CDBG fund for affordable housing applications.

(3) Among affordable housing applications, the highest priorities are to preserve and increase the supply of affordable family housing, to reduce and strive to eliminate childhood homelessness, to preserve affordable housing developments and extend their useful life, serve families and individuals at or below 30 percent HUD area median income and people with special needs. Housing for seniors should be considered a priority when it meets clear unmet needs in the region for the lowest income seniors.

(4) CDBG and other public funds are intended to create and preserve affordable housing for households for income-eligible families, seniors and those with special needs. Limited public funding must focused on these households. Therefore, funding for projects which intend to serve households which exceed the CDBG income limits shall be consistent with the Vermont housing finance agency's qualified allocation plan.

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

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

Sec. E.803.1 Sec 10a(a) of S.288 of the 2010 session is amended to read:

(a) The amount of \$100,000.00 ~~shall be transferred to~~ is reserved in the general fund in fiscal year 2011 to cover the fiscal year 2011 costs of allocating \$100,000.00 worth of tax credits in calendar year 2010 under the downtown and village center program pursuant to 32 V.S.A. § 5930ee, which amount is authorized in addition to the statutory cap of \$1,700,000.00.

Sec. E.803.2 Sec. 2(a) of No. 78 of the Acts of 2010 (Vermont Recovery and Reinvestment) is amended to read:

(a) In fiscal year 2010, \$8,665,000.00 from the state fiscal stabilization fund general services fund that remains available to Vermont under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, shall be appropriated to the secretary of administration, who is directed to transfer the funds to the department of public safety for the costs of

the state police. The secretary of administration is further directed to reduce the general fund appropriation for the state police by \$8,665,000.00. From the general fund, the amount of ~~\$8,665,000.00~~ \$8,565,000.00 is hereby appropriated as prescribed in Secs. 3–10d of this act. The Vermont office of economic stimulus and recovery is directed to track these general fund appropriations as if they were ARRA funds.

Sec. E.805 Tourism and Marketing (Sec. B.805, #7130000000)

(a) Of the funds appropriated for tourism and marketing, \$100,000 shall be used to support the Vermont convention bureau, division of Lake Champlain Regional Chamber of Commerce.

(b) The Vermont convention bureau shall submit a report with the fiscal year 2012 budget materials that describes the outcomes established for this grant and the method of evaluating these outcomes that includes the impact of the convention bureau on the economies of the regions or counties of Vermont.

Sec. E.806 [DELETED]

Sec. E.810 10 V.S.A. § 321(c) is amended to read:

(c) On behalf of the state of Vermont, the board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund which was enacted under HR 3221, Division A, Title 1, Subtitle B, Section ~~4228~~ 1131 of the ~~Federal Housing Finance Regulatory and Economic Reform Act of 2008 (P.L. 110-289)~~ to increase perpetually affordable rental housing and home ownership for low and very low income families. The board is also authorized to receive and administer federal funds or enter into cooperative agreements for a shared appreciation and/or community land trust demonstration program that increases perpetually affordable homeownership options for lower income Vermonters and promotes such options both within and outside Vermont.

Sec. E.810.1 10 V.S.A. § 311(b)(5) is amended to read:

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

Sec. E.810.2 10 V.S.A. § 311(c) is amended to read:

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

Sec. E.810.3 VERMONT HOUSING AND CONSERVATION BOARD-PRIVATE USE BOND CAP

(a) Sec. 22 of H.790 of 2010, An Act Relating to Capital Construction and State Bonding, appropriates funds to the Vermont housing and conservation board (VHCB) and establishes a percentage allocation between affordable housing and conservation investments it may make with such funds. However, if less than \$4,000,000 of the state's private use bond cap is made available to the VHCB for eligible affordable housing investments, VHCB may increase the amount it allocates to conservation grant awards from its capital appropriation notwithstanding Sec. 22 of H.790, provided that VHCB increases its affordable housing investments in the same amount from the funds appropriated in Sec.B.810 as result of the allocation in Sec. D.100(a)(2) of this act.

Sec. E.810.4 COMMISSION ON FINANCING AND DELIVERY OF AFFORDABLE HOUSING AND CONSERVATION

(a) An eight-person commission is created, consisting of the following members: one member of the house of representatives appointed by the speaker of the house; one member of the senate appointed by the senate committee on committees; three citizen members who are not members of the general assembly, appointed by the speaker of the house; and three citizen members who are not members of the general assembly, appointed by the senate committee on committees. Citizen members shall be experienced in developing or financing affordable housing or conserving Vermont's working landscape and historic properties. The speaker of the house and the senate committee on committees shall appoint one citizen member as chair of the commission.

(b) The commission shall:

(1) identify the state requirements for housing and conservation programs and services administered by the Vermont state housing authority, the Vermont housing finance agency, the Vermont housing and conservation

board and the Vermont department of economic development, housing and community development (“statewide entities”);

(2) determine whether the statewide entities are taking the following steps to meet their respective state requirements:

(A) assembling multiple funding sources to address a full range of housing needs, including emergency, transitional, assisted living, multi-family rental, and homeownership;

(B) leveraging federal, state, private, and philanthropic resources;

(C) serving Vermonters with the lowest incomes and special needs;

(D) promoting housing and economic development in downtowns and village centers;

(3) review the report required by Executive Order Number 02-10 (March 18, 2010) that addresses the potential merger or consolidation of the statewide entities;

(4) determine the impact of a merger or consolidation of the statewide entities on the production of permanently affordable housing, land conservation, and historic preservation; and

(5) with respect to the Vermont housing and conservation board, determine whether it is fulfilling its statutory mission to develop permanently affordable housing and protect at-risk housing; to conserve Vermont’s working landscape, important natural areas, and historic properties; and to build effective community-based nonprofit capacity to advance these goals.

(c) The commission may meet up to six times while the general assembly is not in session and shall hold at least one public hearing. The legislative council shall provide legal and administrative support to the commission. Commission members who are not state employees are entitled to compensation and reimbursement of expenses as provided under 32 V.S.A. § 1010 to be paid for equally by the statewide entities. By January 15, 2011, the commission shall submit a report of its findings and recommendations to the house committees on appropriations, on government operations, and on general, military affairs and housing; and the senate committees on appropriations, on government operations, and on economic development, housing and general affairs.

* * * TRANSPORTATION * * *

Sec. E.909 Transportation – central garage (Sec. B.909, #8110000200)

(a) Of this appropriation, \$6,316,751 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. E.915 Transportation – town highway aid program (Sec. B.915, #810003000)

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

Sec. F.1 Sec. C5(b) of H.792 of the 2010, as enacted, is amended to read:

(b) The agency shall not expand the list of available Medicaid providers of ~~home and community-based nonmedical personal care services, not including ease management or self-directed services,~~ and respite care to include providers other than home care agencies certified by the Centers for Medicare and Medicaid Services.

Sec. F.3 Sec. C24 of H.792 of 2010, as enacted, is amended to read:

Sec. C24. INITIATIVES; INDIVIDUALS WITH DISABILITIES, MENTAL HEALTH NEEDS, OR SUBSTANCE ABUSE ISSUES

The general assembly is supportive of the following new proposals and the proposals relating to individuals with disabilities, mental health needs, or substance abuse issues in the agency of human services addendum to the Challenges for Change Progress Report dated March 30, 2010, and urges the agency to implement them, subject to other legislation enacted by the general assembly:

* * *

(13) ~~allowing~~ developing new residential options for individuals with developmental disabilities as described in the state system of care plan;

* * *

(18) redesigning service delivery to individuals with developmental disabilities in the custody of programs funded by the commissioner of disabilities, aging, and independent living ~~under the~~ who pose a risk to public safety ~~criteria.~~

Sec. F.4 Sec. C25(b)(2) of H.792 of 2010, as enacted, is amended to read:

(2) No later than July 1, 2011, every individual ~~in the custody of the commissioner with developmental disabilities in programs funded by the~~ department of disabilities, aging, and independent living ~~under the~~ who poses a risk to public safety ~~criteria~~ who has not been assessed for a developmental

disability within the past two years shall have his or her ~~competency~~ risk to public safety evaluated by a psychologist skilled in assessing developmental disabilities. The commissioner shall develop protocols for evaluating the appropriateness of less restrictive residential placements based on the results of the evaluation.

Sec. F.5 Sec. C25(c) of H.792 of 2010, as enacted, is amended to read:

(c) Individuals may appeal to the human services board as provided for in 3 V.S.A. § 3091, except that the agency shall provide an expedited hearing as described in this subsection in lieu of the hearing provided for in 3 V.S.A. § 3091(b).

(1) An individual may appeal modifications to his or her individualized service plan and budget and receive continuing benefits if requested within the time frames specified in existing law. ~~If the appeal is made within the time frame provided for in existing law, the individual may receive continuing benefits upon request until a decision has been rendered.~~

(2) An expedited hearing shall be held no later than 11 calendar days following the date of the request for an appeal. A special, independent hearing officer shall be appointed by the agency and assigned to hear the appeals provided for under this subdivision. The agency department may contract with an attorney for its representation at these expedited hearings.

(3) ~~Hearings~~ Expedited hearings shall be conducted according to the human services board fair hearing rules, except to the extent that the rules conflict with the process provided for in this subsection.

Sec. F.6 13 V.S.A. § 4816(c) as amended by Sec. C25a of H.792 of 2010, as enacted, is amended to read:

(c) As soon as practicable after the examination has been completed, the examining psychiatrist or psychologist, if applicable, shall prepare a report containing findings in regard to each of the matters listed in subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the state's attorney, and to the respondent's attorney if the respondent is represented by counsel.

Sec. F.7 33 V.S.A. § 2031 as added by Sec. C34 of H.792 of 2010, as enacted, is amended to read:

§ 2031. CREATION OF CLINICAL UTILIZATION REVIEW BOARD

(a) No later than ~~May 15, 2010~~ June 15, 2010, the department of Vermont health access shall create a clinical utilization review board to examine existing medical services, emerging technologies, and relevant evidence-based clinical practice guidelines and make recommendations to the department regarding

coverage, unit limitations, place of service, and appropriate medical necessity of services in the state's Medicaid programs.

* * *

Sec. F.8 Sec. D10 of H.792 of 2010, as enacted, is amended to read:

Sec. D10. DEPARTMENT OF CORRECTIONS; FACILITIES CLOSING

(a) ~~In~~ Except as provided in subsection (b) of this section, in fiscal year 2011, the department of corrections shall not close or substantially reduce services at a correctional facility or field office.

(b) The department of corrections may close or substantially reduce services at a correctional facility or field office between January 31, 2011, and May 1, 2011, provided that 60 days prior to the closure of a facility or a reduction in services, the secretary of administration provides such a proposal to the house committee on corrections and institutions and the senate committees on judiciary and on institutions, if the general assembly is in session, or to the joint committee on corrections oversight and the joint fiscal committee, if the general assembly has adjourned for the year.

Sec. F.9 Sec. D12 of H.792 of 2010, as enacted, is amended to read:

Sec. D12. COMMISSIONER OF CORRECTIONS; AID TO COMMUNITIES WITH A HIGH ~~NUMBER~~ PERCENTAGE PER CAPITA OF PEOPLE UNDER THE CUSTODY OF THE COMMISSIONER

The commissioner of corrections shall work with communities, in which a high number of people are under his or her custody, including those living in the community and those who are incarcerated residents of the community, to help the community to reduce the number of people entering into custody. For expenditures from funds reinvested pursuant to Sec. D9 of this act and Sec. 338 of H.789 of 2010 (Appropriations Act), in community level services, the commissioner shall give priority to projects located in ~~the four~~ communities which have the highest ~~number~~ percentage per capita of people under his or her custody, including those living in the community and residents who are incarcerated.

Sec. F.10 Sec. G2(b) of H.792 of 2010, as enacted, is amended to read:

(b) Pursuant to the directive contained in ~~Act 68~~ No. 68 of the Acts of the 2009 Adj. Sess. (2010), it is the intent of the general assembly to improve the outcomes for economic development by:

- (1) Identifying measurable results of improvement.

(2) Designing evidence-based economic development strategies to achieve these improvements and the four goals of economic development identified in 10 V.S.A. § 3.

(3) Directing available state funds to these strategies.

(4) Using objective data-based indicators to measure performance of these strategies.

Sec. F.11 24 V.S.A. § 4341(c), as enacted by Sec. G5 of H.792 of 2010, is amended to read:

(c) A municipality may ~~withdraw~~ move from a one regional planning commission to another regional planning commission on terms and conditions approved by the secretary of the agency of commerce and community development.

Sec. F.12 Sec. G6(a)(1)(D) of H.792 of 2010, as enacted, is amended to read:

(D) Two members, appointed jointly by the governor, the speaker of the house, and the president pro tempore of the senate, who have a background in municipal planning and do not currently serve on the board of a regional development corporation or a regional planning commission. The governor, the speaker of the house, and the president pro tempore of the senate shall jointly designate one of these two members as the chair of the oversight panel and one member as the vice chair of the oversight panel.

Sec. F.13 Sec. G24(4) of H.792 of 2010, as enacted, is amended to read:

(4) From the Challenges for Change reinvestment funds that are appropriated to the secretary to implement the economic development components of this act, the secretary of administration shall reimburse the joint fiscal office and the appropriate executive agency or department for costs incurred to implement Sec. G10 (economic performance measures) of this act.

Sec. F.14 ECONOMIC DEVELOPMENT TARGET AND INVESTMENT

(a) Notwithstanding No. 68 of the Acts of 2009 Adj. Sess. (2010), in fiscal year 2011, the secretary of administration shall reduce total state fund appropriations related to economic development by \$965,600, and to achieve this reduction, the secretary may reduce total appropriations related to economic development by up to \$1,065,600 and may reinvest up to \$100,000 to accomplish this challenge, so long as the general fund reductions under this subsection, by the end of fiscal year 2011, equal or exceed \$965,600.

(b) Subject to the limitations on reductions contained in No. 68 of the Acts of the 2009 Adj. Sess. (2010) and H.792 of 2010 and in order to meet the overall savings of \$37,872,375, the secretary of administration shall seek

\$2,064,400 of state fund reductions from Challenges for Change, other than economic development, or from new, additional Challenges for Change initiatives.

Sec. F.15 Sec. H4(d) of H.792 of 2010, as enacted, is amended to read:

~~(d) The governor, in achieving the outcomes and associated savings under this act and the Challenges for Change Act, may not reduce government benefits or limit benefit eligibility; and may not reduce personnel unless the personnel reduction is a direct consequence of achieving the required outcomes under the Challenges plan.~~ The administration shall engage the direct participation of service recipients, their families, service providers, and other stakeholders to develop additional Challenges that will meet in full the outcomes and fiscal goals of the Challenges for Change Act and this act, and include a report of these additional Challenges in its July 2010 quarterly report.

Sec. F.15a Sec. H4a of H.792 of 2010, as enacted, is amended to read:

Sec. H4a. REVIEW BY JOINT FISCAL COMMITTEE

(a) The general assembly recognizes that acts of appropriations and their sources of funding reflect the priorities for expenditures of public funds enacted by the general assembly, and that reductions in expenditures, government benefits, personnel, and programs which are considered as a means of accomplishing the goals of No. 68 of the Acts of the 2009 Adj. Sess. (2010), and this act ought to reflect these legislated priorities. Therefore, if the general assembly is not in session, the secretary of administration shall report to the joint fiscal committee:

(1) any proposal for a reduction in excess of five percent of the gross expenditure of the appropriated funding for any single function, program, benefit or service as a part of its plan of implementation of Challenges for Change, and will;

(2) any reduction in government benefits or any limit in benefit eligibility as a part of its plan of implementation of Challenges for Change; or

(3) any reduction in personnel as part of its plan of implementation of Challenges for Change, that is not a direct consequence of achieving the required outcomes under the Challenges for Change provisions in this act.

(b) The secretary of administration shall include in the report provided for under subsection (a) of this section an analysis of how the any reduction is designed to achieve the outcomes expressed in the Challenges for Change, and how the any reduction is designed to achieve legislated policy priorities.

(c) The joint fiscal committee may within 21 days after receipt of the secretary's report consider the proposed reduction in expenditures and report

its approval or disapproval, and the reasons in support of its decision, to the secretary and to the general assembly. If the report is disapproved, the secretary may submit a revised plan to the joint fiscal committee for its review and approval or disapproval, or may proceed as originally proposed.

Sec. F.16 LONG-TERM MONITORING OF WASTEWATER DISCHARGE

(a) Pursuant to 3 V.S.A. § 2822(j)(2)(B)(i), the agency of natural resources charges an annual fee for the monitoring of certain wastewater discharges. Notwithstanding 3 V.S.A. § 2809, it is the intent of the general assembly to create a special fund that will be used to cover the continuing costs of monitoring in the event that the facilities monitored cease discharging wastewater. The general assembly anticipates that the special fund will be financed by a fee assessment on the facilities that are monitored prior to any cessation of their business.

Sec. G.100 EFFECTIVE DATES

(a) This section and Secs. C.100, C.100.1, C.100.2, C.101, C.102, C.103, E.100.4, E.127.2, E.220.1, E.230, E.230.1, E.309.11 (Medicare One-Time Payment), E.309.14 (Emergency Rules for DVHA), E.309.15-E.309.17 (Rx Rebates), E.309.18 (Palliative Care), E.321.4 (Emergency Rules for DCF), E.323 (Repeal Reach Ahead sunset), E.401.1-E.401.4, E.500.1, E.501.1, E.800, E.800.1, E.801.1, E.803.1, E.803.2, E.810, E.810.3, F.7, F.10-F.13, and F.15 of this act shall take effect upon passage.

(b) Sec. E.309.5 (Catamount Health deductible, co-payment, and out-of-pocket maximum increases) shall take effect on October 1, 2010, and shall apply to all Catamount Health insurance plans on and after October 1, 2010, on such date as a health insurer offers, issues, or renews the Catamount Health insurance plan, but in no event later than October 1, 2011.

(c) Sec. E.318.1-E.318.3 shall be effective upon the enactment of S.268 of 2010.

(d) Secs. E.319.1 (OCS medical support) and E.319.2 (OCS definitions) of this act shall apply to child support cases filed on or after July 1, 2010.

(e) Sec. E.323.1 (Reach Up Sanctions) shall be implemented no earlier than October 1, 2010, in order to maximize the TANF emergency contingency funds reimbursable under the American Recovery and Reinvestment Act.

(f) Secs. E.701(a) (repeal of electronic waste collection program implementation costs) and E.701(b) (repeal of use of solid waste management account for implementation of electronic waste collection program); and E.701.1 (ANR appropriations for electronic waste collection program) of this act shall take effect as of the date of enactment of S.77 of 2010.

(g) Sec. E.127.1 (nuclear energy analysis) shall be in effect from July 1, 2008 to July 1, 2012.

(h) Sec E.810.1 is effective upon passage; however, senate consent shall be required for members appointed by the governor on February 1, 2011 and thereafter.

(i) Sec. E.810.2 is effective on passage and the terms of all public members currently appointed to the Vermont Housing and Conservation Trust Fund by the governor or general assembly under 10 V.S.A. § 311 shall be extended from June 30 to January 31.

* * * BUDGETED TAX EXPENDITURES

Sec. H.1 32 V.S.A. chapter 151, subchapter 11M is added to read:

Subchapter 11M. Machinery and Equipment Investment Tax Credit

§ 5930II. MACHINERY AND EQUIPMENT TAX CREDIT

(a) Definitions.

(1) “Full-time job” has the same meaning as defined in subdivision 5930b(a)(9) of this title.

(2) “Investment period” means the period commencing January 1, 2010, and ending December 31, 2014.

(3) “Qualified capital expenditures” means expenditures properly chargeable to a capital account by a qualified taxpayer during the investment period, totaling at least \$20 million for machinery and equipment to be located and used in Vermont for creating, producing, or processing tangible personal property for sale.

(4) “Qualified taxpayer” means a taxpayer that:

(A) is an existing business on January 1, 2010 with an aggregate average annual employment, including all employees of its related business units with which it files a combined or consolidated return for Vermont income tax purposes, during the investment period of no fewer than 200 full-time jobs in Vermont;

(B) is a taxable corporation under Subchapter C of the Internal Revenue Code;

(C) is a business whose operations at the time of application to the Vermont economic progress council are located in a Rural Economic Area Partnership (REAP) zone designated by the United States Department of Agriculture Rural Development Authority, engaged primarily in the creation, production, or processing of tangible personal property for sale; and

(D) proposes to make qualified capital expenditures in a Vermont REAP zone and such expenditures will contribute substantially to the REAP zone's economy.

(5) "Qualified taxpayer's Vermont income tax liability" means the corporate income tax otherwise due on the qualified taxpayer's Vermont net income after reduction for any Vermont net operating loss as provided for under section 5832 of this title. For a qualified taxpayer that is a member of an affiliated group and that is engaged in a unitary business with one or more other members of that affiliated group, its Vermont net income includes the allocable share of the combined net income of the group.

(b) Certification.

(1) A qualified taxpayer may apply to the Vermont economic progress council for a machinery and equipment investment tax credit certification for all qualified capital expenditures in the investment period on a form prescribed by the council for this purpose.

(2) The council shall issue a certification upon determining that the applicant meets the requirements set forth in subsection (a) of this section.

(c) Amount of credit. Except as limited by subsections (e) and (f) of this section, a qualified taxpayer shall be entitled to claim against its Vermont income tax a credit in an amount equal to ten percent of the total qualified capital expenditures.

(d) Availability of credit.

(1) The credit earned under this section with respect to qualified capital expenditures shall be available to reduce the qualified taxpayer's Vermont income tax liability for its tax year beginning on or after January 1, 2012, or, if later, the first tax year within which the qualified taxpayer's aggregate qualified capital expenditures exceed \$20,000,000.00. A taxpayer claiming a credit under this subchapter shall submit with the first return on which a credit is claimed a copy of the qualified taxpayer's certification from the Vermont economic progress council.

(2) The credit may be used in the year earned or carried forward to reduce the qualified taxpayer's Vermont income tax liability in succeeding tax years ending on or before December 31, 2026.

(e) Limitations.

(1) The credit earned under this section, either alone or in combination with any other credit allowed by this chapter, may not be applied to reduce the qualified taxpayer's Vermont income tax liability in any one year by more than

80 percent, and in no event shall the credit reduce the taxpayer's income tax liability below any minimum tax imposed by this chapter.

(2) The total amount of credit authorized under this section shall be \$8,000,000.00 and in no event shall the credit in any one tax year exceed \$1,000,000.00. The credit shall be available on a first-come first-served basis by certification of the Vermont economic progress council pursuant to subsection (b) of this section.

(f) Recapture.

(1) A qualified taxpayer who has earned credit under this section with respect to its qualified capital expenditures shall notify the Vermont economic progress council in writing within 60 days if the taxpayer's trade or business is substantially curtailed in any calendar year prior to December 31, 2023.

(2) A qualified taxpayer's business shall be considered to be substantially curtailed when the average number of the taxpayer's full-time jobs in Vermont for any calendar year prior to December 31, 2023, is less than 60 percent of the highest average number of its full-time jobs in Vermont for any calendar year in the investment period. For purposes of the preceding calculation, the qualified taxpayer's full-time jobs in Vermont shall include all full-time jobs in Vermont of its related business units with which it files a combined or consolidated return for Vermont income tax purposes. A business shall not be considered to be substantially curtailed when the assets of the business have been sold but the business continues to be located in Vermont provided that the employment test of this subdivision is met.

(3) In the event that a qualified taxpayer has substantially curtailed its trade or business, then:

(A) the credit certification for such tax year and all succeeding tax years of the taxpayer shall be terminated;

(B) any credit previously earned and carried forward shall be disallowed; and

(C) any credit which has been previously used by the taxpayer to reduce its Vermont income tax liability shall be subject to recapture in accordance with the following table:

<u>Years between the close of the tax year credit was earned and year when business was substantially curtailed:</u>	<u>Percent of credits to be when repaid (%):</u>
<u>2 or less</u>	<u>100</u>
<u>More than 2, up to 4</u>	<u>80</u>

<u>More than 4, up to 6</u>	<u>60</u>
<u>More than 6, up to 8</u>	<u>40</u>
<u>More than 8, up to 10</u>	<u>20</u>
<u>More than 10</u>	<u>0</u>

(4) The recapture shall be reported on the income tax return of the taxpayer who claimed the credit for the tax year in which the taxpayer's trade or business was substantially curtailed, or the commissioner may assess the recapture in accordance with the assessment and appeal provisions provided for in subchapter 8 of this chapter.

(5) Within 60 days of the close of the qualified taxpayer's tax year in which the taxpayer's trade or business was substantially curtailed, the taxpayer may petition the commissioner for a reduction in the amount of the credit subject to recapture and the disallowance of credit previously earned and carried forward. The commissioner shall hold a hearing within 45 days of the receipt of the taxpayer's petition. The commissioner shall have the discretion to reduce the amount of the credit subject to recapture and disallowance upon a showing of circumstances that contributed to the substantial curtailment of the taxpayer's trade or business. The decision of the commissioner shall be final and shall not be subject to judicial review.

(g) Reporting.

(1) Any qualified taxpayer who has been certified under subsection (b) of this section shall file a report with the Vermont economic progress council on a form prescribed by the council for this purpose and provide a copy of the report to the commissioner of the department of taxes.

(2) The report shall be filed for each year following the certification until the year following the last year the taxpayer claims the credit to reduce its Vermont income tax liability, or 2027, whichever occurs first.

(3) The report shall be filed by February 28 each year for activity the previous calendar year and include, at a minimum:

(A) The number of full-time jobs in each quarter and the average number of hours worked per week.

(B) The level of qualifying capital investments made if reporting on a year within an investment period; and

(C) The amount of tax credit earned and applied during the previous calendar year.

Sec. H.2 REPEAL

(a) Subchapter 11M of chapter 151 of Title 32 is repealed July 1, 2026, and no credit under that section shall be available for any taxable year beginning after June 30, 2026; provided, however, that if no qualified capital expenditures are made during the investment period, both terms as defined in 32 V.S.A. § 5930ll(a) of this act, the subchapter shall be repealed effective January 1, 2015.

Sec. H.3 EFFECTIVE DATE

(a) Sec. H.1 (machinery and equipment investment tax credit) shall apply to taxable years beginning on and after January 1, 2012.

* * * DESIGNATING OVHA AS A DEPARTMENT * * *

Sec. I.1 2 V.S.A. § 852(b)(3) is amended to read:

(3) The ~~office~~ department of Vermont health access.

Sec. I.2 2 V.S.A. § 902(c)(1) is amended to read:

(c)(1) The commission may request analysis from the ~~office~~ department of Vermont health access, the department of banking, insurance, securities, and health care administration, and other appropriate agencies. The agencies shall report to the commission at such times and with such information as the commission determines is necessary to fulfill its oversight responsibilities.

Sec. I.3 2 V.S.A. § 903(b)(1)(B)(ii) is amended to read:

(ii) recommend a method and format for reporting employer costs in the monthly financial reports submitted to the general assembly by the ~~office~~ department of Vermont health access;

Sec. I.4 2 V.S.A. § 903(b)(1)(C) is amended to read:

(C) The ~~office~~ department of Vermont health access shall provide the commission with access to any information requested in order to conduct the activities specified in subdivision (B) of this subdivision (1), except the following:

(i) Names, addresses, and Social Security numbers of recipients of and applicants for services administered by the ~~office~~ department.

(ii) Medical services provided to recipients.

(iii) Social and economic conditions or circumstances, except such de-identified information as the ~~office~~ department may compile in the aggregate.

(iv) Agency evaluation of personal information.

(v) Medical data, including diagnosis and past history of disease or disability.

(vi) Information received for verifying income eligibility and amount of medical assistance payments, except such de-identified information as the ~~office~~ department may compile in the aggregate.

(vii) Any additional types of information the ~~office~~ department has identified for safeguarding pursuant to the requirements of 42 C.F.R. § 431.305.

Sec. I.5 3 V.S.A. § 3002(a)(6) is amended to read:

(6) The ~~office~~ department of Vermont health access.

Sec. I.6 3 V.S.A. § 3004 is amended to read:

§ 3004. PERSONNEL DESIGNATION

The secretary, deputy secretary, commissioners, deputy commissioners, attorneys, directors of the offices of state economic opportunity, alcohol and drug abuse programs, ~~Vermont health access~~, and child support, and all members of boards, committees, commissions, or councils attached to the agency for support are exempt from the classified state service. Except as authorized by section 311 of this title or otherwise by law, all other positions shall be within the classified service.

Sec. I.7 3 V.S.A. § 3084(a) is amended to read:

(a) The department for children and families is created within the agency of human services as the successor to and the continuation of the department of social and rehabilitation services, the department of prevention, assistance, transition, and health access, excluding the ~~office~~ department of Vermont health access, the office of economic opportunity, and the office of child support. The department shall also include a division of child development programs.

Sec. I.8 3 V.S.A. § 3088 is amended to read:

§ 3088. ~~OFFICE~~ DEPARTMENT OF VERMONT HEALTH ACCESS

The ~~office~~ department of Vermont health access is created within the agency of human services.

Sec. I.9 3 V.S.A. § 3091(a) is amended to read:

(a) An applicant for or a recipient of assistance, benefits, or social services from the department for children and families, the ~~office~~ department of Vermont health access, ~~and~~ the department of disabilities, aging, and independent living, or the department of mental health, or an applicant for a

license from one of those departments ~~or offices~~, or a licensee, may file a request for a fair hearing with the human services board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits, or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his or her receipt of assistance, benefits, or services, or license or license application; or because the individual is aggrieved by agency policy as it affects his or her situation.

Sec. I.10 8 V.S.A. § 4080a(h)(2)(B) is amended to read:

(B) The commissioner's rules shall permit a carrier, including a hospital or medical service corporation and a health maintenance organization, to establish rewards, premium discounts, split benefit designs, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by a member or subscriber to programs of health promotion and disease prevention. The commissioner shall consult with the commissioner of health, the director of the Blueprint for Health, and the ~~director~~ commissioner of ~~the office of~~ Vermont health access in the development of health promotion and disease prevention rules that are consistent with the Blueprint for Health. Such rules shall:

* * *

Sec. I.11 8 V.S.A. § 4080b(h)(2)(B) is amended to read:

(B) The commissioner's rules shall permit a carrier, including a hospital or medical service corporation and a health maintenance organization, to establish rewards, premium discounts, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by a member or subscriber to programs of health promotion and disease prevention. The commissioner shall consult with the commissioner of health and the ~~director~~ commissioner of ~~the office of~~ Vermont health access in the development of health promotion and disease prevention rules. Such rules shall:

* * *

Sec. I.12 8 V.S.A. § 4080f(a)(9)(A)(i)(II)(aa) is amended to read:

(II)(aa) A self-employed individual who was insured through the nongroup market whose insurance coverage ended as the direct result of either the termination of a business entity owned by the individual or the individual's inability to continue in his or her line of work, if the individual produces satisfactory evidence to the ~~office~~ department of Vermont health access of the business termination or certifies by affidavit to the ~~office~~

department of Vermont health access that he or she is not employed and is no longer seeking employment in the same line of work;

Sec. I.13 8 V.S.A. § 4089b(h)(2) is amended to read:

(2) the ~~director~~ commissioner of ~~the office of~~ Vermont health access or a designee;

Sec. I.14 8 V.S.A. § 4185(c)(2)(B) is amended to read:

(B) the amounts provided by contract between a hospital provider and the ~~office~~ department of Vermont health access for similar services to recipients of Medicaid; or

Sec. I.15 9 V.S.A. § 2480h(1)(5) is amended to read:

(5) The economic services division of the department for children and families or the ~~office~~ department of Vermont health access or its agents or assignee acting to investigate welfare or Medicaid fraud.

Sec. I.16 12 V.S.A. § 3169(a)(3) is amended to read:

(3) whether the judgment debtor has been a recipient of assistance from the Vermont department for children and families or the ~~office~~ department of Vermont health access within the two months preceding the date of the hearing; and

Sec. I.17 12 V.S.A. § 3170(a) is amended to read:

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont department for children and families or the ~~office~~ department of Vermont health access. The judgment debtor must establish this exemption at the time of hearing.

Sec. I.18 15 V.S.A. § 658(b) is amended to read:

(b) A request for support may be made by either parent, a guardian, or the department for children and families or the ~~office~~ department of Vermont health access, if a party in interest. A court may also raise the issue of support on its own motion.

Sec. I.19 18 V.S.A. § 702(c)(1) is amended to read:

(c)(1) The secretary shall establish an executive committee to advise the director of the Blueprint on creating and implementing a strategic plan for the development of the statewide system of chronic care and prevention as described under this section. The executive committee shall consist of no fewer than 10 individuals, including the commissioner of health; a

representative from the department of banking, insurance, securities, and health care administration; a representative from the ~~office~~ department of Vermont health access; a representative from the Vermont medical society; a representative from a statewide quality assurance organization; a representative from the Vermont association of hospitals and health systems; two representatives of private health insurers; a consumer; a representative of the complementary and alternative medicine profession; a primary care professional serving low income or uninsured Vermonters; and a representative of the state employees' health plan, who shall be designated by the director of human resources and who may be an employee of the third-party administrator contracting to provide services to the state employees' health plan. In addition, the director of the commission on health care reform shall be a nonvoting member of the executive committee.

Sec. I.20 18 V.S.A. § 1130(g)(2) is amended to read:

(2) The advisory committee shall include representatives from the three largest health insurers licensed to do business in Vermont and the ~~office~~ department of Vermont health access and shall be chaired by the chief of the immunization program for the department of health.

Sec. I.21 18 V.S.A. § 4621 is amended to read:

§ 4621. DEFINITIONS

~~For~~ Except as otherwise specified, for the purposes of this subchapter:

* * *

Sec. I.22 18 V.S.A. § 4622 is amended to read:

§ 4622. EVIDENCE-BASED EDUCATION PROGRAM

(a)(1) The department of health, in collaboration with the attorney general, the University of Vermont area health education centers program, and the ~~office~~ department of Vermont health access, shall establish an evidence-based prescription drug education program for health care professionals designed to provide information and education on the therapeutic and cost-effective utilization of prescription drugs to physicians, pharmacists, and other health care professionals authorized to prescribe and dispense prescription drugs. To the extent practicable, the program shall use the evidence-based standards developed by the blueprint for health. The department of health may collaborate with other states in establishing this program.

(2) The program shall notify prescribers about commonly used brand-name drugs for which the patent has expired within the last 12 months or will expire within the next 12 months. The ~~department~~ departments of health and ~~the office~~ of Vermont health access shall collaborate in issuing the notices.

(3) To the extent permitted by funding, the program may include the distribution to prescribers of vouchers for samples of generic medicines used for health conditions common in Vermont.

(b) The department of health shall request information and collaboration from physicians, pharmacists, private insurers, hospitals, pharmacy benefit managers, the drug utilization review board, medical schools, the attorney general, and any other programs providing an evidence-based education to prescribers on prescription drugs in developing and maintaining the program.

(c) The department of health may contract for technical and clinical support in the development and the administration of the program from entities conducting independent research into the effectiveness of prescription drugs.

(d) The department of health and the attorney general shall collaborate in reviewing the marketing activities of pharmaceutical manufacturing companies in Vermont and determining appropriate funding sources for the program, including awards from suits brought by the attorney general against pharmaceutical manufacturers.

Sec. I.23 18 V.S.A. § 4632(a)(6) is amended to read:

(6) The ~~office~~ department of Vermont health access shall examine the data available from the office of the attorney general for relevant expenditures and determine whether and to what extent prescribing patterns by health care providers of prescribed products reimbursed by Medicaid, VHAP, Dr. Dynasaur, VermontRx, and VPharm may reflect manufacturer influence. The ~~office~~ department may select the data most relevant to its analysis. The ~~office~~ department shall report its analysis annually to the general assembly and the governor on or before October 1.

Sec. I.24 18 V.S.A. § 7401(19) is amended to read:

(19) ensure the development of chronic care services, addressing mental health and substance abuse, for children and adults and ensure the coordination of these services with other chronic care initiatives, including the Blueprint for Health, and the care coordination and case management programs of the ~~office~~ department of Vermont health access;

Sec. I.25 18 V.S.A. § 9351(b) and (c) are amended to read:

(b) The health information technology plan shall:

* * *

(7) integrate the information technology components of the Blueprint for Health established in chapter 13 of this title, the agency of human services' enterprise master patient index, and all other Medicaid management

information systems being developed by the ~~office~~ department of Vermont health access, information technology components of the quality assurance system, the program to capitalize with loans and grants electronic medical record systems in primary care practices, and any other information technology initiatives coordinated by the secretary of administration pursuant to ~~section 3 V.S.A. § 2222a of Title 3~~; and

* * *

(c) The secretary of administration or designee shall update the plan annually to reflect emerging technologies, the state's changing needs, and such other areas as the secretary or designee deems appropriate. The secretary or designee shall solicit recommendations from Vermont Information Technology Leaders, Inc. (VITL) and other entities in order to update the health information technology plan pursuant to this section, including applicable standards, protocols, and pilot programs, and may enter into a contract or grant agreement with VITL or other entities to update some or all of the plan. Upon approval by the secretary, the updated plan shall be distributed to the commission on health care reform; the commissioner of information and innovation; the commissioner of banking, insurance, securities, and health care administration; the ~~director~~ commissioner of ~~the office of~~ Vermont health access; the secretary of human services; the commissioner of health; the commissioner of mental health; the commissioner of disabilities, aging, and independent living; the senate committee on health and welfare; the house committee on health care; affected parties; and interested stakeholders.

Sec. I.26 18 V.S.A. § 9352(e) is amended to read:

(e) Report. No later than January 15 of each year, VITL shall file a report with the commission on health care reform; the secretary of administration; the commissioner of information and innovation; the commissioner of banking, insurance, securities, and health care administration; the ~~director~~ commissioner of ~~the office of~~ Vermont health access; the secretary of human services; the commissioner of health; the commissioner of mental health; the commissioner of disabilities, aging, and independent living; the senate committee on health and welfare; and the house committee on health care. The report shall include an assessment of progress in implementing health information technology in Vermont and recommendations for additional funding and legislation required. In addition, VITL shall publish minutes of VITL meetings and any other relevant information on a public website.

Sec. I.27 18 V.S.A. § 9410(a)(2)(B) is amended to read:

(B) The commissioner shall convene a working group composed of the commissioner of mental health, the ~~director~~ commissioner of ~~the office of~~ Vermont health access, health care consumers, the office of the health care

ombudsman, employers and other payers, health care providers and facilities, the Vermont program for quality in health care, health insurers, and any other individual or group appointed by the commissioner to advise the commissioner on the development and implementation of the consumer health care price and quality information system.

Sec. I.28 18 V.S.A. § 9418(a) is amended to read:

(a) Except as otherwise specified, as used in this subchapter:

* * *

(3) “Contracting entity” means any entity that contracts directly or indirectly with a health care provider for either the delivery of health care services or the selling, leasing, renting, assigning, or granting of access to a contract or terms of a contract. For purposes of this subchapter, the ~~office~~ department of Vermont health access, health care providers, physician hospital organizations, health care facilities, and stand-alone dental plans are not contracting entities.

(4) “Covered entity” means an organization that enters into a contract with a contracting entity to gain access to a provider network contract. For purposes of this subchapter, the ~~office~~ department of Vermont health access is not a covered entity.

* * *

(14) “Payer” means any person or entity that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services rendered to an insured by a participating provider under the health care contract. The term “payer” does not include:

(A) the ~~office~~ department of Vermont health access; or

* * *

Sec. I.29 18 V.S.A. § 9421(d) is amended to read:

(d) The ~~department's~~ reasonable expenses of the department of banking, insurance, securities, and health care administration in administering the provisions of this section may be charged to pharmacy benefit managers in the manner provided for in ~~section 8 V.S.A. § 18 of Title 8~~. These expenses shall be allocated in proportion to the lives of Vermonters covered by each pharmacy benefit manager as reported annually to the commissioner in a manner and form prescribed by the commissioner. The department of banking, insurance, securities, and health care administration shall not charge its expenses to the pharmacy benefit manager contracting with the ~~office~~ department of Vermont health access if the ~~office~~ department of Vermont

health access notifies the department of banking, insurance, securities, and health care administration of the conditions contained in its contract with a pharmacy benefit manager.

Sec. I.30 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

The clerk of a municipality shall supply annually each library in such municipality with two copies of the municipal report, upon its publication. The clerk shall also mail to the state library two copies thereof, and one copy each to the secretary of state, commissioner of taxes, highway board, state board of health, commissioner for children and families, ~~director~~ commissioner of ~~the office~~ of Vermont health access, auditor of accounts, and board of education. Officers making these reports shall supply the clerk of the municipality with the printed copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

Sec. I.31 32 V.S.A. § 308b(a) is amended to read:

(a) There is created within the general fund a human services caseload management reserve. Expenditures from the reserve shall be subject to an appropriation by the general assembly or approval by the emergency board. Expenditures from the reserve shall be limited to agency of human services caseload related needs primarily in the departments for children and families, of health, of mental health, and of disabilities, aging, and independent living, and ~~in the office~~ of Vermont health access.

Sec. I.32 32 V.S.A. § 9530 is amended to read:

§ 9530. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

(1) ~~“Director”~~ “Commissioner” means the ~~director~~ commissioner of the ~~office~~ department of Vermont health access.

(2) ~~“Division” means the division of rate setting.~~

* * *

Sec. I.33 32 V.S.A. § 9533(b) and (e) are amended to read:

(b) The tax shall be paid by the transferor to the ~~office~~ department of Vermont health access within 10 days after the date of the transfer, accompanied by the nursing home transferor tax form prescribed by the commissioner.

(e) Upon the receipt of the full amount of the tax, the ~~director~~ commissioner shall deposit receipts from the transferor tax in the health care trust resources fund established pursuant to ~~33 V.S.A. § 1956~~ and shall send a certificate of payment to the transferor, the transferee, and the division showing the date when the tax was received 33 V.S.A. § 1901d.

Sec. I.34 32 V.S.A. § 9535 is amended to read:

§ 9535. REVIEW AND APPEALS

(a) At any time before, or within 10 days after the date of a transfer of a nursing home, a transferor may request from the ~~director~~ commissioner a determination of the transferor's liability to pay or the amount of the nursing home transfer tax due. The ~~director~~ commissioner shall render a decision within 30 days of the receipt of all information that the ~~director~~ commissioner deems necessary to make a determination.

(b) Within 30 days of the date of issuance of the ~~director's~~ commissioner's determination, a transferor aggrieved by that determination may request review by the secretary or the secretary's designee. This review shall not be subject to the provisions of ~~3 V.S.A. chapter 25 of Title 3~~.

Sec. I.35 32 V.S.A. § 10301(c)(2) is amended to read:

(2) contributions from the ~~office~~ department of Vermont health access, as appropriated by the general assembly; and

Sec. I.36 33 V.S.A. § 102 is amended to read:

§ 102. DEFINITIONS AND CONSTRUCTION

(a) Unless otherwise expressly provided, the words and phrases in this chapter mean:

* * *

~~(12) Director: the director of the office of Vermont health access.~~

~~(13) Office: the office of Vermont health access.~~

* * *

Sec. I.37 33 V.S.A. § 114 is amended to read:

§ 114. ALLOCATION OF PAYMENTS WHEN APPROPRIATION INSUFFICIENT

Should the funds available for assistance be insufficient to provide assistance to all those eligible, the amounts of assistance granted in any program or portion thereof shall be reduced equitably, in the discretion of the

commissioner for children and families or the ~~director~~ commissioner of Vermont health access by rule.

Sec. I.38 33 V.S.A. § 121 is amended to read:

§ 121. CANCELLATION OF ASSISTANCE OR BENEFITS

If at any time the commissioner for children and families or the ~~director~~ commissioner of Vermont health access has reason to believe that assistance or benefits have been improperly obtained, he or she shall cause an investigation to be made and may suspend assistance or benefits pending the investigation. If on investigation the commissioner for children and families or the ~~director~~ commissioner of Vermont health access is satisfied that the assistance or benefits were illegally obtained, he or she shall immediately cancel them. A person having illegally obtained assistance or benefits shall not be eligible for reinstatement until his or her need has been reestablished.

Sec. I.39 33 V.S.A. § 122 is amended to read:

§ 122. RECOVERY OF PAYMENTS

(a) The amount of assistance or benefits may be changed or cancelled at any time if the commissioner for children and families or ~~director~~ the commissioner of Vermont health access finds that the recipient's circumstances have changed. Upon granting assistance or benefits the department for children and families or ~~office~~ the department of Vermont health access shall inform the recipient that changes in his or her circumstances must be promptly reported to the department.

(b) When on the death of a person receiving assistance it is found that the recipient possessed income or property in excess of that reported to the department for children and families or ~~office~~ the department of Vermont health access, up to double the total amount of assistance in excess of that to which the recipient was lawfully entitled may be recovered by the commissioner for children and families or ~~director~~ the commissioner of Vermont health access as a preferred claim from the estate of the recipient. The commissioner for children and families or ~~director~~ the commissioner of Vermont health access shall calculate the amount of the recovery by applying the legal interest rate to the amount of excess recovery paid, except that the recovery shall be capped at double the excess assistance paid.

(c) When the commissioner for children and families or ~~director~~ the commissioner of Vermont health access finds that a recipient of benefits received assistance in excess of that to which the recipient was lawfully entitled, because the recipient possessed income or property in excess of department standards, the commissioner for children and families or ~~director~~

the commissioner of Vermont health access may take actions to recover the overpayment.

(d) In the event of recovery, an amount may be retained by the commissioner for children and families or ~~director~~ the commissioner of Vermont health access in a special fund for use in offsetting program expenses and an amount equivalent to the pro rata share to which the United States of America is equitably entitled shall be paid promptly to the appropriate federal agency.

Sec. I.40 33 V.S.A. § 141(e) is amended to read:

(e) A person providing service for which compensation is paid under a state or federally-funded assistance program who requests, and receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from either a recipient of assistance from the assistance program or from the family of the recipient shall notify the commissioner for children and families or ~~director~~ the commissioner of Vermont health access, on a form provided by him or her, of the amount of the payment or contribution and of such other information as specified by the commissioner for children and families or ~~director~~ the commissioner of Vermont health access within 10 days after the receipt of the payment or contribution or, if the payment or contribution is to become effective at some time in the future, within 10 days of the consummation of the agreement to make the payment or contribution. Failure to notify the commissioner for children and families or ~~director~~ the commissioner of Vermont health access within the time prescribed is punishable as provided in section 143 of this title.

Sec. I.41 33 V.S.A. § 143(b) and (c) are amended to read:

(b) If the person convicted is receiving assistance, benefits, or payments, the commissioner for children and families or ~~director~~ the commissioner of Vermont health access may recoup the amount of assistance or benefits wrongfully obtained by reducing the assistance, benefits, or payments periodically paid to the recipient, as limited by federal law, until the amount is fully recovered.

(c) If a provider of services is convicted of a violation of subsection 141(d) or (e) of this title, the ~~director~~ commissioner of Vermont health access shall, within 90 days of the conviction, suspend the provider from further participation in the medical assistance program administered under Title XIX of the Social Security Act for a period of four years. The suspension required by this subsection may be waived by the secretary of human services only upon a finding that the recipients served by the convicted provider would

suffer substantial hardship through a denial of medical services that could not reasonably be obtained through another provider.

Sec. I.42 33 V.S.A. § 143b is amended to read:

§ 143b. EDUCATION AND INFORMATION

Within six months of the effective date of section 143a of this title, the ~~office~~ department of Vermont health access shall issue rules establishing a procedure for health care providers enrolled in state and federally funded medical assistance programs to obtain advisory opinions regarding coverage and reimbursement under those programs. Each advisory opinion issued by the ~~office~~ department of Vermont health access shall be binding on ~~the office~~ that department and the party or parties requesting the opinion only with regard to the specific questions posed in the opinion, the facts and information set forth in it, and the statutes and rules specifically noted in the opinion.

Sec. I.43 33 V.S.A. § 1901 is amended to read:

§ 1901. ADMINISTRATION OF PROGRAM

* * *

(d)(1) To enable the state to manage public resources effectively while preserving and enhancing access to health care services in the state, the ~~office~~ department of Vermont health access is authorized to serve as a publicly operated managed care organization (MCO).

(2) To the extent permitted under federal law, the ~~office~~ department of Vermont health access shall be exempt from any health maintenance organization (HMO) or MCO statutes in Vermont law and shall not be considered to be an HMO or MCO for purposes of state regulatory and reporting requirements. The MCO shall comply with the federal rules governing managed care organizations in Part 438 of Chapter IV of Title 42 of the United States Code. The Vermont rules on the primary care case management in the Medicaid program shall be amended to apply to the MCO except to the extent that the rules conflict with the federal rules.

(3) The agency of human services and ~~office~~ department of Vermont health access shall report to the health access oversight committee about implementation of Global Commitment in a manner and at a frequency to be determined by the committee. Reporting shall, at a minimum, enable the tracking of expenditures by eligibility category, the type of care received, and to the extent possible allow historical comparison with expenditures under the previous Medicaid appropriation model (by department and program) and, if appropriate, with the amounts transferred by ~~the~~ another department to the

~~office department~~ of Vermont health access. Reporting shall include spending in comparison to any applicable budget neutrality standards.

(e)(1) The department for children and families and the ~~office department~~ of Vermont health access shall monitor and evaluate and report quarterly beginning July 1, 2006 on the disenrollment in each of the Medicaid or Medicaid waiver programs subject to premiums, including:

(A) The number of beneficiaries receiving termination notices for failure to pay premiums;

(B) The number of beneficiaries terminated from coverage as a result of failure to pay premiums as of the second business day of the month following the termination notice. The number of beneficiaries terminated from coverage for nonpayment of premiums shall be reported by program and income level within each program; and

(C) The number of beneficiaries terminated from coverage as a result of failure to pay premiums whose coverage is not restored three months after the termination notice.

(2) The department for children and families and the ~~office department~~ of Vermont health access shall submit reports at the end of each quarter required by subdivision (1) of this subsection to the house and senate committees on appropriations, the senate committee on health and welfare, the house committee on human services, the health access oversight committee, and the Medicaid advisory board.

* * *

Sec. I.44 33 V.S.A. § 1901b is amended to read:

§ 1901b. PHARMACY PROGRAM ENROLLMENT

(a) The ~~office department~~ of Vermont health access and the department for children and families shall monitor actual caseloads, revenue and expenditures, anticipated caseloads, revenue and expenditures, and actual and anticipated savings from implementation of the preferred drug list, supplemental rebates, and other cost containment activities in each state pharmaceutical assistance program, including VPharm and VermontRx. ~~The department and the office departments~~ shall allocate supplemental rebate savings to each program proportionate to expenditures in each program. During the second week of each month, the ~~office department~~ of Vermont health access shall report such actual and anticipated caseload, revenue, expenditure and savings information to the joint fiscal committee and to the health access oversight committee.

(b)(1) If at any time expenditures for VPharm and VermontRx are anticipated to exceed the aggregate amount of state funds expressly

appropriated for such state pharmaceutical assistance programs during any fiscal year, the ~~office~~ department of Vermont health access shall recommend to the joint fiscal committee and notify the health access oversight committee of a plan to cease new enrollments in VermontRx for individuals with incomes over 225 percent of the federal poverty level.

(2) If at any time expenditures for VPharm and VermontRx are anticipated to exceed the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, even with the cessation of new enrollments as provided for in subdivision (1) of this subsection, the ~~office~~ department of Vermont health access shall recommend to the joint fiscal committee and notify the health access oversight committee of a plan to cease new enrollments in the VermontRx for individuals with incomes more than 175 percent and less than 225 percent of the federal poverty level.

(3) The ~~office's~~ determinations of the department of Vermont health access under subdivisions (1) and (2) of this subsection shall be based on the information and projections reported monthly under subsection (a) of this section, and on the official revenue estimates under ~~section 32 V.S.A. § 305a of Title 32~~. An enrollment cessation plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the ~~office's~~ recommendation and financial analysis of the department of Vermont health access.

(4) Upon the approval of or failure to disapprove an enrollment cessation plan by the joint fiscal committee, the ~~office~~ department of Vermont health access shall cease new enrollment in VermontRx for the individuals with incomes at the appropriate level in accordance with the plan.

(c)(1) If at any time after enrollment ceases under subsection (b) of this section expenditures for VermontRx, including expenditures attributable to renewed enrollment, are anticipated, by reason of increased federal financial participation or any other reason, to be equal to or less than the aggregate amount of state funds expressly appropriated for such state pharmaceutical assistance programs during any fiscal year, the ~~office~~ department of Vermont health access shall recommend to the joint fiscal committee and notify the health access oversight committee of a plan to renew enrollment in VermontRx, with priority given to individuals with incomes more than 175 percent and less than 225 percent, if adequate funds are anticipated to be available for each program for the remainder of the fiscal year.

(2) The ~~office's~~ determination of the department of Vermont health access under subdivision (1) of this subsection shall be based on the information and projections reported monthly under subsection (a) of this

section, and on the official revenue estimates under ~~section 32 V.S.A. § 305a of Title 32~~. An enrollment renewal plan shall be deemed approved unless the joint fiscal committee disapproves the plan after 21 days notice of the ~~office's~~ recommendation and financial analysis of the department of Vermont health access.

(3) Upon the approval of, or failure to disapprove an enrollment renewal plan by the joint fiscal committee, the ~~office~~ department of Vermont health access shall renew enrollment in VermontRx in accordance with the plan.

(d) As used in this section:

(1) "State pharmaceutical assistance program" means any health assistance programs administered by the agency of human services providing prescription drug coverage, including ~~but not limited to~~, the Medicaid program, the Vermont health access plan, VPharm, VermontRx, the state children's health insurance program, the state of Vermont AIDS medication assistance program, the General Assistance program, the pharmacy discount plan program, and any other health assistance programs administered by the agency providing prescription drug coverage.

* * *

Sec. I.45 33 V.S.A. § 1901c is amended to read:

§ 1901c. MEDICAL CARE ADVISORY COMMITTEE

(a) The ~~director of the office~~ commissioner of Vermont health access shall appoint a medical care advisory committee to advise the ~~office~~ department of Vermont health access about health care and medical services, consistent with the requirements of federal law.

(b) The medical care advisory committee shall be given an opportunity to participate in policy development and program administration for Medicaid, the Vermont health access plan, VPharm, and VermontRx. It shall have an opportunity to review and comment upon agency policy initiatives pertaining to health care benefits and beneficiary eligibility. It also shall have the opportunity to comment on proposed rules prior to commencement of the rulemaking process and on waiver or waiver amendment applications prior to submission to the Centers for Medicare and Medicaid Services. Prior to the annual budget development process, the ~~office~~ department of Vermont health access shall engage the medical care advisory committee in priority setting, including consideration of scope of benefits, beneficiary eligibility, funding outlook, financing options, and possible budget recommendations.

(c) The medical care advisory committee shall make policy recommendations on ~~office~~ proposals of the department of Vermont health

access ~~proposals~~ to the ~~office~~ department, the health access oversight committee, ~~and the standing committees~~ senate committee on health and welfare, ~~and the house committee on human services~~. When the general assembly is not in session, the ~~director~~ commissioner shall respond in writing to these recommendations, a copy of which shall be provided to each of the legislative committees.

(d) During the legislative session, the ~~director~~ commissioner shall provide the committee at regularly scheduled meetings updates on the status of policy and budget proposals.

(e) The ~~director~~ commissioner shall convene the medical care advisory committee at least six times each year.

(f) At least one-third of the members of the medical care advisory committee shall be recipients of Medicaid, VHAP, or VermontRx. Such members shall receive per diem compensation and reimbursement of expenses pursuant to ~~section 32 V.S.A. § 1010 of Title 32~~, including costs of travel, child care, personal assistance services, and any other service necessary for participation on the committee approved by the ~~director~~ commissioner.

(g) The ~~director~~ commissioner shall appoint members of the medical care advisory committee for staggered three-year terms. The ~~director~~ commissioner may remove members of the committee who fail to attend three consecutive meetings and appoint replacements.

(h) For purposes of this section, “program administration” means annual and long-term strategic planning, including priority setting, relative to scope of benefits, beneficiary eligibility, funding outlook, financing options, and possible budget recommendations.

Sec. I.46 33 V.S.A. § 1901e is amended to read:

§ 1901e. GLOBAL COMMITMENT FUND

(a) The Global Commitment fund is created in the treasury as a special fund. The fund shall consist of the revenues received by the treasurer as payment of the actuarially certified premium from the agency of human services to the managed care organization within the ~~office~~ department of Vermont health access for the purpose of providing services under the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) The monies in the fund shall be disbursed as allowed by appropriation of the general assembly, and shall be disbursed by the treasurer on warrants issued by the commissioner of finance and management, when authorized by the ~~director~~ commissioner of ~~the office of~~ Vermont health access and approved

by the commissioner of finance and management consistent with the interdepartmental agreements between the managed care organization within the ~~office~~ department of Vermont health access and departments delivering eligible services under the waiver. The ~~office~~ department of Vermont health access may not modify an appropriation through an interdepartmental agreement or any other mechanism. A department or agency authorized to spend monies from this fund under an interdepartmental agreement may spend monies appropriated as a base Medicaid expense for an allowable managed care organization investment under Term and Condition 40 57 of the Global Commitment for Health Medicaid Section 1115 waiver only after receiving approval from the agency of human services.

(c) At the close of the fiscal year, the agency shall provide a detailed report to the joint fiscal committee which describes the managed care organization's investments under Term and Condition 40 57 of the Global Commitment for Health Medicaid Section 1115 waiver, including the amount of the investment and the agency, ~~department, or office~~ or departments authorized to make the investment.

Sec. I.47 33 V.S.A. § 1903 is amended to read:

§ 1903. CONTRACT AUTHORIZED

(a) The ~~director of the office~~ commissioner of Vermont health access may contract with a private organization to operate, under his or her control and supervision, parts of the medical assistance program.

(b) The contract shall provide that either party may cancel it upon reasonable notice to the other party.

(c) In furtherance of the purposes of the contract, the ~~director~~ commissioner of Vermont health access may requisition funds for the purposes of this subchapter, with the approval of the governor, and the commissioner of finance and management shall issue a warrant in favor of the contracting party to permit the contracting party to make payments to vendors under the contract. The ~~director~~ commissioner of Vermont health access shall quarterly, and at other times as the commissioner of finance and management requires, render an account in a form as the commissioner of finance and management prescribes of the expenditures of moneys so advanced.

Sec. I.48 [DELETED]

Sec. I.49 33 V.S.A. § 1904 is amended to read:

§ 1904. DEFINITIONS

When used in this subchapter, unless otherwise indicated:

* * *

(4) ~~“Director” means the director of the office of Vermont health access.~~

(5) “Insurer” means any insurance company, prepaid health care delivery plan, self-funded employee benefit plan, pension fund, hospital or medical service corporation, managed care organization, pharmacy benefit manager, prescription drug plan, retirement system, or similar entity that is under an obligation to make payments for medical services as a result of an injury, illness, or disease suffered by an individual.

(6)(5) “Legally liable representative” means a parent or person with an obligation of support to a recipient whether by contract, court order or statute.

(7)(6) “Provider” means any person that has entered into an agreement with the state to provide any medical service.

(8)(7) “Recipient” means any person or group of persons who receive Medicaid.

(9)(8) “Secretary” means the secretary of the agency of human services.

(10)(9) “Third party” means a person having an obligation to pay all or any portion of the medical expense incurred by a recipient at the time the medical service was provided. The obligation is not discharged by virtue of being undiscovered or undeveloped at the time a Medicaid claim is paid. Third parties include:

* * *

(11)(10) “Tobacco” means all products listed in 7 V.S.A. § 1001(3).

(12)(11) “Tobacco manufacturer” means any person engaged in the process of designing, fabricating, assembling, producing, constructing or otherwise preparing a product containing tobacco, including packaging or labeling of these products, with the intended purpose of selling the product for gain or profit. “Tobacco manufacturer” does not include persons whose activity is limited to growing natural leaf tobacco or to selling tobacco products at wholesale or retail to customers. “Tobacco manufacturer” also does not include any person who manufactures or produces firearms, dairy products, products containing alcohol or other nontobacco products, unless such person also manufactures or produces tobacco products.

Sec. I.50 33 V.S.A. § 1908a(c)(1)(F) is amended to read:

(F) information to the purchaser about available consumer information and public education provided by the department of banking, insurance, securities, and health care administration and the ~~office~~ department of Vermont health access; and

Sec. I.51 33 V.S.A. § 1950(b) is amended to read:

(b) The secretary and the ~~director~~ commissioner shall interpret and administer the provisions of this subchapter so as to maximize federal financial participation and avoid disallowances of federal financial participation.

Sec. I.52 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

* * *

(3) ~~“Director”~~ “Commissioner” means the ~~director~~ commissioner of the ~~office of~~ Vermont health access.

* * *

(12) ~~“Office”~~ “Department” means the ~~office~~ department of Vermont health access.

* * *

Sec. I.53 33 V.S.A. § 1952 is amended to read:

§ 1952. GENERAL PROVISIONS

* * *

(b) The ~~office~~ department may use not more than one percent of the assessments received under the provisions of this subchapter for necessary administrative expenses associated with this subchapter.

* * *

(f) If a health care provider fails to pay its assessments under this subchapter according to the schedule or a variation thereof adopted by the ~~director~~ commissioner, the ~~director~~ commissioner may, after notice and opportunity for hearing, deduct these assessment arrears and any late-payment penalties from Medicaid payments otherwise due to the provider. The deduction of these assessment arrears may be made in one or more installments on a schedule to be determined by the ~~director~~ commissioner.

Sec. I.54 33 V.S.A. § 1954 is amended to read:

§ 1954. NURSING HOME ASSESSMENT

(a) Beginning July 1, 2007, each nursing home's annual assessment shall be \$4,322.90, and beginning January 1, 2008, \$3,962.66 per bed licensed pursuant to section 7105 of this title on June 30 of the immediately preceding fiscal year. The annual assessment for each bed licensed as of the beginning of

the fiscal year shall be prorated for the number of days during which the bed was actually licensed and any over payment shall be refunded to the facility. To receive the refund, a facility shall notify the ~~director~~ commissioner in writing of the size of the decrease in the number of its licensed beds and dates on which the beds ceased to be licensed.

(b) The ~~office~~ department shall provide written notification of the assessment amount to each nursing home. The assessment amount determined shall be considered final unless the home requests a reconsideration. Requests for reconsideration shall be subject to the provisions of section 1958 of this title.

(c) Each nursing home shall submit its assessment to the ~~office~~ department according to a schedule adopted by the ~~director~~ commissioner. The ~~director~~ commissioner may permit variations in the schedule of payment as deemed necessary.

(d) Any nursing home that fails to make a payment to the ~~office~~ department on or before the specified schedule, or under any schedule of delayed payments established by the ~~director~~ commissioner, shall be assessed not more than \$1,000.00. The ~~director~~ commissioner may waive this late-payment assessment provided for in this subsection for good cause shown by the nursing home.

Sec. I.55 33 V.S.A. § 1955 is amended to read:

§ 1955. ICF/MR ASSESSMENT

* * *

(b) The ~~office~~ department shall provide written notification of the assessment amount to each ICF/MR. The assessment amount determined shall be considered final unless the facility requests a reconsideration. Requests for reconsideration shall be subject to the provisions of section 1958 of this title.

(c) Each ICF/MR shall remit its assessment to the ~~office~~ department according to a schedule adopted by the ~~director~~ commissioner. The ~~director~~ commissioner may permit variations in the schedule of payment as deemed necessary.

(d) Any ICF/MR that fails to make a payment to the ~~office~~ department on or before the specified schedule, or under any schedule of delayed payments established by the ~~director~~ commissioner, shall be assessed not more than \$1,000.00. The ~~director~~ commissioner may waive this late-payment assessment provided for in this subsection for good cause shown by the ICF/MR.

Sec. I.56 33 V.S.A. § 1955a is amended to read:

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

(a) Beginning July 1, 2009, each home health agency's assessment shall be 17.69 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act. The amount of the tax shall be determined by the ~~director~~ commissioner based on the home health agency's most recent audited financial statements at the time of submission, a copy of which shall be provided on or before December 1 of each year to the ~~office~~ department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

(1) Until such time as the home health agency submits audited financial statements for its first full year of operation as a home health agency, the ~~director~~ commissioner, in consultation with the home health agency, shall annually estimate the amount of tax payable and shall prescribe a schedule for interim payments.

(2) At such time as the full-year audited financial statement is filed, the final assessment shall be determined, and the home health agency shall pay any underpayment or the ~~office~~ department shall refund any overpayment. The assessment for the state fiscal year in which a provider commences operations as a home health agency shall be prorated for the proportion of the state fiscal year in which the new home health agency was in operation.

(b) Each home health agency shall be notified in writing by the ~~office~~ department of the assessment made pursuant to this section. If no home health agency submits a request for reconsideration under section 1958 of this title, the assessment shall be considered final.

(c) Each home health agency shall submit its assessment to the ~~office~~ department according to a payment schedule adopted by the ~~director~~ commissioner. Variations in payment schedules shall be permitted as deemed necessary by the ~~director~~ commissioner.

(d) Any home health agency that fails to make a payment to the ~~office~~ department on or before the specified schedule, or under any schedule for delayed payments established by the ~~director~~ commissioner, shall be assessed not more than \$1,000.00. The ~~director~~ commissioner may waive this late payment assessment provided for in this subsection for good cause shown by the home health agency.

Sec. I.57 33 V.S.A. § 1955b is amended to read:

§ 1955b. PHARMACY ASSESSMENT

(a) Beginning July 1, 2005, each pharmacy's monthly assessment shall be \$0.10 for each prescription filled and refilled.

(b) Each pharmacy shall declare and provide supporting documentation to the ~~director~~ commissioner of the total number of prescriptions filled and refilled in the previous month and remit the assessment due for that month. The declaration and payment shall be due by the end of the following month.

(c) Each pharmacy shall submit its assessment payment to the ~~office~~ department monthly. Variations in payment timing shall be permitted as deemed necessary by the ~~director~~ commissioner.

(d) Any pharmacy that fails to pay an assessment to the ~~office~~ department on or before the due date shall be assessed a late payment penalty of two percent of the assessment amount for each month it remains unpaid; but late payment penalties for any one quarter shall not exceed \$500.00. The ~~director~~ commissioner may waive a penalty under this subsection for good cause shown by the pharmacy, as determined by the ~~director~~ commissioner in his or her discretion.

Sec. I.58 33 V.S.A. § 1957 is amended to read:

§ 1957. AUDITS

The ~~director~~ commissioner may require the submission of audited information as needed from health care providers to determine that amounts received from health care providers were correct. If an audit identifies amounts received due to errors by the ~~office~~ department, the ~~director~~ commissioner shall make payments to any health care provider which the audit reveals paid amounts it should not have been required to pay. Payments made under this section shall be made from the fund.

Sec. I.59 33 V.S.A. § 1958 is amended to read:

§ 1958. APPEALS

(a) Any health care provider may submit a written request to the ~~office~~ department for reconsideration of the determination of the assessment within 20 days of notice of the determination. The request shall be accompanied by written materials setting forth the basis for reconsideration. If requested, the ~~office~~ department shall hold a hearing within 20 days from the date on which the reconsideration request was received. The ~~office~~ department shall mail written notice of the date, time, and place of the hearing to the health care provider at least 10 days before the date of the hearing. On the basis of the

evidence submitted to the ~~office~~ department or presented at the hearing, the ~~office~~ department shall reconsider and may adjust the assessment. Within 20 days of the hearing, the ~~office~~ department shall provide notice in writing to the health care provider of the final determination of the amount it is required to pay based on any adjustments made by it. Proceedings under this section are not subject to the requirements of ~~3 V.S.A.~~ chapter 25 of Title 3.

(b) Upon request, the ~~director~~ commissioner shall enter into nonbinding arbitration with any health care provider dissatisfied with the ~~office's~~ department's decision regarding the amount it is required to pay. The arbitrator shall be selected by mutual consent, and compensation shall be provided jointly.

(c) Any health care provider may appeal the decision of the ~~office~~ department as to the amount it is required to pay either before or after arbitration, to the superior court having jurisdiction over the health care provider.

Sec. I.60 33 V.S.A. § 1971 is amended to read:

§ 1971. DEFINITIONS

As used in this subchapter:

* * *

(2) ~~“Office”~~ “Department of Vermont health access” means the ~~office~~ department administering the Medicaid program for the agency of human services and includes the managed care organization established in section 1901 of this title.

* * *

Sec. I.61 33 V.S.A. § 1997 is amended to read:

§ 1997. DEFINITIONS

As used in this subchapter:

* * *

(2) ~~“Director”~~ “Commissioner” means the ~~director~~ commissioner of ~~the office of~~ Vermont health access.

* * *

(4) ~~“Office”~~ “Department” means the ~~office~~ department of Vermont health access.

* * *

Sec. I.62 33 V.S.A. § 1998 is amended to read:

§ 1998. PHARMACY BEST PRACTICES AND COST CONTROL PROGRAM ESTABLISHED

(a) The ~~director~~ commissioner of ~~the office of~~ Vermont health access shall establish and maintain a pharmacy best practices and cost control program designed to reduce the cost of providing prescription drugs, while maintaining high quality in prescription drug therapies. The program shall include:

* * *

(8) Any other cost containment activity adopted, by rule, by the ~~director~~ commissioner that is designed to reduce the cost of providing prescription drugs while maintaining high quality in prescription drug therapies.

(b) The ~~director~~ commissioner shall implement the pharmacy best practices and cost control program for Medicaid and all other state public assistance program health benefit plans to the extent permitted by federal law.

(c)(1) The ~~director~~ commissioner may implement the pharmacy best practices and cost control program for any other health benefit plan within or outside this state that agrees to participate in the program. For entities in Vermont, the ~~director~~ commissioner shall directly or by contract implement the program through a joint pharmaceuticals purchasing consortium. The joint pharmaceuticals purchasing consortium shall be offered on a voluntary basis no later than January 1, 2008, with mandatory participation by state or publicly funded, administered, or subsidized purchasers to the extent practicable and consistent with the purposes of this chapter, by January 1, 2010. If necessary, the ~~office~~ department of Vermont health access shall seek authorization from the Centers for Medicare and Medicaid to include purchases funded by Medicaid. "State or publicly funded purchasers" shall include the department of corrections, the ~~division~~ department of mental health, Medicaid, the Vermont Health Access Program (VHAP), Dr. Dynasaur, Vermont Rx, VPharm, Healthy Vermonters, workers' compensation, and any other state or publicly funded purchaser of prescription drugs.

(2) The ~~director~~ commissioner of ~~the office of~~ Vermont health access, and the secretary of administration shall take all steps necessary to enable Vermont's participation in joint prescription drug purchasing agreements with any other health benefit plan or organization within or outside this state that agrees to participate with Vermont in such joint purchasing agreements.

(3) The commissioner of human resources shall take all steps necessary to enable the state of Vermont to participate in joint prescription drug purchasing agreements with any other health benefit plan or organization within or outside this state that agrees to participate in such joint purchasing

agreements, as may be agreed to through the bargaining process between the state of Vermont and the authorized representatives of the employees of the state of Vermont.

(4) The actions of the commissioners, ~~the director~~, and the secretary shall include:

(A) active collaboration with the National Legislative Association on Prescription Drug Prices;

(B) active collaboration with the Pharmacy RFP Issuing States initiative organized by the West Virginia Public Employees Insurance Agency;

(C) the execution of any joint purchasing agreements or other contracts with any participating health benefit plan or organization within or outside the state which the ~~director~~ commissioner of Vermont health access determines will lower the cost of prescription drugs for Vermonters while maintaining high quality in prescription drug therapies; and

(D) with regard to participation by the state employees health benefit plan, the execution of any joint purchasing agreements or other contracts with any health benefit plan or organization within or outside the state which the ~~director~~ commissioner of Vermont health access determines will lower the cost of prescription drugs and provide overall quality of integrated health care services to the state employees health benefit plan and the beneficiaries of the plan, and which is negotiated through the bargaining process between the state of Vermont and the authorized representatives of the employees of the state of Vermont.

(5) The ~~director and the commissioner~~ commissioners of human resources and of Vermont health access may renegotiate and amend existing contracts to which the ~~office~~ departments of Vermont health access and ~~the department~~ of human resources are parties if such renegotiation and amendment will be of economic benefit to the health benefit plans subject to such contracts, and to the beneficiaries of such plans. Any renegotiated or substituted contract shall be designed to improve the overall quality of integrated health care services provided to beneficiaries of such plans.

(6) The ~~director, the~~ commissioners, and the secretary shall report quarterly to the health access oversight committee and the joint fiscal committee on their progress in securing Vermont's participation in such joint purchasing agreements.

(7) The ~~director~~ commissioner of Vermont health access, the commissioner of human resources, the commissioner of banking, insurance, securities, and health care administration, and the secretary of human services shall establish a collaborative process with the Vermont medical society,

pharmacists, health insurers, consumers, employer organizations and other health benefit plan sponsors, the National Legislative Association on Prescription Drug Prices, pharmaceutical manufacturer organizations, and other interested parties designed to consider and make recommendations to reduce the cost of prescription drugs for all Vermonters.

(d) A participating health benefit plan other than a state public assistance program may agree with the ~~director~~ commissioner to limit the plan's participation to one or more program components. The ~~director~~ commissioner shall supervise the implementation and operation of the pharmacy best practices and cost control program, including developing and maintaining the preferred drug list, to carry out the provisions of the subchapter. The ~~director~~ commissioner may include such insured or self-insured health benefit plans as agree to use the preferred drug list or otherwise participate in the provisions of this subchapter. The purpose of this subchapter is to reduce the cost of providing prescription drugs while maintaining high quality in prescription drug therapies.

(e) The ~~director~~ commissioner of ~~the office of~~ Vermont health access shall develop procedures for the coordination of state public assistance program health benefit plan benefits with pharmaceutical manufacturer patient assistance programs offering free or low cost prescription drugs, including the development of a proposed single application form for such programs. The ~~director~~ commissioner may contract with a nongovernmental organization to develop the single application form.

(f)(1) The drug utilization review board shall make recommendations to the ~~director~~ commissioner for the adoption of the preferred drug list. The board's recommendations shall be based upon evidence-based considerations of clinical efficacy, adverse side effects, safety, appropriate clinical trials, and cost-effectiveness. "Evidence-based" shall have the same meaning as in ~~section 18 V.S.A. § 4622 of Title 18~~. The ~~director~~ commissioner shall provide the board with evidence-based information about clinical efficacy, adverse side effects, safety, and appropriate clinical trials; and shall provide information about cost-effectiveness of available drugs in the same therapeutic class.

* * *

(3) To the extent feasible, the board shall review all drug classes included in the preferred drug list at least every 12 months; and may recommend that the ~~director~~ commissioner make additions to or deletions from the preferred drug list.

* * *

(6) The ~~director~~ commissioner shall encourage participation in the joint purchasing consortium by inviting representatives of the programs and entities specified in subdivision (c)(1) of this section to participate as observers or nonvoting members in the drug utilization review board, and by inviting the representatives to use the preferred drug list in connection with the plans' prescription drug coverage.

(g) The ~~office~~ department shall seek assistance from entities conducting independent research into the effectiveness of prescription drugs to provide technical and clinical support in the development and the administration of the preferred drug list and the evidence-based education program established in subchapter 2 of chapter 91 of Title 18.

Sec. I.63 33 V.S.A. § 2000 is amended to read:

§ 2000. PHARMACY BENEFIT MANAGEMENT

The ~~director~~ commissioner may implement all or a portion of the pharmacy best practices and cost control program through a contract with a third party with expertise in the management of pharmacy benefits.

Sec. I.64 33 V.S.A. § 2001 is amended to read:

§ 2001. LEGISLATIVE OVERSIGHT

(a) In connection with the pharmacy best practices and cost control program, the ~~director~~ commissioner of ~~the office of~~ Vermont health access shall report for review by the health access oversight committee, prior to initial implementation, and prior to any subsequent modifications:

* * *

(c) The ~~director~~ commissioner of ~~the office of~~ Vermont health access shall report quarterly to the health access oversight committee concerning the following aspects of the pharmacy best practices and cost control program:

* * *

(e)(1) [Repealed.]

(2) The ~~director~~ commissioner shall not enter into a contract with a pharmacy benefit manager unless the pharmacy benefit manager has agreed to disclose to the ~~director~~ commissioner the terms and the financial impact on Vermont and on Vermont beneficiaries of:

* * *

(3) The ~~director~~ commissioner shall not enter into a contract with a pharmacy benefit manager who has entered into an agreement or engaged in a practice described in subdivision (2) of this subsection, unless the ~~director~~

commissioner determines, and certifies in the fiscal report required by subdivision (d)(4) of this section, that such agreement or practice furthers the financial interests of Vermont, and does not adversely affect the medical interests of Vermont beneficiaries.

Sec. I.65 33 V.S.A. § 2002 is amended to read:

§ 2002. SUPPLEMENTAL REBATES

(a) The ~~director~~ commissioner of the ~~office of~~ Vermont health access, separately or in concert with the authorized representatives of any participating health benefit plan, shall use the preferred drug list authorized by the pharmacy best practices and cost control program to negotiate with pharmaceutical companies for the payment to the ~~director~~ commissioner of supplemental rebates or price discounts for Medicaid and for any other state public assistance health benefit plans designated by the ~~director~~ commissioner, in addition to those required by Title XIX of the Social Security Act. The ~~director~~ commissioner may also use the preferred drug list to negotiate for the payment of rebates or price discounts in connection with drugs covered under any other participating health benefit plan within or outside this state, provided that such negotiations and any subsequent agreement shall comply with the provisions of 42 U.S.C. § 1396r-8. The program, or such portions of the program as the ~~director~~ commissioner shall designate, shall constitute a state pharmaceutical assistance program under 42 U.S.C. § 1396r-8(c)(1)(C).

(b) The ~~director~~ commissioner shall negotiate supplemental rebates, price discounts, and other mechanisms to reduce net prescription drug costs by means of any negotiation strategy which the ~~director~~ commissioner determines will result in the maximum economic benefit to the program and to consumers in this state, while maintaining access to high quality prescription drug therapies. The ~~director~~ commissioner may negotiate through a purchasing pool or directly with manufacturers. The provisions of this subsection do not authorize agreements with pharmaceutical manufacturers whereby financial support for medical services covered by the Medicaid program is accepted as consideration for placement of one or more prescription drugs on the preferred drug list.

(c) The ~~office~~ department of Vermont health access shall prohibit the public disclosure of information revealing company-identifiable trade secrets (including rebate and supplemental rebate amounts, and manufacturer's pricing) obtained by the ~~office~~ department, and by any officer, employee, or contractor of the department in the course of negotiations conducted pursuant to this section. Such confidential information shall be exempt from public disclosure under subchapter 3 of chapter 5 of Title 1 (open records law).

Sec. I.66 33 V.S.A. § 2003 is amended to read:

§ 2003. PHARMACY DISCOUNT PLANS

(a) The ~~director~~ commissioner of the ~~office of~~ Vermont health access shall implement pharmacy discount plans, to be known as the “Healthy Vermonters” program, for Vermonters without adequate coverage for prescription drugs. The provisions of subchapter 8 of this chapter shall apply to the ~~director’s~~ commissioner’s authority to administer the pharmacy discount plans established by this section.

* * *

(c) As used in this section:

* * *

(7) “Rebate amount” means the rebate negotiated by the ~~director~~ commissioner and required from a drug manufacturer or labeler under this section. In determining the appropriate rebate, the ~~director~~ commissioner shall:

* * *

(8) “Secondary discounted cost” means, under the Healthy Vermonters program, the price of the drug based on the Medicaid fee schedule, less payment by the state of at least two percent of the Medicaid rate, less any rebate amount negotiated by the ~~director~~ commissioner and paid for out of the Healthy Vermonters dedicated fund established under subsection (j) of this section and, under the Healthy Vermonters Plus program, the average wholesale price of the drug, less payment by the state of at least two percent of the Medicaid rate, less any rebate amount negotiated by the ~~director~~ commissioner and paid for out of the Healthy Vermonters dedicated fund established under subsection (j).

* * *

(e) The Vermont board of pharmacy shall adopt standards of practice requiring disclosure by participating retail pharmacies to beneficiaries of the amount of savings provided as a result of the pharmacy discount plans. The standards must consider and protect information that is proprietary in nature. The ~~office~~ department of Vermont health access may not impose transaction charges under this program on pharmacies that submit claims or receive payments under the plans. Pharmacies shall submit claims to the department to verify the amount charged to beneficiaries under the plans. On a weekly or biweekly basis, the ~~office~~ department must reimburse pharmacies for the difference between the initial discounted price or the average wholesale price and the secondary discounted price provided to beneficiaries.

(f) The names of drug manufacturers and labelers who do and do not enter into rebate agreements under pharmacy discount plans are public information. The ~~office~~ department of Vermont health access shall release this information to health care providers and the public on a regular basis and shall publicize participation by manufacturers and labelers. The ~~office~~ department shall impose prior authorization requirements in the Medicaid program, as permitted by law, to the extent the ~~office~~ department determines it is appropriate to do so in order to encourage manufacturer and labeler participation in the pharmacy discount plans and so long as the additional prior authorization requirements remain consistent with the goals of the Medicaid program and the requirements of Title XIX of the federal Social Security Act.

(g) The ~~director~~ commissioner of the ~~office~~ of Vermont health access shall establish, by rule, a process to resolve discrepancies in rebate amounts claimed by manufacturers, labelers, pharmacies, and the ~~office~~ department.

(h) The Healthy Vermonters dedicated fund is established to receive revenue from manufacturers and labelers who pay rebates as provided in this section and any appropriations or allocations designated for the fund. The purposes of the fund are to reimburse retail pharmacies for discounted prices provided to individuals enrolled in the pharmacy discount plans; and to reimburse the ~~office~~ department of Vermont health access for contracted services, including pharmacy claims processing fees, administrative and associated computer costs, and other reasonable program costs. The fund is a nonlapsing dedicated fund. Interest on fund balances accrues to the fund. Surplus funds in the fund must be used for the benefit of the program.

(i) Annually, the ~~office~~ department of Vermont health access shall report the enrollment and financial status of the pharmacy discount plans to the health access oversight committee by September 1, and to the general assembly by January 1.

(j) The ~~office~~ department of Vermont health access shall undertake outreach efforts to build public awareness of the pharmacy discount plans and maximize enrollment. Outreach efforts shall include steps to educate retail pharmacists on the purposes of the Healthy Vermonters dedicated fund, in particular as it relates to pharmacy reimbursements for discounted prices provided to program enrollees. The ~~office~~ department may adjust the requirements and terms of the pharmacy discount plans to accommodate any new federally funded prescription drug programs.

(k) The ~~office~~ department of Vermont health access may contract with a third party or third parties to administer any or all components of the pharmacy discount plans, including outreach, eligibility, claims, administration, and rebate recovery and redistribution.

(l) The office department of Vermont health access shall administer the pharmacy discount plans and other medical and pharmaceutical assistance programs under this title in a manner advantageous to the programs and enrollees. In implementing this section, the office department may coordinate the other programs and the pharmacy discount plans and may take actions to enhance efficiency, reduce the cost of prescription drugs, and maximize benefits to the programs and enrollees, including providing the benefits of pharmacy discount plans to enrollees in other programs.

(m) The office department of Vermont health access may adopt rules to implement the provisions of this section.

(n) The office department of Vermont health access shall seek a waiver from the Centers for Medicare and Medicaid Services (CMS) requesting authorization necessary to implement the provisions of this section, including application of manufacturer and labeler rebates to the pharmacy discount plans. The secondary discounted cost shall not be available to beneficiaries of the pharmacy discount plans until the office department receives written notification from CMS that the waiver requested under this section has been approved and until the general assembly subsequently approves all aspects of the pharmacy discount plans, including funding for positions and related operating costs associated with eligibility determinations.

Sec. I.67 33 V.S.A. § 2004(a) is amended to read:

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the office department of Vermont health access for individuals participating in Medicaid, the Vermont Health Access Program, Dr. Dynasaur, VPharm, or Vermont Rx shall pay a fee to the agency of human services. The fee shall be 0.5 percent of the previous calendar year's prescription drug spending by the office department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

Sec. I.68 33 V.S.A. § 2007 is amended to read:

§ 2007. CANADIAN PRESCRIPTION DRUG INFORMATION PROGRAM

The office department of Vermont health access shall establish a website and prepare written information to offer guidance to Vermont residents seeking information about ordering prescription drugs through the mail or otherwise from a participating Canadian pharmacy.

Sec. I.69 33 V.S.A. § 2010 is amended to read:

§ 2010. ACTUAL PRICE DISCLOSURE AND CERTIFICATION

(a) A manufacturer of prescription drugs dispensed in this state under a health program directed or administered by the state shall, on a quarterly basis,

report by National Drug Code the following pharmaceutical pricing criteria to the ~~director~~ commissioner of the ~~office of~~ Vermont health access for each of its drugs:

* * *

(b) When reporting the prices as provided for in subsection (a) of this section, the manufacturer shall include a summary of its methodology in determining the price. The ~~office~~ department may accept the standards of the National Drug Rebate agreement entered into by the U.S. Department of Health and Human Services and Section 1927 of the Social Security Act for reporting pricing methodology.

(c) The pricing information required under this section is for drugs defined under the Medicaid drug rebate program and must be submitted to the ~~director~~ commissioner following its submission to the federal government in accordance with 42 U.S.C. § 1396r-8(b)(3).

(d) When a manufacturer of prescription drugs dispensed in this state reports the information required under subsection (a) of this section, the president, chief executive officer, or a designated employee of the manufacturer shall certify to the ~~office~~ department, on a form provided by the ~~director~~ commissioner of the ~~office of~~ Vermont health access, that the reported prices are the same as those reported to the federal government as required by 42 U.S.C. § 1396r-8(b)(3) for the applicable rebate period. A designated employee shall be an employee who reports directly to the chief executive officer or president and who has been delegated to make the certification under this section.

(e) Notwithstanding any provision of law to the contrary, information submitted to the ~~office~~ department under this section is confidential and is not a public record as defined in ~~subsection 1 V.S.A. § 317(b) of Title 1.~~ Disclosure may be made by the ~~office~~ department to an entity providing services to the ~~office~~ department under this section; however, that disclosure does not change the confidential status of the information. The information may be used by the entity only for the purpose specified by the ~~office~~ department in its contract with the entity. Data compiled in aggregate form by the ~~office~~ department for the purposes of reporting required by this section are public records as defined in ~~subsection 1 V.S.A. § 317(b) of Title 1,~~ provided they do not reveal trade information protected by state or federal law.

* * *

Sec. I.70 33 V.S.A. § 2071 is amended to read:

§ 2071. DEFINITIONS

For purposes of this subchapter:

* * *

(4) ~~“OVHA”~~ “DVHA” means the ~~office~~ department of Vermont health access.

* * *

Sec. I.71 33 V.S.A. § 2073 is amended to read:

§ 2073. VPHARM ASSISTANCE PROGRAM

* * *

(c) VPharm shall provide supplemental benefits by paying or subsidizing:

* * *

(4) pharmaceuticals that are not covered after the individual has exhausted the Medicare part D prescription drug plan's appeal process or the prescription drug plan's transition plan approved by the Centers for Medicare and Medicaid Services, and that are deemed medically necessary by the individual's prescriber in a manner established by the ~~director~~ commissioner of ~~the office of~~ Vermont health access. The coverage decision under this subdivision shall not be subject to the exceptions process established under Medicaid. An individual may appeal to the human services board or pursue any other remedies provided by law.

* * *

(e) In order to ensure the appropriate payment of claims, ~~OVHA~~ DVHA may expand the Medicare advocacy program established under chapter 67 of this title to individuals receiving benefits from the VPharm program.

* * *

Sec. I.72 33 V.S.A. § 2074 is amended to read:

§ 2074. VERMONTRX PROGRAM

(a) Effective January 1, 2006, VermontRx is established within the ~~office~~ department of Vermont health access (DVHA) and shall be the continuation of the state pharmaceutical programs in existence upon passage of this subchapter for those individuals not eligible for Medicare part D. VermontRx is a pharmaceutical assistance program for individuals age 65 or older who are not eligible for Medicare and for individuals with disabilities who are receiving Social Security disability benefits and who are not eligible for Medicare.

VermontRx may retain the current program names of VHAP-Pharmacy, VScript, and VScript Expanded if it is cost-effective to retain the current names in lieu of combining the current programs into one program.

(1) The program shall be administered by ~~OVHA~~ DVHA which, to the extent funding permits, shall establish application, eligibility, coverage, and payment standards. In addition to the general eligibility requirements established in section 2072 of this title, an individual must not be eligible for Medicare in order to be eligible for benefits under VermontRx.

(2) To the extent necessary under federal law, ~~OVHA~~ DVHA shall administer VermontRx in such a manner as to ensure that any permissible federal funding may be received to support the program. ~~OVHA~~ DVHA may establish a division of the VermontRx program to administer federal Medicaid funds separately in accordance with a federal waiver pursuant to Section 1115 of the Social Security Act.

(3) If permissible under federal law, ~~OVHA~~ DVHA shall use the same forms and application process for individuals to enroll in VermontRx, regardless of the funding source for the program.

* * *

(e) Under VermontRx, a pharmaceutical may be dispensed to an eligible recipient provided such dispensing is pursuant to and in accordance with any contractual arrangement that ~~OVHA~~ DVHA may enter into or approve for the group discount purchase of pharmaceuticals. When a person or business located in Vermont and employing citizens of this state has submitted a bid for the group discount purchase of pharmaceuticals and has not been selected, the ~~director~~ commissioner of ~~OVHA~~ DVHA shall record the reason for nonselection. The ~~director's~~ commissioner's report shall be a public record available to any interested person. All bids or quotations shall be kept on file in the ~~director's~~ commissioner's office and open to public inspection.

Sec. I.73 33 V.S.A. § 2076(c) is amended to read:

(c) ~~OVHA~~ DVHA shall seek any waivers of federal law, rule, or regulation necessary to implement the provisions of this section.

Sec. I.74 33 V.S.A. § 2077 is amended to read:

§ 2077. ADMINISTRATION

(a) The programs established under this subchapter shall be designed to provide maximum access to program participants, to incorporate mechanisms that are easily understood and require minimum effort for applicants and health care providers, and to promote quality, efficiency, and effectiveness through cost controls and utilization review. Applications may be filed at any time and

shall be reviewed annually. ~~OVHA~~ DVHA may contract with a fiscal agent for the purpose of processing claims and performing related functions required in the administration of the pharmaceutical programs established under this subchapter.

(b) Upon determining that an applicant is eligible under this subchapter, ~~OVHA~~ DVHA shall issue an identification card to the applicant.

(c) A pharmacy which dispenses a pharmaceutical to an individual eligible for a pharmaceutical program established under this subchapter shall collect payment for the pharmaceutical from ~~OVHA~~ DVHA.

Sec. I.75 33 V.S.A. § 2081(b) is amended to read:

(b) ~~OVHA~~ DVHA shall report on the status of the pharmaceutical assistance programs established by this subchapter to the health access oversight committee.

Sec. I.76 33 V.S.A. § 6501 is amended to read:

§ 6501. DEFINITIONS

For purposes of this chapter:

(1) “Balance bill” means to charge to or collect from a Medicare or general assistance beneficiary any amount in excess of the reasonable charge for that service as determined by the United States Secretary of Health and Human Services; or the ~~director~~ commissioner of ~~the office of~~ Vermont health access, as the case may be.

* * *

Sec. I.77 33 V.S.A. § 6703 is amended to read:

§ 6703. CONTRACT FOR SERVICES

(a) Subject to the provisions of subsection (b) of this section, the ~~director~~ commissioner of ~~the office of~~ Vermont health access shall contract on an annual basis with individuals or private organizations to provide services authorized by this chapter to dual eligible individuals including pursuit of subrogation claims under section 6705 of this chapter.

(b) The ~~director~~ commissioner shall not be required to enter into contracts under this section if:

(1) the amount of the state’s share of recoveries to the Medicaid program from awards obtained under this chapter during the preceding year did not exceed the payments to the contractors during that year; and

(2) the ~~director~~ commissioner determines that the program is not accomplishing its goal of protecting dual eligible individuals from improper

denials of Medicare coverage. The ~~director~~ commissioner shall base his or her determination under this subdivision on information obtained from the contractors, providers of health care, area agencies on aging, and other individuals and organizations affected by the program.

Sec. I.78 33 V.S.A. § 6705 is amended to read:

§ 6705. SUBROGATION

(a) Upon furnishing medical assistance under chapter 19 of this title to any individual, the ~~office~~ department of Vermont health access shall be subrogated, to the extent of the expenditure for medical care furnished, to any rights such individual may have to third party reimbursement for such care.

(b) The ~~office~~ department of Vermont health access or its designee shall be entitled to obtain from any medical service provider any records of the treatment of any individual covered by subsection (a) of this section which are in any way relevant to the treatment paid for through medical assistance without regard to any other privilege or right of confidentiality or privacy which may exist. The ~~office~~ department shall ensure that any records obtained are not released to any other individual, agency or other entity except insofar as is necessary to pursue the ~~office's~~ department's rights of subrogation.

(c) The ~~office~~ department of Vermont health access may contract with a private attorney or attorneys, or other private persons, for the purpose of obtaining third party reimbursement for Medicaid expenditures under this section. In awarding contracts under this section, the ~~office~~ department shall give preference to bidders who maintain a place of business in this state.

Sec. I.79 33 V.S.A. chapter 4 is added to read:

CHAPTER 4. DEPARTMENT OF VERMONT HEALTH ACCESS

§ 401. COMPOSITION OF DEPARTMENT

The department of Vermont health access, created under 3 V.S.A. § 3088, shall consist of the commissioner of Vermont health access, the medical director, and all divisions within the department, including the divisions of managed care; health care reform; and Medicaid policy, fiscal, and support services.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

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

Committee on the part of the Senate

*MARTHA P. HEATH
JOSEPH N. ACINAPURA
MITZI JOHNSON*

Committee on the part of the House

Thereupon, pending the question, Shall the Senate accept and adopt the report of the Committee of Conference?, on motion of Senator Shumlin, the Senate recessed until the fall of the gavel.

Called to Order

Pursuant to Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, the Senate was called to order by David A. Gibson, Secretary of the Senate.

Recess

On motion of Senator Campbell the Senate recessed until 4:45 P.M..

Message from the House No. 84

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

S. 295. An act relating to the creation of an agricultural development director.

And has adopted the same on its part.

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

H. 790. An act relating to capital construction and state bonding.

And has adopted the same on its part.

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

H. 760. An act relating to the repeal or revision of certain boards and commissions.

And has severally concurred therein.

Evening

Pursuant to Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, at 4:45 P.M. the Senate was called to order by David A. Gibson, Secretary of the Senate.

President *pro tempore* Assumes the Chair

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 295.

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

An act relating to the creation of an agricultural development director.

Was taken up for immediate consideration.

President Assumes the Chair

Senator Kittell, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

An act relating to the creation of an agricultural development director.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House proposal of amendment, and that the bill be further amended as follows:

First: In Sec. 1, by striking out the following: "The general assembly finds" and inserting in lieu thereof the following: For purposes of Secs. 2, 3 and 4 of this act, the generally assembly finds

Second: In Sec. 2, by adding a new subsection (c) to read as follows:

(c) Any change in employment titles or responsibilities resulting from the creation of the position of director of agricultural development shall be accomplished without increasing the overall salary expenditures of the agency of agriculture, food and markets.

Third: In Sec. 4, 6 V.S.A. § 2966(a)(2)(D), by striking out the following: “balancing” and inserting in lieu thereof the following: balance

Fourth: In Sec. 4, 6 V.S.A. § 2966, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) Powers and duties. The board shall have the authority and duty to:

(1) meet, at least quarterly, to conduct such business and take such action as is necessary to perform the duties set forth in this section;

(2) design and conduct an ongoing public engagement process, which may include taking testimony and receiving information from any party interested in the board’s activities;

(3) gain information through the use of experts, consultants, and data to perform analysis as needed;

(4) request services from state economists, state administrative agencies, and state programs;

(5) obtain information from other planning entities, including the farm-to-plate investment program;

(6) serve as a resource for and make recommendations to the administration and the general assembly on ways to improve Vermont’s laws, regulations, and policies in order to attain the goals of the comprehensive agricultural economic development plan; and

(7) develop an annual operating budget, and

(A) solicit any grants, gifts, or appropriations necessary to implement the budget pursuant to 32 V.S.A. § 5;

(B) expend any monies necessary to carry out the purposes of this section.

Fifth: In Sec. 4, 6 V.S.A. § 2966(f), by striking out subdivisions (3) and (4) in their entirety and inserting in lieu thereof the following:

(3) The secretary of agriculture, food and markets or his or her designee shall be a nonvoting, ex officio member. The secretary may provide staff support from the agency of agriculture, food and markets as resources permit.

(4) The secretary of commerce and community development or his or her designee shall be a nonvoting, ex officio member.

Sixth: In Sec. 4, 6 V.S.A. § 2966(g) by striking out subdivision (1) in its entirety; and in subdivision (2), by striking out the following: “Unless a higher threshold is established by the board’s rules, seven” and inserting in lieu

thereof the following: Eight; and in subdivision (3)(A), by striking out the following: “board shall be led by a chair who” and inserting in lieu thereof the following: chair of the board; and by renumbering the subdivisions accordingly

Seventh: By striking out Secs. 5 and 6 in their entirety and inserting in lieu thereof twelve new sections, to be numbered Sec. 5 through Sec. 16, to read as follows:

Sec. 5. FINDINGS

For purposes of Secs. 6, 7, 8, and 9 of this act, the general assembly finds:

(1) Livestock is the core of dairy and livestock farming. The care of and management of livestock are important to the profitability of Vermont farms and the maintenance of Vermont’s working landscape.

(2) The general public is increasingly interested in locally produced food, and local Vermont meat has an excellent reputation for quality and flavor.

(3) Livestock raised on Vermont farms offers profit potential and economic opportunity for Vermont producers.

(4) The state would benefit from a body charged with making policy recommendations regarding livestock care.

(5) It is the intent of this legislation to assure the continued success of livestock and dairy farming in Vermont and the continuance of a safe, local food supply.

Sec. 6. 6 V.S.A. chapter 64 is added to read:

CHAPTER 64. LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

§ 791. DEFINITIONS

As used in this chapter:

(1) “Agency” means the agency of agriculture, food and markets.

(2) “Council” means the livestock care standards advisory council.

(3) “Livestock” means cattle, calves, sheep, swine, horses, mules, goats, fallow deer, American bison, poultry, and any other animal that can or may be used in and for the preparation of meat, fiber, or poultry products.

(4) “Secretary” means the secretary of agriculture, food and markets.

§ 792. ESTABLISHMENT OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) There is established a livestock care standards advisory council for the purposes of evaluating the laws of the state and of providing policy recommendations regarding the care, handling, and well-being of livestock in the state. The livestock care standards advisory council shall be composed of the following members, all of whom shall be residents of Vermont:

(1) The secretary of agriculture, food and markets, who shall serve as the chair of the council.

(2) The state veterinarian.

(3) The following six members appointed by the governor:

(A) A person with knowledge of food safety and food safety regulation in the state.

(B) A person from a statewide organization that represents the beef industry.

(C) A Vermont licensed livestock or poultry veterinarian.

(D) A representative of an agricultural department of a Vermont college or university.

(E) A representative of the Vermont slaughter industry.

(F) A representative of the Vermont livestock dealer, hauler, or auction industry.

(4) The following three members appointed by the committee on committees:

(A) A producer of species other than bovidae.

(B) An operator of a medium farm or large farm permitted by the agency.

(C) A professional in the care and management of equines and equine facilities.

(5) The following three members appointed by the speaker of the house:

(A) An operator of a small Vermont dairy farm.

(B) A representative of a local humane society or organization from Vermont registered with the agency and organized under state law.

(C) A person with experience investigating charges of animal cruelty involving livestock, provided that no such person who has received or is

receiving compensation from a national humane society or organization may be appointed under this subdivision.

(b) Members of the board shall be appointed for staggered terms of three years. Except for the chair, the state veterinarian, and the representative of the agricultural department of a Vermont college or university, no member of the council may serve for more than six consecutive years. Eight members of the council shall constitute a quorum.

(c) With the concurrence of the chair, the council may use the services and staff of the agency in the performance of its duties.

§ 793. POWERS AND DUTIES OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) The council shall:

(1) Review and evaluate the laws and rules of the state applicable to the care and handling of livestock. In conducting the evaluation required by this section, the council shall consider the following:

(A) the overall health and welfare of livestock species;

(B) agricultural best management practices;

(C) biosecurity and disease prevention;

(D) animal morbidity and mortality data;

(E) food safety practices;

(F) the protection of local and affordable food supplies for consumers; and

(G) humane transport and slaughter practices.

(2) Submit policy recommendations to the secretary on any of the subject matter set forth under subdivision (1) of this subsection. A copy of the policy recommendations submitted to the secretary shall be provided to the house and senate committees on agriculture. Recommendations may be in the form of proposed legislation.

(3) Meet at least annually and at such other times as the chair determines to be necessary.

(4) Submit minutes of the council annually, on or before January 15, to the house and senate committees on agriculture.

(b) The council may engage in education and outreach activities related to the laws and regulations for the care and handling of livestock. The council may accept funds from public or private sources in compliance with § 2 V.S.A. § 5.

Sec. 7. 6 V.S.A. § 3306 is amended to read:

§ 3306. LICENSING

* * *

(e) The secretary may, after notice and opportunity for hearing, refuse to grant, suspend, or revoke a license, may impose terms or conditions for operation under a license, including video monitoring, or may take any other action which he or she deems appropriate concerning any license, if he or she determines that any false statement was made in the application or if he or she finds that there is any failure to comply with this chapter or the rules made under it.

* * *

(h) The secretary may deny a commercial slaughter license or the renewal of a commercial slaughter license under this chapter to a person who has been convicted of a felony, convicted of a misdemeanor involving cruelty to animals, or has been found in violation of section 3132 of this title more than once. The secretary may deny a commercial slaughter license or renewal of a commercial slaughter license under this chapter if a person responsibly connected to the applicant has been convicted of a felony, convicted of a misdemeanor involving cruelty to animals, or has been found in violation of section 3132 of this title more than once. For purposes of this subdivision, a “person responsibly connected to an applicant” is a partner, officer, director, holder, or owner of 10 percent or more of the voting stock of the applicant’s business or is an employee in a managerial or executive capacity at the applicant’s business.

(i) All applicants for licensure or relicensure as a commercial slaughter facility shall submit a written humane livestock handling plan for review and approval by the secretary of agriculture, food and markets or designee. The secretary may suspend, revoke, or condition any commercial slaughter facility license, after notice and opportunity for hearing, for a licensee’s failure to adhere to the written plan.

(j) Commercial slaughter facilities issued a license by the agency of agriculture, food and markets shall submit to the secretary or designee within five days of receipt any documentation received from the U.S. Department of Agriculture (USDA) related to violations of the Federal Humane Slaughter Act and rules adopted thereunder. The secretary shall review the documentation

submitted under this subdivision for potential action under this chapter or chapter 201 of this title. A failure to submit documentation required under this subdivision shall be a violation of this chapter subject to an administrative penalty under chapter 15 of this title.

Sec. 8. TRAINING OF SLAUGHTERHOUSE EMPLOYEES;
APPROPRIATIONS

In addition to any other funds appropriated to the agency of agriculture, food and markets in fiscal year 2011, there is transferred to the agency of agriculture, food and markets up to \$50,000.00 from the funds appropriated to the agency of commerce and community development's Vermont training program for use by the agency of agriculture, food and markets for training employees of Vermont-licensed slaughterhouses regarding the humane treatment of animals that is required under state and federal law.

Sec. 9. 6 V.S.A. § 3134 is amended to read:

§ 3134. PENALTY

A person who violates ~~this chapter~~ section 3132 of this title shall be guilty of a misdemeanor and shall be fined upon conviction not more than \$100.00 ~~nor less than \$50.00~~ \$1,000.00 for the first violation, not more than \$5,000.00 for the second violation, and not more than \$10,000.00 per violation for the third and any subsequent violations, or imprisoned not more than ~~90 days~~ two years, or both. In addition to the penalties provided ~~above~~ in this subsection, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer, or stockyard operator resides, or where such violations occur. The secretary may refer a violation of section 3132 of this title to the attorney general or the state's attorney for criminal prosecution. The secretary may also take any action authorized under chapter 1 of this title.

Sec. 10. 20 V.S.A. § 3901 is amended to read:

§ 3901. DEFINITIONS

As used in this chapter, unless the context clearly requires otherwise:

* * *

(4) "Animal" means any dog or cat, rabbit, rodent, ~~nonhuman primate,~~ bird, or other warm-blooded vertebrate but shall not include horses, cattle, sheep, goats, swine, and domestic fowl.

* * *

(16) "Rescue organization" means any organization that accepts more than five animals in a calendar year for the purpose of finding adoptive homes for the animals, and that:

(A) holds a license as a pet shop;

(B) is recognized and approved as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, but is not registered as an animal shelter; or

(C) is registered as an animal shelter with the agency of agriculture, food and markets under section 3903 of this title.

Sec. 11. 20 V.S.A. § 3903 is amended to read:

§ 3903. REGISTRATION OF ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

(a) No person may operate an animal shelter ~~after the expiration of six months following the effective date of this chapter~~ or rescue organization unless a certificate of registration for the animal shelter or rescue organization has been granted by the secretary. Application for the certificate shall be made in the manner provided by the secretary. No fee shall be required for the certificate. Certificates of registration shall be valid for a period of one year or until revoked, and may be renewed for like periods upon application in the manner provided.

(b) An animal shelter or rescue organization registered under this chapter shall not accept an animal unless the ~~donor~~ person transferring the animal to the shelter provides the following information: the name and address of the ~~donor~~ person transferring the animal and, if known, the name of the animal, its vaccination history, and other information concerning the background, temperament, and health of the animal.

Sec. 12. 20 V.S.A. § 3907 is amended to read:

§ 3907. DENIAL OR REVOCATION OF REGISTRATION OR LICENSE

Issuance of a certificate of registration may be denied to any animal shelter, rescue organization, or fair, or a license denied to any public auction, or pet merchants, or any certificate or license previously granted under this chapter, may be revoked by the secretary if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate for the purposes of this chapter, or if the feeding, watering, sanitizing, and housing practices of the animal shelter, rescue organization, fair, public auction, pet merchant as the case may be, are not consistent with this chapter or with rules adopted under this chapter.

Sec. 13. 20 V.S.A. § 3908 is amended to read:

§ 3908. ADOPTION OF REGULATIONS

The secretary may as he or she deems necessary adopt, amend, revise, and repeal rules consistent with this chapter for the purpose of carrying out its purposes. The rules may include, but need not be limited to, provisions relating to humane transportation to and from registered or licensed premises, records of purchase and sale, identification of animals, primary enclosures, housing facilities, sanitation, euthanasia, ambient temperatures, feeding, watering, and adequate veterinary medical care, with respect to animals kept or cared for at premises licensed or registered under this chapter. The secretary may at his or her discretion, adopt in whole or in part those portions of the rules of the secretary of agriculture under Public Law 89-544, commonly known as the Laboratory Animal Welfare Act, which are consistent with the purposes of this chapter.

Sec. 14. 20 V.S.A. § 3911(b) is amended to read:

(b) Any person who operates a fair, or public auction, or who transacts business as a pet merchant, animal shelter, or rescue organization without being duly licensed or without possessing a proper certificate of registration, as the case may be, as required under this chapter, or who violates any provision of this chapter or of any rule lawfully adopted under its authority for which no other penalty is provided, shall be fined not more than \$300.00 or imprisoned for not more than six months, or both.

Sec. 15. 20 V.S.A. § 3915 is added to read:

§ 3915. HEALTH CERTIFICATE FOR TRANSPORT INTO STATE

(a) A dog, cat, ferret, or wolf-hybrid imported into the state for sale, resale, exchange, or donation shall be accompanied by an official health certificate or similar certificate of inspection for the dog, cat, ferret, or wolf-hybrid issued by a veterinarian licensed in the state or country of origin. The certificate shall certify that:

(1) the dog, cat, ferret, or wolf-hybrid has been inspected and is free of visible signs of infections or contagious or communicable disease; and

(2) if the dog, cat, ferret, or wolf-hybrid is more than three months of age, the dog, cat, ferret, or wolf-hybrid has a current rabies vaccination or is a specific breed for which a rabies vaccination is not age-appropriate.

(b) The agency of agriculture, food and markets may adopt rules regarding the issuance and contents of any certificate required under subsection (a) of this section.

Sec. 16. EFFECTIVE DATES

(a) Secs. 1 (agricultural development findings), 2 (agricultural development director), 3 (elimination of references to commissioner of agricultural development), 4 (agricultural development board), 10 (rescue organization), 11 (registration of rescue organizations), 12 (denial or revocation of animal shelter or rescue organization license), 13 (adoption of welfare of animal regulations), 14 (welfare of animal penalties), and 15 (health certificate for import of animal) of this act shall take effect on July 1, 2010.

(b) This section and Secs. 5 (livestock care findings), 6 (livestock care standards advisory council), 7 (commercial slaughter facility licensing), 8 (slaughterhouse employee training), and 9 (humane slaughter penalties) shall take effect upon passage.

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

“An act relating to miscellaneous agricultural subjects.”

SARA BRANON KITTELL

ROBERT A. STARR

ROBERT A. STARR

Committee on the part of the Senate

WILLIAM C. STEVENS

JOHN W. MALCOLM

THERESE M. TAYLOR

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Remarks Journalized

****On a personal point of privilege, Senator Mazza addressed the Chair, and on motion of Senator Campbell, his remarks were ordered to be entered in the Journal, and are as follows:

“Mr. President:

“I would like to take a moment to express my thoughts regarding the members of the Senate who will be leaving us after this session. As you all know four Senators and our Lieutenant Governor will be seeking other offices. In my 25 years of serving in this wonderful legislature, I cannot remember a time of such great loss. For Vermonters, I hope a couple will return to serve as our Governor and Lieutenant Governor. Please allow me to share my thoughts on these great friends.

“First, the loss of Senator Shumlin will leave a significant void in our body. During his time as *Pro tempore*, we all, at one time or another, wanted to take him to the woodshed, but 24 hours later he was our best friend. He takes a beating and keeps on ticking. I wish him well.

“Next, Senator Racine and I go back many years. He has great respect for the Senate and served as *Pro tempore* and Lieutenant Governor. Channel 3 recently aired a 1985 clip, which was my first year, and showed how young we both were he, with his black bushy hair, and me, with my light blue polyester suit and white belt. I’m so glad fads have evolved. Senator Racine will also leave a large void, and I wish him the best.

“Our third Senator to leave us for higher office is Senator Scott. It is no secret that Phil and I are great friends. It’s been said by former Senator Leddy that Fast Philly goes in circles. True, but I can tell you he has shown great leadership as the Chair of Institutions Committee and as Vice Chair of the Transportation Committee. Just as an example of his fairness to his friends, he convinced me to purchase a one-third interest in a boat in my area. After the purchase, he and his other partner gave me six months of usage. I thought that was very generous, until I learned those six months were November through March. They get to use it April through September. Friends! I most certainly wish Phil all the best in his future endeavors.

“The fourth Senator I’d like to talk about is Senator Bartlett. If I am fortunate enough to return next year, it will be extremely difficult to look at seat #1 and not see Senator Bartlett there. Over the years, not only have we worked well together, but we also became great friends. I am not surprised by her desire to be Governor. It cannot be as time consuming or as stressful as being Chair of Appropriations! May great things happen for Senator Bartlett.

“Last, but certainly not least, is my friend Lieutenant Governor Dubie. Serving as third member of the Committee on Committees, I can tell you he has been fair and balanced on his decisions. He thinks things through before speaking. When Senator Shumlin, Brian and I meet, who do you think speaks the most?? Brian has also made a decision to fly higher, and I wish him good luck in the friendly skies.

“Although we may differ in our priorities and goals, we share one common theme – how can we make a difference for what is best for all Vermonters. At the end of every session, we all leave this body with a deep respect for one another, knowing we did our very best.

“The fall will bring about many changes. With heartfelt gratitude to those who will not be returning, I wish you all much success.”

Rules Suspended; House Proposal of Amendment Concurred In**J.R.S. 64.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to joint Senate resolution entitled:

Joint resolution relating to the future of the international port of entry at Morses Line and the proposed federal acquisition of land belonging to the Rainville family farm.

Was taken up for immediate consideration.

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

Whereas, Clement and Elizabeth Rainville own a dairy farm in the town of Franklin astride the United States–Canadian border at Morses Line, and

Whereas, the Rainville farm consists of 130 acres of cropland and a dairy operation with 75 milkers and approximately the same number of heifers, and

Whereas, every one of those 130 acres is integral to this Vermont farm's economic viability, and

Whereas, the Rainville farm is exactly the type of dairy farm that is all too rapidly vanishing and that the state of Vermont is making every effort to preserve as an ongoing agricultural enterprise, and

Whereas, the state of Vermont, through the Vermont Housing and Conservation Trust Fund, has spent millions of dollars to preserve farmland for future generations, and the current use program was established to encourage the conduct of agricultural activities on Vermont land, and

Whereas, Vermont's farmland attracts tourists who travel to the state to view the state's picturesque open spaces, and

Whereas, according to the Vermont Agency of Agriculture, Food and Markets (VAAFAM), the total number of dairy farms in January stood at 11,206 in 1947, 9,512 in 1957, 4,729 in 1967, 3,531 in 1977, 2,771 in 1987, 1,908 in 1997, 1,168 in 2007, and 1,055 in 2010, and

Whereas, the VAAFAM has projected that Vermont may lose up to 200 farms in 2010, lowering the number to below 1,000 for the first time since the state of Vermont has conducted a farm count survey, and

Whereas, from an economic perspective, the Sustainable Agriculture Council has estimated that Vermont's agricultural worth has now grown to nearly \$3.7 billion, and

Whereas, the United States Department of Homeland Security (the Department) and United States Customs and Border Protection (CBP), which is under the Department's jurisdiction, have announced their intention to acquire land—by means of eminent domain proceedings if necessary—from the Rainville farm for use in the construction of a new international border port-of-entry facility at Morses Line, and

Whereas, the Department and CBP are justifying this project on grounds of both national security and economic stimulation, and

Whereas, the Rainville family has stated that were it to lose any of its land used for hay production, this small farm's self-sufficiency would be lost, and

Whereas, a loss in the available hay would force the Rainvilles to purchase commercial feed for their herd, adding an expense they do not currently incur, and

Whereas, in the federal Farmland Protection Policy Act of 1981 (Pub. L. 97-89) (the act), Congress found that “the Nation's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of the United States” and further stated that the law's purpose was “to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses,” and

Whereas, this proposed land acquisition is clearly contrary to Congress' express intent as stated in the act, and

Whereas, the Rainville farm is listed on the National Register of Historic Places, which is further evidence of the importance that has been attached to the farm's continuity and integrity, and

Whereas, although the department's proposed new border-crossing facility has been reduced in size, there remains concern that it may be larger than needed for the amount of traffic that crosses at Morses Line, and

Whereas, there have been suggestions that federal funds would be better directed at further improvements to the heavily used port of entry at nearby Highgate, and

Whereas, the Vermont congressional delegation has been closely involved with the issues related to the proposed new facility at the Morses Line port of entry and the impact it will have on the Rainville Farm, and

Whereas, on Tuesday, April 27, 2010, while testifying before the United States Senate Judiciary Committee, Homeland Security Secretary Janet Napolitano, in response to a request of Senator Leahy, committed herself to the convening of a public meeting near Morses Line before proceeding, and

Whereas, this meeting will be extremely timely, as in the past few days, the Rainville family received notice from the federal government that the condemnation process will be commenced in 60 days if the family does not agree to sell the requested land, and

Whereas, reducing the economic viability of a small Vermont dairy farm should not be equated with economic stimulation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly strongly urges the United States Department of Homeland Security to assess carefully the comments offered at the forthcoming public meeting on the future of the port of entry facility at Morses Line and to re-evaluate the need to condemn any land belonging to the Rainville farm in the town of Franklin, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Secretary of Homeland Security Janet Napolitano, United States Customs and Border Protection Commissioner Alan Bersin, the Vermont congressional delegation, Vermont Secretary of Agriculture, Food and Markets Roger Allbee, and the Rainville family in Franklin.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment to Senate Proposals of Amendment Concurred In

S. 292.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate proposals of amendment to House bill entitled:

An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees.

Was taken up for immediate consideration.

The House concurs in the Senate proposals of amendment with the following amendment thereto:

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

Sec. 17a. 28 V.S.A. §102(c)(22) is added to read:

(22) To notify local and state law enforcement officers of the following information regarding a person released from incarceration on probation, parole or furlough and residing in the community: name; address; conditions

imposed by the court, parole board, or commissioner; and the reason for placing the person in that community.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposals of amendment?, was decided in the affirmative.

Consideration Resumed; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 789.

Consideration was resumed on House bill entitled:

An act making appropriations for the support of government.

Thereupon, pending the question, Shall the Senate accept and adopt the report of the Committee of Conference?, Senator Illuzzi raised a point of order on the ground that the Committee of Conference failed to adhere to the requirements of Sec. 770.2 of Mason's Manual of Legislative Procedure, in that Secs. E.232.1 and E.232.2 were not in the Senate proposal of amendment, nor in the bill as passed by the House, and that therefore the Committee of Conference did not confine itself to the differences between the two houses.

The President *sustained* the point of order.

On motion of Senator Illuzzi, the rules were suspended to permit the Senate to consider the report of the Committee of Conference without Secs. E.232.1 and E.232.2.

Thereupon, pending the question, Shall the Senate accept and adopt the report of the Committee of Conference?, Senator MacDonald raised a point of order on the ground that the Committee of Conference failed to adhere to the requirements of Sec. 770.2 of Mason's Manual of Legislative Procedure, in that Secs. H.1, H.2 and H.3 were not in the Senate proposal of amendment, nor in the bill as passed by the House, and that therefore the Committee of Conference did not confine itself to the differences between the two houses.

The President *sustained* the point of order.

On motion of Senator MacDonald, the rules were suspended to permit the Senate to consider the report of the Committee of Conference with the provisions of Secs. H.1, H.2 and H.3 retained in the report, which was agreed to on a roll call, Yeas 29, Nays 0.

Senator Sears 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, Brock, Campbell, Carris, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Choate.

Thereupon, pending the question, Shall the Senate accept and adopt the report of the Committee of Conference?, Senator MacDonald raised a point of order on the ground that the Committee of Conference failed to adhere to the requirements of Sec. 770.2 of Mason's Manual of Legislative Procedure, in that Sec. E.702.1 was not in the Senate proposal of amendment, nor in the bill as passed by the House, and that therefore the Committee of Conference did not confine itself to the differences between the two houses.

The President *sustained* the point of order.

On motion of Senator Shumlin, the rules were suspended to permit the Senate to consider the report of the Committee of Conference with the provisions of Sec. E.702.1 retained in the report, which was agreed to on a roll call, Yeas 29, Nays 0.

Senator Sears 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, Brock, Campbell, Carris, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Choate.

Thereupon, the pending question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative, on a roll call, Yeas 24, Nays 5.

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: Ayer, Bartlett, Brock, Campbell, Carris, Cummings, Doyle, Flanagan, Flory, Giard, Hartwell,

Illuzzi, Kitchel, Kittell, Lyons, Mazza, Miller, Mullin, Nitka, Scott, Sears, Shumlin, Snelling, Starr.

Those Senators who voted in the negative were: Ashe, MacDonald, McCormack, Racine, White.

The Senator absent and not voting was: Choate.

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. 722, H. 789.

Rules Suspended; Bills Delivered

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 292, S. 295.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until eight o'clock and in the evening.

Called to Order

The Senate was called to order by the President *pro tempore*.

Message from the House No. 85

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 considered Senate proposals of amendment to the following House bills:

H. 542. An act relating to transfers of mobile homes and rent-to-own transactions.

H. 778. An act relating to amending miscellaneous provisions in Vermont's public retirement systems.

And has severally concurred therein.

**Rules Suspended; Report of Committee of Conference Accepted and
Adopted on the Part of the Senate**

H. 783.

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

An act relating to miscellaneous tax provisions.

Was taken up for immediate consideration.

President Assumes the Chair

Senator Cummings, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to miscellaneous tax provisions.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * General Provisions * * *

Sec. 1. 32 V.S.A. § 312 is amended to read:

§ 312. TAX EXPENDITURE REPORT

(a) For purposes of this section, "tax expenditure" shall mean the actual or estimated loss in tax revenue resulting from any exemption, exclusion, deduction, or credit applicable to the tax.

(b) Tax expenditure reports. Biennially, as part of the budget process, beginning January 15, 2009, the department of taxes and the joint fiscal office shall file with the house committees on ways and means and appropriations and the senate committees on finance and appropriations a report on tax expenditures in the personal and corporate income taxes, sales and use tax, and meals and rooms tax ~~returns~~, insurance premium tax, ~~and~~ bank franchise tax ~~returns~~, ~~and~~ education property tax ~~grand lists~~, diesel fuel tax, gasoline tax, motor vehicle purchase and use tax, and such other tax expenditures for which the joint fiscal office and the tax department jointly have produced revenue estimates. Legislative council shall also be available to assist with this tax expenditure report. The report shall include, for each tax expenditure, the following information:

- (1) A description of the tax expenditure.
- (2) The most recent fiscal information available on the direct cost of the tax expenditure in the past two years.
- (3) The date of enactment of the expenditure.
- (4) A description of and estimate of the number of taxpayers directly benefiting from the expenditure provision.

(c) Based on the information contained in the tax expenditure report, the commissioner shall recommend to the general assembly that any expenditure that has cost less than \$50,000.00 or has been claimed by fewer than ten taxpayers in each of the three preceding years be repealed two years hence.

Sec. 2. FUTURE TAX EXPENDITURE REPORTS

(a) The report due January 15, 2011, shall include the pass-through of federal tax expenditures from personal income tax reported on Federal Schedule A to Form 1040.

(b) No later than January 15, 2012, the department of taxes, the joint fiscal office, and legislative council shall research other state tax expenditure reports and federal tax code to determine which federal exemptions, exclusions, deductions, and other adjustments that pass through to Vermont should be included in future tax expenditure reports. The report shall include specific recommendations with respect to further development of tax expenditure reporting.

(c) The report due on January 15, 2013, shall include the information in subsection (b) of this section plus any specific recommendation by the general assembly in response to the report presented on January 15, 2012.

(d) The report due on January 15, 2015, shall include the information required by 32 V.S.A. § 312(b) plus a list of any additional federal tax expenditures affecting Vermont taxable income that the department and the joint fiscal office believe can reasonably be identified and quantified.

(e) It is the intent of the legislature to continue reviewing tax expenditure reporting in general and the specific recommendations made pursuant to subsection (b) of this section so that future tax expenditure reports will become an increasingly useful tool in the budget process.

(f) The department of motor vehicles shall provide the department of taxes, the joint fiscal office, and legislative council the data available from the diesel fuel tax, gasoline tax, and the motor vehicle purchase and use tax.

Sec. 3. Sec. B.503 (state placed students) of H.789 of 2009, Adj. Sess., as enacted, is amended to read:

Sec. B.503 Education - state-placed students

Grants	15,700,000	15,300,000
Total	15,700,000	15,300,000
Source of funds		
Education fund	15,700,000	15,300,000
Total	15,700,000	15,300,000

Sec. 4. 32 V.S.A. § 3201(a)(4) is amended to read:

(4) For the purpose of ascertaining the correctness of any return or making a determination of the tax liability of any taxpayer, examine or cause to be examined by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda of the taxpayer bearing upon the matters required to be included in any return. The commissioner or such designated officers may require the attendance of the taxpayer or of any other person having knowledge in the premises, at any place in the county where the taxpayer or person resides or has a place of business, or in Washington County if the taxpayer is a nonresident individual, estate, trust or is a corporation or business entity not having a place of business in this state, and may take testimony and require proof material and may administer oaths or take acknowledgment in respect of any return or other information required by this title or the rules, regulations, and decisions of the commissioner. If an individual, estate, trust, corporation, or other business entity fails after request to provide books, records, or memoranda at either its place of business within the state or Washington County, the commissioner may charge the person a reasonable per diem fee and expenses for the auditor making the examination out of state. The charges shall be payable within 30 days of the date billed and may be collected in the manner provided for the collection of taxes in this title.

Sec. 5. 32 V.S.A. § 5404(b) is amended to read:

(b) Annually, on or before August 15, the clerk of a municipality, or the supervisor of an unorganized town or gore, shall transmit to the director in an electronic or other format as prescribed by the director: education and municipal grand list data, including exemption information and grand list abstracts; tax rates; and the total amount of taxes assessed in the town or unorganized town or gore. The data transmitted shall identify each parcel by a parcel identification number assigned under a numbering system prescribed by the director. Municipalities may continue to use existing numbering systems in addition to, but not in substitution for, the parcel identification system prescribed by the director. If changes or additions to the grand list are made by the listers or other officials authorized to do so after such abstract has been so transmitted, such clerks shall forthwith certify the same to the director.

Sec. 6. 32 V.S.A. § 5938 is amended to read:

§ 5938. COLLECTION ASSISTANCE FEES

Annually the department shall assess each participating claimant agency that portion of determine the actual per-offset costs incurred by the department in setting off debts that the number of refunds transferred to the claimant agency in accordance with subsection 5934(b) of this chapter bears to the total number of refunds transferred to claimant agencies by and notwithstanding section 502 of this title, the department may assess against a debtor a collection assistance fee equal to the per-offset cost so determined.

Sec. 7. 32 V.S.A. § 5942 is added to read:

§ 5942. OFFSET FOR TAXES OWED IN ANOTHER STATE; RECIPROCITY

(a) Upon the request and certification of a tax officer of a claimant state to the commissioner that a taxpayer owes taxes to the claimant state and that the debt is fixed and no longer subject to appeal under the laws of that state, the commissioner may set off any refund that it owes to the taxpayer against the amount of the certified debt and pay that amount to the requesting state.

(b) The commissioner shall not set off any debt unless the laws of the requesting state allow the commissioner, in cases where the taxpayer owes taxes to this state, to certify that a tax is owed and to request a tax officer of the requesting state to set off any refund owed to the taxpayer and pay that amount to this state.

* * * Local Option Tax Administration Fee * * *

Sec. 8. 24 V.S.A. § 138(c) is amended to read:

(c) Any tax imposed under the authority of this section shall be collected and administered by the department of taxes, in accordance with state law governing such state tax or taxes; provided however, that a sales tax imposed under this section shall be collected on each sale that is subject to the Vermont sales tax using a destination basis for taxation. ~~Seventy A~~ per-return fee of \$9.52 shall be assessed to compensate the department for the costs of administration and collection, 70 percent of the costs of administration and collection which shall be borne by the municipality, and 30 percent of which shall be borne by the state to be paid from the pilot special fund. The fee shall be subject to the provisions of 32 V.S.A. § 605.

* * * Uninhabitable Property * * *

Sec. 9. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(24) Upon the determination by a municipal building inspector, health officer, or fire marshal that a building within the boundaries of the town, city, or incorporated village is uninhabitable, to recover all expenses incident to the maintenance of the uninhabitable building with the expenses to constitute a lien on the property in the same manner and to the same extent as taxes assessed on the grand list, and all procedures and remedies for the collection of taxes shall apply to the collection of those expenses; provided, however, that the town, city, or incorporated village has adopted rules to determine the habitability of a building, including provisions for notice in accordance with 32 V.S.A. § 5252(3) to the building's owner prior to incurring expenses and including provisions for an administrative appeals process.

* * * Vermont Employment Growth Incentives * * *

Sec. 10. 32 V.S.A. § 5930b(d) is amended to read:

(d) Recapture. To the extent a business authorized to earn employment growth incentives under this section experiences a 90-percent or greater drop below application base jobs or, in the case of a business with no jobs at the time its application is approved, a 90-percent or greater drop below its cumulative job target during any the utilization year period, all authority to earn and claim incentives pursuant to this section shall be revoked, and such business shall be subject to recapture of all incentives previously claimed, including together with interest and penalty. Notwithstanding any other statute of limitations provisions, for purposes of recapture under this section, the department of taxes shall issue a recapture bill any time within three years from ~~the receipt date of written notification from the business~~ of the triggering drop in payroll or employment or three years from the last day of the end of the utilization period, whichever occurs first. Any amounts subject to recapture under this subsection shall retain their character as withholding and shall be subject to the provisions of section 5844 of this title, including the provision concerning personal liability.

* * * Valuation of Land with Access to Recreational Trails * * *

Sec. 11. VALUATION OF LAND WITH ACCESS TO RECREATIONAL TRAILS

The director of property valuation and review shall convene a meeting of representatives of the Vermont Association of Snow Travelers, the Vermont Assessors and Listers Association, the Town of Canaan, the Vermont League of Cities and Towns, and other interested parties to review and discuss appropriate factors in assessing the value of land that has or is in proximity to recreational trails such as the statewide snowmobile trails, and report back to the house committee on ways and means and the senate committee on finance on the results of the discussions no later than January 15, 2011.

* * * Use Value Appraisal Program * * *

Sec. 12. 32 V.S.A. § 3752(5) is amended to read:

(5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road or other structure, or any mining, excavation or landfill activity. “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly-created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title, or contrary to the minimum acceptable standards for forest management; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the commissioner of forests, parks and recreation. The term “development” shall not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road or structure for other than farming, logging or forestry purposes.

Sec. 13. CURRENT USE ADVISORY BOARD; USE VALUE CALCULATION METHODOLOGY

The current use advisory board established pursuant to 32 V.S.A. § 3753 has provided to the general assembly a document entitled “Methodology and Criteria used in the Determination of Vermont’s Use Values for the Current Use Program,” dated April 12, 2010. The general assembly hereby deems that the document has the force and effect of administrative rules adopted pursuant to chapter 25 of Title 3 of the Vermont Statutes Annotated, and any proposed changes to the methodology or criteria as set forth in the document shall be subject to all of the provisions of chapter 25 of Title 3.

* * * CLA Calculation in TIF Districts * * *

Sec. 14. 32 V.S.A. § 5405(a) is amended to read:

(a) Annually, on or before April 1, the commissioner shall determine the equalized education property tax grand list and coefficient of dispersion for each municipality in the state; provided, however, that for purposes of equalizing grand lists pursuant to this section, the equalized education property tax grand list of a municipality that establishes a tax increment financing district shall include the fair market value of the property in the district and not the original taxable value of the property.

* * * Excess Property Tax Payment * * *

Sec. 15. 32 V.S.A. § 6066a(f)(4) is amended to read:

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

* * * Property Transfer Tax * * *

Sec. 16. 32 V.S.A. § 9605(a) is amended to read:

(a) The tax imposed by this chapter shall be paid to ~~a town clerk~~ the commissioner at the time of ~~the delivery to that clerk for recording of a deed evidencing a transfer of title to property subject to the tax.~~

Sec. 17. 32 V.S.A. § 9606 is amended to read:

§ 9606. PROPERTY TRANSFER RETURN

(a) A property transfer return complying with this section shall be ~~filed with~~ delivered to a town clerk at the time of ~~the payment to the clerk of an amount of property transfer tax under section 9605 of this title, or at the time~~

~~of the delivery to the clerk for recording of a deed evidencing a transfer of title to property which is not subject to the tax imposed by this chapter~~ is delivered to the clerk for recording.

* * *

(d) For receiving and acknowledging a property transfer return ~~and tax payment, if any,~~ under this chapter, there shall be paid to the town clerk at the time of filing a fee ~~of \$10.00~~ as provided for in subdivision 1671(a)(6) of this title.

* * *

Sec. 18. 32 V.S.A. § 9607 is amended to read:

§ 9607. ACKNOWLEDGMENT OF RETURN AND TAX PAYMENT

Upon the receipt by a town clerk of a property transfer return and certificate, ~~complete and regular on its face, together with the tax payment, if any, called for by that return,~~ and the fee required under ~~the preceding section subdivision 1671(a)(6) of this title,~~ the clerk shall forthwith mail or otherwise deliver to the transferee of title to property with respect to which such return was filed a signed and written acknowledgment of the receipt of that return, and certificate and payment. A copy of that acknowledgment, or any other form of acknowledgment approved by the commissioner, shall be affixed to the deed evidencing the transfer of property with respect to which the return and certificate was filed. The acknowledgment so affixed to a deed, however, shall not disclose the amount of tax paid with respect to any return or transfer.

Sec. 19. 32 V.S.A. § 9608(a) is amended to read:

(a) Except as to transfers which are exempt pursuant to subdivision 9603(17) of this title, no town clerk shall record, or receive for recording, any deed to which ~~has not been affixed an acknowledgment of return and tax payment under section 9607 of this title~~ is not attached a properly executed transfer tax return, complete and regular on its face, and a certificate in the form prescribed by the land use panel of the natural resources board and the commissioner of the department of taxes signed under oath by the seller or the seller's legal representative, that the conveyance of the real property and any development thereon by the seller is in compliance with or exempt from the provisions of chapter 151 of Title 10. The certificate shall indicate whether or not the conveyance creates the partition or division of land. If the conveyance creates a partition or division of land, there shall be appended the current "Act 250 Disclosure Statement," required by 10 V.S.A. § 6007. A town clerk who violates this section shall be fined \$50.00 for the first such offense and \$100.00 for each subsequent offense. A person who purposely or knowingly falsifies

any statement contained in the certificate required is punishable by fine of not more than \$500.00 or imprisonment for not more than one year, or both.

Sec. 20. 32 V.S.A. § 9610(a) is amended to read:

(a) Not later than 30 days after the receipt of any property transfer return ~~or payment of tax under this chapter~~, a town clerk shall file the return in the office of the town clerk and electronically forward one a copy of that the acknowledged return and the amount of tax paid with respect thereto to the commissioner; provided, however, that with respect to a return filed in paper format with the town, the commissioner shall have the discretion to allow the town to forward a paper copy of that return to the department.

* * * Clarendon Education Payment * * *

Sec. 21. CLARENDON EDUCATION PAYMENT

Notwithstanding 32 V.S.A. § 5402(c), the commissioner of education shall use the education grand list values provided by the town of Clarendon to the department of taxes on May 1, 2009, to calculate Clarendon's final fiscal year 2009 education property tax liability. Any resulting additional aid shall be credited to the Clarendon school district in fiscal year 2010 on the municipality's fiscal year 2011 education tax liability to the education fund.

* * * Property Tax Exemption for Certain Skating Rinks * * *

Sec. 22. Sec. 40 of No. 190 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR SKATING RINKS USED FOR PUBLIC SCHOOLS

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

* * * Property Tax Adjustment and Renter Rebate * * *

* * * Definition of Modified Adjusted Gross Income for * * *

* * * Years 2010, 2011, and 2012: Adding Interest & Dividends * * *

Sec. 23. 32 V.S.A. § 6061(5) is amended to read:

(5) "Modified adjusted gross income" means "federal adjusted gross income":

(A) before the deduction of any trade or business loss, loss from a partnership, loss from a small business or "subchapter S" corporation, loss

from a rental property, or capital loss, except that in the case of a business which sells a business property with respect to which it is required, under the Internal Revenue Code, to report a capital gain, a business loss incurred in the same tax year with respect to the same business may be netted against such capital gain;

(B) with the addition of the following, to the extent not included in adjusted gross income: alimony, support money other than gifts, gifts received by the household in excess of a total of \$6,500.00 in cash or cash-equivalents, cash public assistance and relief (not including relief granted under this subchapter), cost of living allowances paid to federal employees, allowances received by dependents of servicemen and women, the portion of Roth IRA distributions representing investment earnings and not included in adjusted gross income, railroad retirement benefits, payments received under the federal Social Security Act, ~~and~~ all benefits under Veterans' Acts, ~~and~~ federal pension and annuity benefits not included in adjusted gross income; nontaxable interest received from the state or federal government or any of its instrumentalities, workers' compensation, the gross amount of "loss of time" insurance, and the amount of capital gains excluded from adjusted gross income, less the net employment and self-employment taxes withheld from or paid by the individual (exclusive of any amounts deducted to arrive at adjusted gross income or deducted on account of excess payment of employment taxes) on account of income included under this section, less any amounts paid as child support money if substantiated by receipts or other evidence that the commissioner may require; ~~and~~

(C) without the inclusion of: any gifts from nongovernmental sources other than those described in subdivision (B) of this subdivision (5); surplus food or other relief in kind supplied by a governmental agency; or the first \$6,500.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code; the first \$6,500.00 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant's parent or disabled adult child; or payments made by the state pursuant to chapters 49 and 55 of Title 33 for foster care, or payments made by the state or an agency designated in ~~section 18 V.S.A. § 8907 of Title 18~~ section 18 V.S.A. § 8907 of Title 18 for adult foster care or to a family for the support of an eligible person with a developmental disability. If the commissioner determines, upon application by the claimant, that a person resides with a claimant who is disabled or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in ~~section 33 V.S.A. § 6321 of Title 33~~ section 33 V.S.A. § 6321 of Title 33) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization,

the commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The commissioner may require that a certificate in a form satisfactory to the commissioner be submitted which supports the claim; and

(D) with the addition of an asset adjustment of $1 \times$ the sum of interest and dividend income included in household income above \$10,000.00, regardless of whether that dividend or interest income is included in federal adjusted gross income.

* * * Definitions of Modified Adjusted Gross Income for * * *

* * * Years 2011 and 2012: Adding Certain Line Q Adjustments * * *

Sec. 24. 32 V.S.A. § 6061(4), (5), and (7) are amended to read:

(4) "Household income" means modified adjusted gross income, but not less than zero, received in a calendar year by:

* * *

(5) "Modified adjusted gross income" means "federal adjusted gross income":

* * *

(C) without the inclusion of: any gifts from nongovernmental sources other than those described in subdivision (B) of this subdivision (5); surplus food or other relief in kind supplied by a governmental agency; or the first \$6,500.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code; the first \$6,500.00 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant's parent or disabled adult child; or payments made by the state pursuant to chapters 49 and 55 of Title 33 for foster care, or payments made by the state or an agency designated in 18 V.S.A. § 8907 for adult foster care or to a family for the support of an eligible person with a developmental disability. If the commissioner determines, upon application by the claimant, that a person resides with a claimant who is disabled or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in 33 V.S.A. § 6321) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization, the commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The commissioner may require that a certificate in a form satisfactory to the commissioner be submitted which supports the claim; ~~and~~

(D) without the inclusion of adjustments to total income except certain business expenses of reservists, one-half of self-employment tax paid, alimony paid, and deductions for tuition and fees; and

(E) with the addition of an asset adjustment of $1 \times$ the sum of interest and dividend income included in household income above \$10,000.00, regardless of whether that dividend or interest income is included in federal adjusted gross income.

(7) ~~“Rent constituting property taxes”~~ “Allocable rent” means for any housesite and for any taxable year, ~~at the claimant’s option, (A) 21 percent of the gross rent or (B) that portion of the gross rent which equals the property tax assessed for payment in the calendar year allocable to the claimant’s rental unit for the period rented by the claimant.~~ “Gross rent” means the rent actually paid during the taxable year by the individual or other members of the household solely for the right of occupancy of the housesite during the taxable year. ~~If a claimant’s rent is government subsidized, the property tax allocable to the claimant’s rental unit shall be reduced in the same proportion as the rent is reduced by the subsidy.~~ ~~“Rent constituting property taxes”~~ “Allocable rent” shall not include payments made under a written homesharing agreement pursuant to a nonprofit homesharing program, or payments for a room in a nursing home in any month for which Medicaid payments have been made on behalf of the claimant to the nursing home for room charges.

Sec. 25. 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 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 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~~ 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 \$500,000.00.

(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 sum of the applicable percentage of household income for the taxable year plus the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$500,000.00;
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 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.~~

(2) “Applicable percentage” in this section means two percent, multiplied by the district spending adjustment under subdivision 5401(13) of this title for the property tax year which begins in the claim year for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than two percent.

(3) a claimant whose household income does not exceed \$47,000.00 shall also be entitled to an additional adjustment amount equal to the amount by which the property taxes for the municipal fiscal year which began in the taxable year upon the claimant’s housesite, reduced by the adjustment amount determined under subdivisions (1) and (2) of this subsection, exceeds a percentage of the claimant’s household income for the taxable year as follows:

If household income (rounded to the nearest dollar) is:	then the taxpayer is entitled to credit for the reduced property tax in excess of this percent of that income:
\$0 – 9,999.00	2.0
\$10,000.00 – 24,999.00	4.5
\$25,000.00 – 47,000.00	5.0

(4) Credit limitation. In no event shall the credit provided for in subdivision (3) of this subsection exceed the amount of the reduced property tax.

Sec. 26. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

~~(a)~~ Upon written request by a tenant before January 1, the owner of the rental unit shall provide to that tenant, by January 31, a certificate of rent constituting property tax for the preceding calendar year, which shall include a certificate of property tax allocable to the rental unit indicating the proportion of total property tax on that unit or parcel which was assessed for municipal property tax, for local share property tax and for statewide property tax.

~~(b)~~(a) By January 31 of each year, the owner of land rented as a portion of a homestead in the prior calendar year shall furnish a certificate of rent to each claimant who owned a portion of the homestead and rented that land as a portion of a homestead in the prior calendar year. The certificate shall indicate the proportion of total property tax on that parcel which was assessed for municipal property tax, for local share property tax and for statewide property tax.

~~(c)~~(b) The owner of each rental property consisting of more than ~~four~~ one rented homestead shall, not later than January 31 of each year, furnish a certificate of rent to each person who rented a homestead from the owner at any time during the preceding calendar year. All other owners of rented homestead units shall furnish such certificate upon request of the renter. If a renter moves prior to December 31, the owner may either provide the certificate to the renter at the time of moving or mail the certificate to the forwarding address if one has been provided by the renter or in the absence of a forwarding address, to the last known address. ~~An owner is not required to furnish a certificate under this section to a tenant who, at the time he or she entered into the rental agreement, or any later date, signed a waiver of the right to receive the certificate. The waiver shall not be a part of any written lease, but shall be a separate document. The tenant may revoke the written waiver at any time by providing the owner with written notice of the revocation. An owner shall not demand or require a tenant to sign a waiver as a condition of entering into or continuing a rental agreement. An owner shall not charge a higher rent, change any other condition of a rental agreement, or terminate a rental agreement because a tenant has failed or refused to sign a waiver or has revoked a waiver previously signed.~~

~~(d)~~(c) A certificate under this section shall be in a form prescribed by the commissioner and shall include the name of the renter, the address and any property tax parcel identification number of the homestead, notice of the

requirements for eligibility for the property tax adjustment provided by this chapter, and any additional information which the commissioner determines is appropriate.

~~(e)~~(d)(1) An owner who knowingly fails to furnish a certificate to a renter as required by this section shall be liable to the commissioner for a penalty of ~~\$100.00~~ \$200.00 for each failure to act. An owner shall be liable to the commissioner for a penalty equal to the greater of ~~\$100.00~~ \$200.00 or the excess amount reported who:

~~(1)~~(A) willfully furnishes a certificate that reports total ~~rent constituting property taxes~~ allocable rent in excess of the actual amount paid; or

~~(2)~~(B) reports a total amount of ~~rent constituting property taxes~~ allocable rent that exceeds by ten percent or more the actual amount paid.

(2) Penalties under this subsection shall be assessed and collected in the manner provided in chapter 151 for the assessment and collection of the income tax.

~~(f)~~(e) Failure to receive a rent certificate shall not disqualify a renter from the benefits provided by this chapter.

Sec. 27. STATUTORY REVISION

The legislative council is directed to revise the Vermont Statutes Annotated to reflect the change in this act from "rent constituting property taxes" to "allocable rent."

* * * Education Property Tax Rate * * *

Sec. 28. FISCAL YEAR 2011 EDUCATION PROPERTY TAX RATE

(a) For fiscal year 2011 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rate of \$1.59 and \$1.10 and shall instead be at the following rates:

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

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

(b) For claims filed in 2011 only, "applicable percentage" in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.8 percent multiplied by the fiscal year 2011 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.8 percent.

Sec. 29. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2008~~ 2009, but without regard to federal income tax rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

* * * Transferability of Downtown and Village Tax Credits * * *

Sec. 30. 32 V.S.A. § 5930dd(f) is added to read:

(f) In lieu of using a tax credit to reduce its own tax liability, an applicant may request the credit in the form of an insurance credit certificate that an insurance company may accept in return for cash and for use in reducing its tax liability under subchapter 7 of chapter 211 of this title in the first tax year in which the qualified building is placed back in service after completion of the qualified project or in the subsequent nine years. The amount of the insurance credit certificate shall equal the unused portion of the credit allocated under this subchapter, and an applicant requesting an insurance credit certificate shall provide to the state board a copy of any returns on which any portion of the allocated credit under this section was claimed.

Sec. 31. 32 V.S.A. § 5930ff is amended to read:

§ 5930ff. RECAPTURE

If, within five years after completion of the qualified project, either of the following events occurs, the applicant shall be liable for a recapture penalty in an amount equal to the total tax credit claimed plus an amount equal to any value received from a bank for a bank or insurance credit certificate; and any credit allocated but unclaimed shall be disallowed to the applicant:

* * *

* * * Estate Tax * * *

Sec. 32. 32 V.S.A. § 7488(b) is amended to read:

(b) If the commissioner determines, on a petition for refund or otherwise, that a taxpayer has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the state, with respect to the current and all preceding taxable years, under any provision of this title, the commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established pursuant to section 3108 of this title. That interest shall be computed from 45 days after the date the petition or amended return was filed ~~or from 45 days after the date the return was due, including any extensions of~~

time thereto, with respect to which the excess payment was made, whichever is the later date.

* * * Estate Tax for 2011 and After * * *

Sec. 33a. 32 V.S.A. § 7442a(c) is amended to read:

(c) The Vermont estate tax shall not exceed the amount of the tax imposed by ~~Section 26 U.S.C. § 2001 of the Internal Revenue Service Code~~ using as if the applicable credit exclusion amount under Section 26 U.S.C. § 2010 as in effect on January 1, 2008, were \$2,750,000.00, and with no deduction under Section 26 U.S.C. § 2058.

Sec. 33b. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

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

(1) the credit for state death taxes shall remain as provided for under ~~Sections 26 U.S.C. §§ 2011 and 2604 of the Internal Revenue Code~~ as in effect on January 1, 2001;

(2) the applicable credit exclusion amount shall remain as provided for under Section 26 U.S.C. § 2010 of the Internal Revenue Code as in effect on January 1, 2008 shall not apply; and the tax imposed under section 7442a of this chapter shall be calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were \$2,750,000.00; and

(3) the deduction for state death taxes under ~~Section 26 U.S.C. § 2058 of the Internal Revenue Code~~ shall not apply.

Sec. 33c. ESTATE TAX FOR TAX YEARS 2012 AND AFTER

(a) The Federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), which made substantial changes to federal estate tax laws, is currently scheduled to sunset on December 31, 2010. At that time, the federal estate tax laws will revert to the statutes in effect prior to enactment of EGTRRA.

(b) After EGTRRA sunsets, it is the intent of the general assembly to make the necessary amendments to chapter 190 of Title 32 so that Vermont estates will be subject to the estate tax laws in effect prior to 2002, which imposed a tax equal to the amount of the federal credit against state estate taxes (the "sponge" tax).

(c) It is the intent of the general assembly to make the necessary amendments to chapter 190 of Title 32 so that, for estates of decedents dying in

2012 or after, the amount of applicable credit otherwise available under 26 U.S.C. § 2010 is, for purposes of chapter 190, one of the following:

(1) if the federal applicable exclusion amount is \$2 million or less, then for purposes of chapter 190, the applicable credit shall be calculated for a federal exclusion amount of \$2 million; and

(2) if the federal applicable exclusion amount is more than \$2 million but not more than \$3.5 million, then for purposes of chapter 190, the applicable credit to be applied shall be equal to the federal credit amount; and

(3) if the federal applicable exclusion amount is more than \$3.5 million, then for purposes of chapter 190, the applicable credit shall be calculated for a federal exclusion amount of \$3.5 million.

* * * Tobacco Tax Provisions * * *

Sec. 34. 32 V.S.A. § 7702(21) is added to read:

(21) “Cigar” means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subdivision (1) of this section or is a little cigar within the meaning of subdivision (6) of this section).

Sec. 35. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

(a) A tax is imposed on all cigarettes, little cigars, and roll-your-own tobacco held in this state by any person for sale, unless such products shall be:

(1) in the possession of a licensed wholesale dealer;

(2) in the course of transit and consigned to a licensed wholesale dealer or retail dealer; or

(3) in the possession of a retail dealer who has held the products for 24 hours or less.

(b) Payment of the tax on cigarettes under this ~~subsection~~ section shall be evidenced by the affixing of stamps to the packages containing the cigarettes. Where practicable, the commissioner may also require that stamps be affixed to packages containing little cigars or roll-your-own tobacco. Any cigarette, little cigar, or roll-your-own tobacco on which the tax imposed by this ~~subsection~~ section has been paid, such payment being evidenced by the affixing of such stamp or such evidence as the commissioner may require, shall not be subject to a further tax under this chapter. Nothing contained in this chapter shall be construed to impose a tax on any transaction the taxation of which by this state is prohibited by the constitution of the United States. The amount of taxes advanced and paid by a licensed wholesale dealer or a retail

dealer as herein provided shall be added to and collected as part of the retail sale price on the cigarettes, little cigars, or roll-your-own tobacco.

~~(b)~~(c) A tax is also imposed on all cigarettes, little cigars, and roll-your-own tobacco possessed in this state by any person for any purpose other than sale, as follows:

(1) This tax shall not apply to:

(A) products bearing a stamp affixed pursuant to this chapter; or

(B) products bearing a tax stamp affixed pursuant to the laws of another jurisdiction with a tax rate equal to or greater than the rate set forth in subsection (c) of this section; or

(C) products purchased outside the state by an individual in quantities of 400 or fewer cigarettes, little cigars, and ~~0.09~~ 0.0325 ounce units of roll-your-own tobacco, and brought into the state for that individual's own use or consumption. Products that are ordered from a source outside the state and delivered into this state are not "purchased outside the state" within the meaning of this subsection.

(2) There is allowed a credit against the tax under this subsection for cigarette, little cigars, or roll-your-own tobacco tax paid to another jurisdiction and evidenced by tax stamps affixed to the subject products pursuant to the laws of that jurisdiction.

(3) A person taxable under this ~~subsection~~ section shall, within 30 days of first possessing the products in this state, file a return with the commissioner, showing the quantity of products brought into the state. The return must be made in the form and manner prescribed by the commissioner and be accompanied by remittance of the tax due.

~~(e)~~(d) The tax imposed under this section shall be at the rate of 112 mills per cigarette or little cigar and for each ~~0.09~~ 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 36. V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all tobacco products except roll-your-own tobacco and little cigars taxed under section 7771 of this title possessed in the state of Vermont by any person for sale on and after July 1, 1959 which were imported into the state or manufactured in the state after said date, except that no tax shall be imposed on tobacco products sold under such circumstances that this state is without power to impose such tax,

or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. Such tax is intended to be imposed only once upon the wholesale sale of any tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at ~~\$1.66~~ \$1.87 per ounce, or fractional part thereof, ~~and~~ new smokeless tobacco, which shall be taxed at the greater of ~~\$1.66~~ \$1.87 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$1.99~~ \$2.24 per package, and cigars with a wholesale price greater than \$1.08, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$1.08 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all tobacco products within the state are subject to tax until the contrary is established and the burden of proof that any tobacco products are not taxable hereunder shall be upon the person in possession thereof. Wholesalers of tobacco products shall state on the invoice whether the price includes the Vermont tobacco products tax.

* * * Sales and Use Tax * * *

Sec. 37. 32 V.S.A. § 5870 is amended to read:

§ 5870. REPORTING USE TAX ON INDIVIDUAL INCOME TAX RETURNS

The commissioner of taxes shall provide that individuals report use tax on their state individual income tax returns. Taxpayers are required to attest to the amount of their use tax liability under chapter 233 of this title for the period of the tax return. Alternatively, they may elect to report an amount that is ~~0.04~~ 0.08 percent of their Vermont adjusted gross income, as shown on a table published by the commissioner of taxes; and use tax liability arising from the purchase of each item with a purchase price in excess of \$1,000.00 shall be added to the table amount.

Sec. 38. 32 V.S.A. § 9701(11) is amended to read:

(11) Place of ~~amusement~~ entertainment: means any place where any facilities for entertainment, recreation, amusement or sports are provided.

Sec. 39. STATUTORY REVISION

The legislative council is directed to revise Title 32 of the Vermont Statutes Annotated to reflect the change in this act of the term "place of amusement" to

“place of entertainment.” This change in terminology is not a substantive change to the underlying meaning of the term.

Sec. 40a. ABATEMENT

All taxes, interest, and penalties assessed after January 1, 2010, based upon the provisions of 32 V.S.A. § 9743(3)(B) upon any organization qualified for exempt status under the provisions of 26 U.S.C. § 501(c)(3) or upon any agricultural organization qualified for exempt status under 26 U.S.C. § 501(c)(5) and related to a performance which occurred after September 30, 2006, and before January 1, 2010, and for which the organization did not collect sales tax on charges for admission, are hereby abated.

Sec. 40b. NONPROFIT ORGANIZATION AMUSEMENT TAX FROM JANUARY 1, 2010, TO APRIL 1, 2011

Any performance produced or presented by an organization qualified for exempt status under the provisions of 26 U.S.C. § 501(c)(3), or an agricultural organization qualified for exempt status under 26 U.S.C. § 501(c)(5), regardless of whether the performance is considered to be jointly produced or presented, and which occurs after December 31, 2009, and before April 1, 2011, or which arises out of a written contract offer, or contract entered into, after December 31, 2009, and before June 1, 2010, shall be exempt from sales tax on amusements.

Sec. 41. 32 V.S.A. § 9743 is amended to read:

§ 9743. ORGANIZATIONS NOT COVERED

Any sale, service, or ~~amusement~~ admission to a place of entertainment charged by or to any of the following or any use by any of the following are not subject to the sales and use taxes imposed under this chapter:

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

* * *

(3) Organizations which qualify for exempt status under the provisions of ~~Section 26 U.S.C. § 501(c)(3) of the United States Internal Revenue Code~~

and agricultural organizations, qualified for exempt status under ~~Section 26 U.S.C. § 501(c)(5)~~, when presenting agricultural fairs, field days or festivals, as amended, shall be exempt as follows:

(A) The organization first shall have obtained a certificate from the commissioner stating that it is entitled to the exemption. The commissioner shall issue a certificate to any organization which has received federal certification of Section 501(c)(3) status and may issue a certificate to any other qualified organization.

(B) ~~Amusement charges~~ Charges for admission to a place of entertainment by, and sales to or uses by such organizations shall be exempt from the tax under this chapter; ~~except performances jointly produced or presented by a qualified organization and another person shall not be exempt from amusement tax under this section unless the organization bears the entire risk of loss of the production; the other person does not share in the profits of, and is not a party to any contracts with the performers related to, the production; and the organization is solely responsible for collection of all receipts and payment of all expenses associated with the production and accounts for the receipts and expenses on its books and records.~~

(C) Sales other than ~~amusement~~ entertainment charges by qualified Section 501(c)(3) organizations shall be exempt if the organization's gross sales of tangible personal property and services which would be subject to tax under this chapter but for this subdivision, in the prior year, did not exceed \$20,000.00.

(D) Sales of fresh cut flowers only, by a qualified Section 501(c)(3) organization, during a single annual sales event not to exceed seven days, shall be exempt.

(4) Sales of building materials and supplies to be used in the construction, reconstruction, alteration, remodeling or repair of: (A) any building structure, or other public works owned by or held in trust for the benefit of any governmental body or agency mentioned in subdivisions (1) and (2) of this section and used exclusively for public purposes; (B) any building or structure owned by or held in trust for the benefit of any organization described in subdivision (3) and used exclusively for the purposes upon which its exempt status is based; and (C) any building or structure owned by a ~~“development corporation” as defined in subdivision 202(4) of Title 10~~ and any ~~“local development corporation” as defined in subdivision 222(4) of Title 10~~ V.S.A. § 212(10), and used exclusively for the purposes authorized in chapter ~~44A~~ 12 of Title 10; provided, however, that the governmental body or agency, the organization, or the development corporation has first obtained a certificate from the commissioner stating that it is entitled to the exemption and the

vendor keeps a record of the sales price of each separate sale, the name of the purchaser, the date of each separate sale, and the number of the certificate. In this subdivision the words "building materials and supplies" shall include all materials and supplies consumed, employed or expended in the construction, reconstruction, alteration, remodeling, or repair of any building, structure, or other public work as well as the materials and supplies physically incorporated therein.

(5) Organizations which qualify for exempt status under the provisions of ~~Section 26 U.S.C. § 501(c)(4)-(13) and (19), and political organizations as defined in Section 26 U.S.C. § 527(e), of the United States Internal Revenue Code~~, as the same may be amended or redesignated, other than organizations which qualify for exempt status under the provisions of ~~Section 26 U.S.C. § 501(c)(4) of the United States Internal Revenue Code~~ whose bylaws provide for the contribution of their net income to organizations which qualify for exempt status under the provisions of ~~Section 26 U.S.C. § 501(c)(3) of the United States Internal Revenue Code~~, shall not be exempt from taxation of the sale or use of tangible personal property as defined in section 9701 of this title, but shall be exempt from the sales and use tax upon ~~amusement~~ entertainment charges as defined in section 9701, in the case of not more than four special events (not including usual or continuing activities of the organization) held in any calendar year, and which, in the aggregate, are not held on more than four days in such year, and which are open to the general public. In case the organization holds more than four such special events a year, or such events are held on more than four days in a year, the organization may elect the events or the days to which the exemption provided by this subsection shall apply, by giving prior notice to the commissioner. This subdivision shall not apply to agricultural organizations governed by subdivision (3) of this section.

(6) A school or municipality; provided, however, that a vendor who is required to register with the commissioner pursuant to section 9707 of this title who receives a share of the proceeds from the sale of property at a school or municipal premises shall collect and remit tax on the total sale price of such sales regardless of who is the direct recipient of the payment. For the purposes of this subdivision, "school" means a school as defined in 16 V.S.A. § 11(7) and (8) and "municipality" means a city, town, unorganized town, village, grant, or gore.

(7) An exemption under subdivisions (3) and (5) of this section shall not be available for entertainment charges for admission to a live performance by an organization whose gross sales of entertainment charges by or on behalf of an organization for admission to live performances in the prior calendar year exceeded \$50,000.00.

* * * Petroleum Cleanup Fund * * *

Sec. 42. 10 V.S.A. § 1941(b)(1)(A) is amended to read:

(A) an underground storage tank defined as a category one tank after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for farms or residential purposes. Disbursements on any site shall not exceed ~~\$990,000.00~~ \$1,240,000.00. These disbursements shall be made from the motor fuel account;

Sec. 43. 10 V.S.A. § 1942 is amended to read:

§ 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this state, which will be assessed against every distributor, dealer or user as defined in ~~23 V.S.A.~~ chapters 27 and 28 of Title 23, and which will be deposited into the petroleum cleanup fund established pursuant to subsection 1941(a) of this title. ~~After analysis of the projected unencumbered fund balance, the~~ The secretary, in consultation with the ~~Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. may make a recommendation~~ petroleum cleanup fund advisory committee established pursuant to subsection 1941(e) of this title, shall annually report to the legislature as to whether or not to assess the one-cent licensing fee for the upcoming year on the balance of the motor fuel account of the fund and shall make recommendations, if any, for changes to the program. The secretary shall also determine the unencumbered balance of the motor fuel account of the fund as of May 15 of each year, and if the balance is equal to or greater than \$7,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee will be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee will be collected by the commissioner of motor vehicles and deposited into the petroleum cleanup fund. This fee requirement shall terminate on April 1, 2016.

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this state and not used to propel a motor vehicle, a licensing fee of ~~one-half~~ one cent per gallon of such heating oil, kerosene, or other dyed diesel fuel. This fee shall be subject to the collection, administration, and enforcement provisions of chapter 233 of Title 32, and the fees collected under

this subsection by the commissioner of taxes shall be deposited into the petroleum cleanup fund established pursuant to subsection 1941(a) of this title. ~~After analysis of the projected unencumbered fund balance, the~~ The secretary, in consultation with the ~~Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc.~~ may make a recommendation petroleum cleanup fund advisory committee established pursuant to subsection 1941(e) of this title, shall annually report to the legislature as to whether or not to assess the one cent licensing fee for the upcoming year on the balance of the heating fuel account of the fund and shall make recommendations, if any, for changes to the program. The secretary shall also determine the unencumbered balance of the heating fuel account of the fund as of May 15 of each year, and if the balance is equal to or greater than \$3,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee provision shall terminate April 1, 2016.

* * * Fuel Gross Receipts Tax * * *

Sec. 44. 33 V.S.A. § 2503(a) is amended to read:

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel by sellers receiving more than \$10,000.00 annually for the sale of such fuels:

- (1) heating oil, kerosene, and other dyed diesel fuel ~~not used to propel a motor vehicle~~ delivered to a residence or business;
- (2) propane;
- (3) natural gas;
- (4) electricity;
- (5) coal.

* * * State Collection of Education Property Tax * * *

Sec. 45. STATE COLLECTION OF EDUCATION PROPERTY TAX

No later than July 15, 2011, the department of taxes shall provide the joint fiscal committee with a feasibility report on developing an electronic system for the department's administration, billing, and collection of the education property tax provided for in chapter 135 of Title 32.

* * * Blue Ribbon Tax Structure Commission – Education Finance * * *

Sec. 46. FUTURE OF EDUCATION GOVERNANCE AND EDUCATION FINANCE

(a) The blue ribbon tax structure commission created in Sec. H.56 of No. 1 of the Acts of the Special Session of 2009 shall, with the aid of public hearings and other public involvement:

(1) Goals. In consultation with the house committees on education and on ways and means and the senate committees on education and on finance, identify the five most important short-term goals and the five most important long-term goals for an education system, taking into account the following: student educational achievement, education governance, finance, spending controls, and cost savings; and design a quantifiable nonmonetary measure of whether schools provide a “substantially equal educational opportunity” for student educational achievement; and report its findings by April 1, 2011.

(2) Evaluation. Evaluate Vermont’s current education governance, finance, and spending control systems in light of the goals established in subdivision (1) of this subsection, the current education governance model, and the proposed changes to education governance made by the general assembly and determine the elements of the current systems which achieve these goals well and should be maintained and those elements which do not achieve these goals well and should be modified or eliminated and report its findings by June 1, 2011.

(3) Proposals. Develop new systems of education finance, spending controls, and cost savings guided by but not limited to the goals established in subdivision (1) of this subsection and the elements identified in subdivision (2) of this subsection to be maintained, modified, or eliminated and report its proposals by September 15, 2011.

(b) Advisory panel. In order to facilitate its study of these education systems, the commission may appoint an advisory panel of individuals who have a familiarity with education assessment, education governance, or education finance and have a demonstrated commitment to supporting a high-quality and efficient public education system with high outcomes and have demonstrated an understanding of both the state and local aspects of public education in Vermont. The advisory panel may include professionals in education and in taxation; representatives of municipal government, of the education community, of taxpayers, or of other interests; civic-minded Vermonters; or others as the commission may determine, but shall not include current members of the general assembly. The commission may delegate fact-finding and other supporting tasks to the advisory panel and may request

the panel to participate in any meetings or hearings of the commission; and the panel may itself convene meetings, including public hearings.

(c) Reports. All reports required in this section shall be submitted to the house committees on education and on ways and means and to the senate committees on education and on finance and to the house clerk and the senate secretary.

(d) The house committees on education and on ways and means and the senate committees on education and on finance may meet in October, November, and December 2011 to consider and propose legislation based upon the reports of the commission under this section for the 2012 session.

(e) To advance the purpose for which it was formed and any education-related purpose with which it is charged during the 2009–2010 biennium, the commission shall also examine and propose an appropriate balance between education funding from education property taxes and education funding from the general fund and other source and analyze and recommend alternative means of maintaining the balance. In fiscal year 2011, the balance will be 68.2 percent of education funding from education property tax revenues and 31.8 percent of education funding from the general fund and other education funding sources. In comparison, in fiscal year 2005, that balance was 60.8 percent and 39.2 percent, respectively. The committee shall report its analysis and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance on or before September 15, 2011.

* * * One-Time Homestead Declaration * * *

Sec. 47. 32 V.S.A. § 5410(b) and (g) are amended to read:

(b)(1) Annually on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the commissioner, which shall be verified under the pains and penalties of perjury, declare his or her homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made for property that was acquired by the declarant or was made the declarant's homestead after April 1 of the previous year. The declaration of homestead shall remain in effect until the earlier of:

(A) the transfer of title of all or any portion of the homestead; or

(B) that time that the property or any portion of the property ceases to qualify as a homestead.

(2) Within 30 days of the transfer of title of all or any portion of the homestead, or upon any portion of the property ceasing to be a homestead, the

declarant shall provide notice to the commissioner on a form to be prescribed by the commissioner.

* * *

(g) If the property identified in a declaration under subsection (b) of this section is not the taxpayer's homestead, or if the owner of a homestead fails to declare a homestead as required under this section, or fails to file a notice of transfer or change in qualification pursuant to subdivisions (b)(1)(A) and (B) of this section, the commissioner shall notify the municipality and the municipality shall issue a corrected tax bill that includes a penalty in an amount equal to three percent of the education tax on the property if the municipality's nonresidential tax rate is higher than the municipality's homestead tax rate for the tax year to which the declaration or failure pertains, or in any other case shall assess the taxpayer a penalty in an amount equal to eight percent of the education tax on the property. ~~The municipality shall also assess the taxpayer a penalty in an amount equal to one percent of the education tax on the property; or if~~ If the commissioner determines that the declaration or failure to declare was with fraudulent intent, then the municipality shall assess the taxpayer a penalty in an amount equal to 100 percent of the education tax on the property; plus any interest and late-payment fee or commission which may be due. Any penalty imposed under this section and any additional property tax interest and late-payment fee or commission shall be assessed and collected by the municipality in the same manner as a property tax under chapter 133 of this title.

* * * Vermont Veterans' Fund * * *

Sec. 48. 20 V.S.A. § 1548 is added to read:

§ 1548. VERMONT VETERANS' FUND

(a) There is created a special fund to be known as the Vermont veterans' fund. This fund shall be administered by the state treasurer and shall be paid out in grants on the recommendations of a nine-member committee comprised of:

- (1) The adjutant general or designee;
- (2) The Vermont veterans home administrator or designee;
- (3) The commissioner of the department of labor or designee;
- (4) The secretary of the agency of human resources or designee;
- (5) The director of the White River Junction VA medical center or designee;

(6) The director of the White River Junction VA benefits office, or designee; and

(7) Three members of the governor's veterans' council to be appointed by that council.

(b) The purpose of this fund shall be to provide grants or other support to individuals and organizations:

(1) For the long-term care of veterans.

(2) To aid homeless veterans.

(3) For transportation services for veterans.

(4) To fund veterans' service programs.

(5) To recognize veterans.

(c) The Vermont veterans' fund shall consist of revenues paid into it from the Vermont veterans' fund checkoff established in 32 V.S.A. § 5862e and from any other source.

(d) For purposes of this section, "veteran" means a resident of Vermont who served on active duty in the United States armed forces or the Vermont national guard or Vermont air national guard and who received an honorable discharge.

Sec. 49. 32 V.S.A. § 5862e is added to read:

§ 5862e. VERMONT VETERANS' FUND CHECKOFF

(a) Returns filed by individuals shall include, on a form prescribed by the commissioner of taxes, an opportunity for the taxpayer to designate funds to the Vermont veterans' fund.

(b) Amounts designated under subsection (a) of this section shall be deducted from refund due to, or overpayment made by, the designating taxpayer. All amounts so designated and deducted shall be deposited in an account by the commissioner of taxes for payment to the Vermont veterans' fund. If at any time after the payment of amounts so designated to the account it is determined that the taxpayer was not entitled to all or any part of the amount so designated, the commissioner may assess, and the account shall then pay to the commissioner, the amount received, together with interest at the rate prescribed by section 3108 of this title, from the date the payment was made until the date of repayment.

(c) The commissioner of taxes shall explain to taxpayers the purpose of the account and how to contribute to it. The commissioner shall provide notice in the instructions for the state individual income tax return as to how to obtain a copy of the annual income and expense report of the Vermont veterans' fund.

(d) If amounts paid with respect to a return are insufficient to cover both the amount owed on the return under this chapter and the amount designated as a contribution to the Vermont veterans' fund, the payment shall first be applied to the amount owed on the return under this chapter and the balance, if any, shall be deposited in the fund.

(e) Nothing in this section shall be construed to require the commissioner to collect any amount designated as a contribution to the Vermont veterans' fund.

Sec. 50. 32 V.S.A. § 5402b(c) is added to read:

(c) The commissioner shall include in the recommendation specific information on the total amount of annual education property tax adjustments, the percentage of Vermont households that are provided an education property tax adjustment or renter rebate based on household income, and the dollar limitations that are used for each of the computations under this chapter. Based on the foregoing information, the commissioner shall make a recommendation regarding the dollar limitations provided for in statute and whether such limitations should be increased or decreased in order to maintain the same percentage level of households from the previous fiscal year that are eligible for an education property tax adjustment or renter rebate based on household income.

Sec. 51. REPEAL

(a) The following tax expenditures are repealed for tax years beginning on and after January 1, 2013:

(1) 32 V.S.A. § 5823(a)(6) (support payments for developmentally disabled persons); and

(2) 32 V.S.A. § 5826 (income from commercial film production credit).

(b) The following sections of Title 32 relating to homestead education property tax income sensitivity adjustments are repealed for claims filed on and after January 1, 2013:

(1) 32 V.S.A. § 6061(5)(E) (requiring adjustment for interest and dividend income for purposes calculating modified adjusted gross income).

(2) The amendments in this act to 32 V.S.A. § 6066(a) regarding the equalized value of a housesite in excess of \$500,000.00.

(c) The following statutes regarding the Vermont campaign finance checkoff are repealed as follows:

(1) 32 V.S.A. § 5862c (providing for a checkoff on Vermont income tax returns for the Vermont campaign fund) is repealed effective for taxable years beginning on and after January 1, 2010.

(2) 17 V.S.A. § 2856(b)(5) (providing that revenues from the income tax return checkoff shall be deposited in the Vermont campaign fund) is repealed effective January 1, 2011.

(d) 32 V.S.A. § 5402b(c) (requiring additional education property tax information from the commissioner) is repealed effective April 15, 2011.

(e) No. M-4 of 1981 of the Acts of 1981 (relating to the agreement between Rutland City and Clarendon) is repealed effective upon passage of this act.

Sec. 52. USE OF TAX EXPENDITURE SAVINGS

Sec. 51(a)(1) of this act repeals the exemption from taxable income of certain amounts paid by the state to a taxpayer caring for a person with a developmental disability. It is the intent of the general assembly that the estimated \$5,000.00 in additional revenue to the state that is raised by this repeal be appropriated to the department on disabilities, aging, and independent living within the agency of human services.

* * * Repeal of Film Income Tax Provisions * * *

Sec. 53. 32 V.S.A. § 5823(b) is amended to read:

(b) For any taxable year, the Vermont income of a nonresident individual, estate or trust is the sum of the following items of income to the extent they are required to be included in the adjusted gross income of the individual or the gross income of an estate or trust for that taxable year:

(1) Rents and royalties derived from the ownership of property located within this state.

(2) Gains from the sale or exchange of property located within this state.

(3) Wages, salaries, commissions or other income (excluding military pay for full-time active duty with the armed services and also excluding funds received through the federal armed forces educational loan repayment program under 10 U.S.C. chapters 109 and 1609; and also excluding the first \$2,000.00 of military pay for unit training in the state to National Guard and United States Reserve personnel for whom the adjutant general or reserve component commander certifies that the taxpayer completed all unit training of his or her unit during the calendar year, and who has a federal adjusted gross income of less than \$50,000.00) received with respect to services performed within this

~~state; and also excluding income received for a dramatic performance in a commercial film production to the extent such income would be excluded from personal income taxation in the state of residence.~~

(4) Income (other than income exempted from state taxation under the laws of the United States) derived from every business, trade, occupation or profession to the extent that the business, trade, occupation or profession is carried on within this state including any compensation received

(A) under an agreement not to compete with a business operating in Vermont;

(B) for goodwill associated with the sale of a Vermont business; or

(C) for services to be performed under a contract associated with the sale of a Vermont business, unless it is shown that the compensation for services does not constitute income from the sale of the business; ~~but excluding income received for a dramatic performance in a commercial film production to the extent such income would be excluded from personal income taxation in the state of residence.~~

* * *

* * * Downtown and Village Center Program – Winooski * * *

Sec. 54. VERMONT DOWNTOWN DEVELOPMENT BOARD

The authorization of the Vermont downtown development board to certify for reallocation to municipalities sales tax revenues under 32 V.S.A. § 9819 and award tax credits under subchapter 11J of chapter 151 of Title 32 is amended for fiscal year 2011 so that the limitations provided in 32 V.S.A. § 5930ee shall apply against a total amount of \$2,300,000 for the authorization of sales tax reallocation and against a total amount of \$1,700,000 for the authorization of tax credits. Where a municipality in fiscal year 2011 is awarded both reallocation of sales tax revenues and tax credits, the limitations provided in 32 V.S.A. § 5930ee shall apply against a total annual authorization amount of \$2,300,000.

Sec. 55. START-UP BUSINESS COMPETITION

(a) There is hereby created a start-up business competition committee that will develop a competition to encourage entrepreneurs to incorporate start-up growth businesses in Vermont. The members of the committee shall be:

(1) The commissioner of the agency of economic and community development, or designee;

(2) The president of the Vermont Technology Council or designee.

(3) A member of the faculty or the BYOBiz program of Champlain College appointed by its dean.

(4) A member of the faculty of Johnson State College appointed by its dean.

(5) A member of the faculty or Middlebury Solutions Group of Middlebury College appointed by its dean.

(6) A member of the faculty of Norwich University appointed by its dean.

(7) A member of the faculty of the University of Vermont appointed by its dean.

(8) The president of the Vermont Center for Emerging Technologies or designee.

(b) The commissioner of the agency of economic and community development shall chair the committee and shall call its first meeting no later than August 15, 2010. The committee shall develop a business start-up business competition and report its activities to the house committees on ways and means and on commerce and economic development and to the senate committees on finance and on economic development, housing and general affairs no later than January 15, 2011. The report shall address the following issues in detail:

(1) The specific industries, if any, targeted by the competition.

(2) The types of awards available for participants.

(3) The specific format for entering the competition.

(4) The membership of the judging body overseeing the competition.

(5) The specific criteria used to judge entries in the competition.

(c) The committee shall seek private sponsorships to offset the costs of the competition and to provide for awards for participants.

Sec. 56. ADAMANT FLOOD SUPPORT

The commissioner of finance and management shall disburse \$5,000.00 from the fund established pursuant to 17 V.S.A. § 2856 to the East Montpelier fire department to be used to assist any individuals who were displaced by the flood in the Village of Adamant on May 3–4, 2010.

Sec. 57. CITY OF RUTLAND; WATER AND SEWER RECONNECTION FEES

Notwithstanding the maximum allowable water and sewer reconnection fees set forth in 24 V.S.A. § 5151(b) and in the uniform notice form set forth in 24 V.S.A. § 5144, the City of Rutland may charge reconnection fees for normal hours not to exceed \$50.00 and for overtime not to exceed \$100.00.

* * * Hydroelectric Generating Plants * * *

Sec. 58. FINDINGS

The general assembly finds that:

(1) Valuations of hydroelectric generating plants based on short-term experience have often proven to be volatile due to the volatility of wholesale power markets.

(2) The value of these plants is a significant fraction of the grand lists of many Vermont towns, and it is therefore important that the value be credible.

(3) Currently, most of these plants are valued using a formula based on only one year's output and revenue, which can result in volatility in tax revenues from one year to the next.

(4) Analyses with long-term market projections are commonly used to establish a value that would be put on a plant by a willing buyer and willing seller; the use of such an analysis was affirmed by the Vermont supreme court in 2004.

(5) A reappraisal of hydroelectric stations on the Connecticut and Deerfield Rivers is being conducted by the department of taxes; the values reached in that reappraisal may be tested in the courts for years to come.

(6) There is a need to stabilize the values of hydroelectric generators while credible methodologies are devised and tested.

(7) Since some plants still have values that were set many years ago or set by agreement, there is also a need to allow towns that can justify increases in value to do so, provided such increases remain subject to appeal by the taxpayer.

Sec. 59. VALUATION OF HYDROELECTRIC GENERATING FACILITIES

For purposes of the education and municipal property tax grand lists and notwithstanding any other statute, the grand list value of hydroelectric facilities as of April 1, 2010, and continuing through January 1, 2012, shall be no lower than the grand list value as of April 1, 2009, and the equalized value of these facilities shall be the equalized value as determined by the director of property

valuation and review on or before January 1, 2010; provided, however, that this section shall not amend or modify existing agreements between municipalities and owners of hydroelectric facilities in effect on September 1, 2009, nor shall it prohibit tax stabilization or other agreements between municipalities and owners of hydroelectric generating facilities entered into after September 1, 2009, which do not reduce the grand list value of the hydroelectric facility below the April 1, 2009, valuation; and provided, further, that the grand list value may be changed if the municipality in which the facility is located completes a revaluation of all taxable real estate after April 1, 2009. For purposes of this section, "hydroelectric facilities" means the works used directly for the production of power and the facilities used to transmit the power to the grid, and the lands under or directly associated with those works and facilities. The department of taxes, in conjunction with the department of public service and representatives of Vermont municipalities, shall study the feasibility of implementing an appraisal method that uses three-to-five-year rolling appraisal values on hydroelectric facilities and report to the house committee on ways and means and the senate committee on finance no later than January 15, 2011, with their findings.

* * * Treatment of Certain Capital Gains * * *

Sec. 60. 32 V.S.A. § 5811(21) is amended to read:

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

* * *

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

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code: either the first \$5,000.00 of adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

~~(I) for adjusted net capital gain income from the sale of a farm or from the sale of standing timber, each as defined in subdivision (27) of this section, 40 percent of adjusted net capital gain income but the total amount of decrease under this subdivision (B)(ii)(I) shall not exceed 40 percent of federal taxable income;~~

~~(II) for all other capital gain income, the first \$5,000.00 of adjusted net capital gain income;~~

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

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

* * * Amendment to Budget Bill * * *

Sec. 61. Sec. E.100.4 of H. 789 of 2009, Adj. Session, as enacted, is amended to read:

(a) Due to the current and continuing fiscal stress that will impact the Vermont fiscal year 2011 state budget, and the unique interplay between the underlying state budget and the Challenges for Change reductions which have been delegated to the administration, it may become necessary to take further significant measures to achieve savings in order to ensure a balanced budget in the general fund. If, after all savings required by the 2010 Challenges for Change legislation in Act 68 and H. 792 as enacted, have been identified by the secretary of administration, the secretary of administration determines that in order to ensure a balanced fiscal year 2011 budget it is also necessary, when the general assembly is not in session, to eliminate, by reduction in force, or positions identified for elimination after the date of enactment of this act, or both, more than one percent of the entire state workforce in fiscal year 2011, with the one percent measured cumulatively from ~~July 1, 2010~~ the date of enactment of this act, the secretary shall first submit a plan which complies with the standards outlined in subdivisions (1) through (6) of this section to the joint fiscal committee for its consideration. For the purposes of this section, "entire state workforce" means all full-time, permanent, classified, and exempt state employees.

* * *

* * * Effective Dates * * *

Sec. 62. EFFECTIVE DATES

This act shall take effect upon passage, except:

(1) Sec. 6 (collection assistance fees) shall apply to fees assessed on or after July 1, 2010.

(2) Sec. 8 (local option tax administration fee) shall apply to all returns filed with the department on or after July 1, 2010.

(3) Sec. 10 (Vermont economic growth incentive recapture) shall take effect retroactively on January 1, 2010.

(4) Secs. 16–20 (property transfer tax) shall apply to transfers occurring on or after January 1, 2011.

(5) Secs. 23 and 25 (definition of modified adjusted gross income to include additional interest and dividends; computation of adjustment) shall apply to homestead property tax adjustments claims made in 2010 and after and shall apply to renter rebate claims made in 2011 and after.

(6) Secs. 24 and 26 (definitions of household income, modified adjusted gross income to include certain federal adjustments, and allocable rent; landlord certificate) shall apply to property tax adjustment and renter rebate claims made in 2011 and after.

(7) Sec. 29 (link to Internal Revenue Code) shall apply to taxable years beginning on and after January 1, 2009.

(8) Secs. 30 and 31 of this act (downtown insurance credit certificates) shall take effect upon passage and shall apply to tax years beginning on or after January 1, 2010.

(9) Sec. 32 (estate tax petition for refund) shall apply to decedents dying after December 31, 2009.

(10) Secs. 33a and 33b (estate tax) shall apply to decedents dying after December 31, 2010.

(10) Secs. 34–36 (tobacco taxes) shall take effect on July 1, 2010.

(11) Sec. 37 (income tax instruction booklet) shall apply to taxable years beginning on and after January 1, 2010.

(12) Secs. 38 and 39 (changing the term “amusement” to “entertainment”) and in Sec. 41, the lead-in paragraph and subdivisions (1), (3), (5), and (7) of 32 V.S.A. § 9743 (entertainment sales and use tax) shall take effect on April 1, 2011, and shall apply to charges for admission to a place of entertainment on or after April 1, 2011.

(13) Sec. 42 (increasing the per-site disbursement cap for the petroleum cleanup fund) shall apply to any remediation currently in progress and all future remediation.

(14) Sec. 43 (petroleum cleanup fund) shall take effect on July 1, 2010.

(15) Sec. 44 (fuel gross receipts tax) shall apply to sales of fuels on or after July 1, 2010.

(16) Sec. 49 (income tax return checkoff for Vermont veterans' fund) shall apply to income tax returns for taxable years 2010 and after.

(17) Sec. 58 (repeal of exclusion of certain income received for a dramatic performance in a commercial film production) shall apply to taxable years beginning on and after January 1, 2013.

(18) Sec. 60 of this act (capital gains) shall apply to taxable years 2011 and after.

*ANN E. CUMMINGS
WILLIAM H. CARRIS*

Committee on the part of the Senate

*JANET ANCEL
MICHAEL J. OBUCHOWSKI
JAMES O. CONDON*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 22, Nays 7.

Senator MacDonald having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flory, Illuzzi, Kitchel, Kittell, Lyons, Mazza, Miller, Mullin, Nitka, Racine, Scott, Shumlin, Snelling, Starr.

Those Senators who voted in the negative were: Ashe, Flanagan, Hartwell, MacDonald, McCormack, Sears, White.

The Senator absent and not voting was: Giard.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered messaged to the House forthwith.

Message from the House No. 86

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

H. 66. An act relating to including secondary students with disabilities in senior year activities and ceremonies.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Message from the House No. 87

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 considered Senate proposal of amendment to House bill of the following title:

H. 722. An act relating to notice of security breaches and internet ticket sales.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

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

S. 296. An act relating to sale or lease of the John H. Boylan state airport.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Rules Suspended; Immediate Consideration

On motion of Senator Shumlin, the rules were suspended, and, pending entry on the Calendar for notice, the following bills, were ordered to be brought up for immediate consideration:

S. 296, H. 66, H. 281, H. 722.

House Proposals of Amendment to Senate Proposals of Amendment Concurred In

S. 296.

House proposals of amendment to Senate proposals of amendment to House bill entitled:

An act relating to sale or lease of the John H. Boylan state airport.

Were taken up.

The House concurs in the Senate proposal of amendment o the House proposal of amendment, with a further proposal of amendment, as follows:

First: In Sec. 1(d), by striking out the subsection in its entirety and inserting in lieu thereof:

(d) Upon sale or leasing of the land, the state shall terminate the hangar leases at the John H. Boylan state airport or, if the owner so desires, shall transfer the lease for placement of the hangar to a nearby airport on the same terms for the remainder of the lease. Hangar negotiations do not need to be complete prior to using the area as a log yard. Any purchaser or lessee shall agree to purchase the hangars, including the concrete pads, at fair market value as mutually agreed upon by the purchaser or lessee and hangar owner, or as determined by an appraiser mutually agreed upon by the purchaser or lessee and hangar owner and paid for by the purchaser or lessee. If the parties cannot agree on an appraiser, the secretary of transportation shall choose an appraiser, and the secretary's choice shall be final. The decision of the appraiser shall be final.

Second: In Sec. 1(g), by striking out the subsection in its entirety.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposals of amendment?, was decided in the affirmative.

**House Proposals of Amendment to Senate Proposals of Amendment
Concurred In**

H. 66.

House proposals of amendment to Senate proposals of amendment to House bill entitled:

An act relating to including secondary students with disabilities in senior year activities and ceremonies.

Were taken up.

The House concurs with the Senate proposal of amendment with the following amendments thereto:

First: By striking out Secs. 18a and 18b in their entirety

Second: After Sec. 21a, by adding an internal caption and two new sections to be Secs 21b and 21c to read as follows:

* * * Distance Learning; Out-of-State Programs * * *

Sec. 21b. 16 V.S.A. § 166(b)(6) is amended to read:

(6) This subdivision applies to an independent school located in Vermont ~~which that~~ offers a distance learning program ~~of elementary or secondary education through correspondence, electronic mail, satellite communication, or other means~~ and ~~which that~~, because of its structure, does not meet some or all the rules of the state board for approved independent schools. In order to be approved under this subdivision, a school shall meet the standards adopted by rule of the state board for approved independent schools ~~which that~~ can be applied to the applicant school and any other standards or rules adopted by the state board regarding these types of schools. A school approved under this subdivision shall not be eligible to receive tuition payments from public school districts under chapter 21 of this title. ~~However, a school district may enter into a contract or contracts with a school approved under this subdivision for provisions of some education services for its students.~~

Sec. 21c. 16 V.S.A. § 563(32) is added to read:

(32) May enter into a contract or contracts with a school offering a distance learning program that is approved by one or more accrediting agencies recognized by the U.S. Department of Education or is approved in Vermont pursuant to subdivision 166(b)(6) of this title.

Third: H.792 of 2010, as enacted, is amended in Sec. H2, 2 V.S.A. § 970, by striking out subsections (b) and (c) in their entirety and inserting in lieu thereof the following:

(b) The membership of the committee shall be appointed each biennial session of the general assembly. The committee shall be comprised of twelve members: six members of the house of representatives who shall not all be from the same party: one from the committee on government operations, one from the committee on human services, one from the committee on appropriations, one from the committee on ways and means, one from the committee on education, and one from the committee on corrections and institutions, appointed by the speaker of the house; and six members of the senate who shall not all be from the same party: one from the committee on government operations, one from the committee on health and welfare, one from the committee on appropriations, one from the committee on finance, one from the committee on education, and one from the committee on institutions, appointed by the committee on committees. The governor shall appoint one person to serve as a nonvoting liaison to the committee.

(c) The committee shall elect a chair, vice chair, and clerk from among its members and shall adopt rules of procedure. The chair shall alternate biennially between the house and the senate members. The committee shall keep minutes of its meetings and maintain a file thereof. A quorum shall consist of seven members.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposals of amendment?, was decided in the affirmative.

**House Proposal of Amendment to Senate Proposals of Amendment
Concurred In**

H. 722.

House proposal of amendment to Senate proposals of amendment to House bill entitled:

An act relating to notice of security breaches and internet ticket sales.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment in Sec. 1, 9 V.S.A. § 4190, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) A person who violates this section, in a civil action brought by the seller, shall be subject to:

- (1) appropriate equitable relief;
- (2) reasonable attorney's fees and costs;
- (3) actual damages suffered; and
- (4) statutory damages of up to \$1,500.00 per ticket, payable to the seller.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposals of amendment?, was decided in the affirmative.

**Report of Committee of Conference Accepted and Adopted on the Part of
the Senate**

H. 281.

Senator Illuzzi, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to the removal of bodily remains.

Respectfully reports that it has met and considered the same and recommends that House accede to the Senate's proposal of amendment with further amendment as follows:

First: In Sec. 2, in subdivision (b)(2) by striking out the final sentence and inserting in lieu thereof the following: Each treatment plan shall include the following as appropriate:

Second: In Sec. 4. 18 V.S.A. § 5217(c)(3) by striking out the word "decedent" and inserting in lieu thereof the word descendant

Third: In Sec. 4. 18 V.S.A. § 5217(c), by adding a new subdivision (4) to read as follows:

(4) The state archeologist.

Fourth: In Sec. 4. 18 V.S.A. § 5217, by striking out subsection (d) and inserting in lieu thereof the following:

(d) A cemetery commissioner or municipal authority responsible for cemeteries, a historical society, a descendant, or the state archeologist may file an objection to the proposed removal of historic remains with the probate court in the district in which the historic remains are located and with the clerks of the municipality in which the historical remains are located within 30 days after the date the notice was mailed.

Fifth: In Sec. 4. 18 V.S.A. § 5217(h), by striking out the first sentence and inserting in lieu thereof the following: The permit shall require that all remains, markers, and relevant funeral-related materials associated with the burial site be removed, and the permit may require that the removal be conducted or supervised by a qualified professional archeologist in compliance with standard archeological process.

Sixth: By striking out Secs. 5 and 6 in their entirety.

And by renumbering the remaining sections to be numerically correct.

VINCENT ILLUZZI
WILLIAM H. CARRIS
TIMOTHY R. ASHE

Committee on the part of the Senate

*HELEN J. HEAD
JOSEPH A. BAKER
KESHA K. RAM*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

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. 66, H. 281, H. 722.

Rules Suspended; Bill Delivered

On motion of Senator Shumlin, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 296.

Message from the House No. 88

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

H. 485. An act relating to the use value appraisal program.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

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

H. 778. An act relating to amending miscellaneous provisions in Vermont's public retirement systems.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Rules Suspended; Immediate Consideration

On motion of Senator Shumlin, the rules were suspended, and the following bills, appearing on the Calendar for notice, were ordered to be brought up for immediate consideration:

H. 485, H. 778.

**House Proposals of Amendment to Senate Proposals of Amendment
Concurred In; Rules Suspended; Bill Messaged****H. 485.**

House proposals of amendment to Senate proposals of amendment to House bill entitled:

An act relating to the use value appraisal program.

Were taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: By adding two new sections to be numbered Secs. 8a and 8b to read as follows:

Sec. 8a. USE VALUE APPRAISAL “EASY-OUT”

Notwithstanding any other provision of law, an owner of property enrolled in use value appraisal under chapter 124 of Title 32 as of the passage of this act, who elects to discontinue enrollment of the entire parcel may be relieved of the first \$100,000.00 of land use change tax imposed pursuant to section 3757 of that title; provided that, if the property owner does elect to discontinue enrollment and be relieved of the first \$100,000.00 of land use change tax, the owner shall pay the full property tax, based upon the property’s full fair market value, for the 2010 assessment, and no state reimbursement shall be paid for that land. No property owner may be relieved of more than \$100,000.00 in land use change tax under this provision. An election to discontinue enrollment under this provision is effective only if made in writing to the director of property valuation and review on or before September 1, 2010; and no owner or successor who elects to discontinue enrollment under this section may re-enroll less than the entire withdrawn parcel in the succeeding five years.

Sec. 8b. LIMITATION ON EASY-OUT

The “easy-out” provided for in Sec. 8a of this act shall not be available for any parcel that been developed, as that term is defined in 32 V.S.A. § 3752(5), prior to the effective date of this act.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, Senator Starr moved that the Senate concur in the House proposal of amendment to the Senate proposal of amendment with a further proposal of amendment as follows:

By striking out Secs. 2 through 8 including 8a and 8b in their entirety.

Thereupon, pending the question Shall the House proposal of amendment to the Senate proposal of amendment be amended as recommended by Senator Starr? Senator Starr requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposals of amendment?, was decided in the affirmative on a roll call, Yeas 20, Nays 9.

Senator Kittell 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, Doyle, Flanagan, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Shumlin, Snelling, White.

Those Senators who voted in the negative were: Brock, Choate, Flory, Illuzzi, Kittell, Mullin, Scott, Sears, Starr.

The Senator absent and not voting was: Giard.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered messaged to the House forthwith.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In; Rules Suspended; Bill Messaged

H. 778.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to amending miscellaneous provisions in Vermont's public retirement systems.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 2b to read as follows:

Sec. 2b. STATE EMPLOYEES; AVERAGE FINAL COMPENSATION

Contingent upon the implementation of a plan to make this section cost-neutral by achieving sufficient ongoing savings in the Vermont state employees' retirement system, developed by the state treasurer, the Vermont State Employees' Association, and the Vermont Troopers' Association, the salary used to determine a state employee's average final compensation for fiscal years 2011 and 2012, for an employee retiring on or after June 30, 2011, shall be no less than the employee's salary paid during fiscal year 2010 when calculating the employee's retirement allowance.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered messaged to the House forthwith.

Joint Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Shumlin,

J.R.S. 66. Joint resolution relating to final adjournment of the General Assembly in 2010.

Resolved by the Senate and House of Representatives

That when the President of the Senate and the Speaker of the House of Representatives adjourn their respective houses on the twelfth or thirteenth day of May, 2010, they shall do so to reconvene on the ninth day of June, 2010, at ten o'clock in the forenoon if the Governor should fail to approve and sign any bill and should he return it to the house of origin with his objections in writing after such adjournment, but if the Governor should *not* so return any bill to either house, to be adjourned *sine die*.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twelfth day of May, 2010, he approved and signed bill originating in the Senate of the following title:

S. 268. An act relating to the building bright futures council.

Secretary Directed to Inform the House of Completion of Business

On motion of Senator Shumlin, the Secretary was directed to inform the House that the Senate has completed the business of the session and is ready to adjourn *sine die*.

Committee Appointed to Inform Governor of Completion of Business

On motion of Senator Shumlin, the President appointed the following four Senators as members of a committee to wait upon His Excellency, James H. Douglas, the Governor, and inform him that the Senate has completed the business of the session and is ready to adjourn *sine die*:

Senator Shumlin
Senator Bartlett
Senator Racine
Senator Scott

Report of Committee

The Committee appointed to wait upon His Excellency, the Governor, to inform him that the Senate had, on its part, completed the business of the session and was ready to adjourn *sine die*, pursuant to the provisions of J.R.S. 66, performed the duties assigned to it and escorted the Governor to the rostrum where he delivered his remarks in person.

Remarks of Governor

The Governor, the Honorable James H. Douglas, assumed the rostrum and briefly addressed the Senate.

“When we returned to Montpelier in January for the second half of this biennium, there was little doubt that this would be the most challenging year in recent memory.

“As our state and nation slowly emerge from the deepest and longest recession since the Second World War, our most critical task is to restart the engine of our economy and set Vermont on a sustainable fiscal path.

“The urgency of our efforts is heightened by the knowledge that many of our friends and neighbors are working longer hours for lower wages and that others are out of work altogether.

“The economic upheaval Vermonters have experienced has contributed to serious troubles in our state’s fiscal situation. But despite these challenges, we can feel good about the work done here, under the Golden Dome, in 2010.

“While other states are cutting programs and raising taxes in response to the fiscal crisis, Vermont, I am proud to say, is moving in a different direction. We are looking toward the future and striving for economic success.

“We are reforming government through Challenges for Change; we undertook overdue changes in our unemployment insurance and pension systems; we protected vital human services programs for the most vulnerable and indeed strengthened many programs through innovation; and we’ve done so while making investments in society’s most critical safety net – a strong economy.

“Reinstating the 40 percent capital gains exemption for employers sends a powerful signal to job creators that Vermont is open for business: that we are listening and we are committed to competing in the global economy.

“That change, coupled with the estate tax rollback, increasing the cap in the Vermont Employment Growth Incentive and the \$8.7 million jobs bill enacted earlier this session – with money for job training, telecommunications, small business lending, farmers and tourism – is an important start on the road to full fiscal health.

“Putting our UI trust fund back on stable ground was necessary to return certainty to our economy and our state budget. We knew a solution would be difficult – requiring compromise and sacrifice from all sides. I am proud that we worked together to achieve a solution that charts a course for solvency. Shoring up the UI trust fund this year was the right thing to do.

“Despite our fiscal challenges, we again renewed our commitment to the Road to Affordability, building a safe and healthy infrastructure through another strong Transportation Bill. I was proud to celebrate, just this week, a record paving budget that will improve our roads and create jobs throughout our state.

“After decades of hard work by many, truck weight limits on our Interstate system were finally lifted – helping to get heavy trucks off town roads and out of our village centers and giving a needed boost to our economy.

“In addition to a robust investment in our roads, bridges and culverts, we passed a commonsense ban on texting while driving – making our roadways safer for all Vermonters and those who visit the Green Mountains.

“A commitment to a cleaner environment is part of who we are as Vermonters. That strong environmental ethic goes hand in hand with our desire to ensure a healthy and competitive economy.

“Through the Capital Bill we are investing in geothermal heating at state facilities to reduce the cost to taxpayers and reduce emissions.

“Earlier this year Vermont secured a significant portion of our energy future through a long-term power contract with our friends to the north. That agreement benefits from the energy bill that was passed by this General

Assembly, which recognizes power from Hydro-Quebec as renewable. Vermont is now positioned to reap greater benefits from our strong relationship with Quebec.

“Restructuring our judiciary is critical to ensuring that Vermonters have timely access to justice. I commend Chief Justice Reiber for conveying the urgency of this challenge and offering a way to achieve savings through unification of the court system. The judicial restructuring effort will ensure that our courts remain open, our system is strong and its cost is sustainable.

“As we struggle to do what is right for those we serve, I remain humbled by and grateful for those brave Vermonters serving our nation overseas, defending the very ideals of self-government. That is why I am proud that you have passed and I signed the Military Parents’ Rights Act. Ensuring that the men and women serving our country have greater certainty in their family circumstances is a small, but important commitment to them. We continue to pray and hope for the safe return of those brave Vermonters deployed overseas.

“As we end this session, I want to recognize and thank those throughout state government who work every day to better our great state.

“And I want to thank each of you for your dedication to the people you serve and the state we love so very much. At times we’ve had our differences, but Vermonters can be proud that we conducted the people’s business with a strong sense of duty, a commitment to do what is right and the civility that should always be expected from elected leaders.

“I first took my seat in this General Assembly in 1973 and have devoted my adult life to advancing the cause of the people of Vermont. There is always more to be done and the challenges facing our state remain daunting. I am proud of what we have accomplished, together, for those we have the honor to serve.

“Thank you all.”

Departure of Governor

The Governor, having completed the delivery of his message, was escorted from the Chamber by the committee appointed by the Chair.

Final Adjournment

On motion of Senator Shumlin, at eleven o'clock and forty-four minutes in the evening, (11:44 P.M.), the Senate adjourned *sine die*, pursuant to the provisions of **J.R.S. 66**.

Messages Received After Final Adjournment

After final adjournment, the following messages were received by the Secretary.

Message from the House No. 89

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 considered Senate proposals of amendment to the following House bills:

H. 213. An act to provide fairness to tenants in cases of contested housing security deposit withholding.

H. 498. An act relating to maintenance of private roads.

H. 792. An act relating to implementation of challenges for change.

And has severally concurred therein.

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

H. 281. An act relating to the removal of bodily remains.

And has adopted the same on its part.

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

H. 783. An act relating to miscellaneous tax provisions.

And has adopted the same on its part.

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

H. 789. An act making appropriations for the support of government.

And has adopted the same on its part.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 368. House concurrent resolution honoring former Randolph selectboard member C. Walter Dewey of Randolph.

H.C.R. 369. House concurrent resolution in memory of Edna Fairbanks-Williams of Hubbardton.

H.C.R. 370. House concurrent resolution in memory of Vermont Chief Justice Honorable Albert Wilkins Barney, Jr.

H.C.R. 371. House concurrent resolution in memory of Mildred Ellen Orton.

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

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

S.C.R. 54. Senate concurrent resolution in memory of baseball Hall of Famer and Montpelier Mountaineers' board member Robin Roberts.

And has adopted the same in concurrence.

Message from the House No. 90

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 on its part completed the business of the second half of the Biennial session and is ready to adjourn *sine die*, pursuant to the provisions of J.R.S. 66.

Concurrent Resolutions Adopted by Senate

Secretary's Note: The following House concurrent resolutions, which were adopted by the House on May 11 or 12, 2010, were not received in the office of the Secretary of the Senate until after the Senate had adjourned *sine die* on May 12, 2010. Nevertheless, in keeping with the spirit of Joint Rules 16a through 16d, the Secretary has deemed them to have been timely noticed for adoption in concurrence by the Senate.

By Representative French,

H.C.R. 368.

House concurrent resolution honoring former Randolph selectboard member C. Walter Dewey of Randolph.

By Representative Donahue and others,

H.C.R. 369.

House concurrent resolution in memory of Edna Fairbanks-Williams of Hubbardton.

By the House Committee on Judiciary,

By the Senate Committee on Judiciary,

H.C.R. 370.

House concurrent resolution in memory of Vermont Chief Justice Honorable Albert Wilkins Barney, Jr.

By Representative Olsen and others,

By Senators Campbell, McCormack, Nitka, Hartwell, Sears, Shumlin and White,

H.C.R. 371.

House concurrent resolution in memory of Mildred Ellen Orton.

Bill Titles Amended by Secretary

Pursuant to Senate Rule 40, after final adjournment and final action was taken on **S. 207** and **S. 295**, the titles to the bills were amended by the Secretary to read as follows:

S. 207. An act relating to preliminary incubation testing of milk; raw milk quality study and report; and unlawful cutting of trees.

S. 295. An act relating to agricultural development, including agency positions and creation of development board; establishment of livestock care standards; operation of commercial slaughter facilities; animal rescue organizations; and health certificates for importation of certain animals.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fourteenth day of May, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 222. An act relating to state recognition of Native American Indian tribes in Vermont.

S. 161. An act relating to National Crime Prevention and Privacy Compact.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the eighteenth day of May, 2010, he approved and signed a bill originating in the Senate of the following title:

S. 218. An act relating to voyeurism.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the nineteenth day of May, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 247. An act relating to bisphenol A.

S. 263. An act relating to the Vermont Benefit Corporations Act.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-first day of May, 2010, he approved and signed a bill originating in the Senate of the following title:

S. 58. An act relating to electronic payment of wages.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-first day of May, 2010, he did not approve and *allowed to become law without his signature* a bill originating in the Senate of the following title:

S. 138. An act relating to unfair business practices of credit card companies and fraudulent use of scanning devices and re-encoders.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, setting forth his reasons for refusing to sign and *allowing to become law without his signature*, **Senate Bill No. 138**, is as follows:

May 21, 2010

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Gibson:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow S.138, *An Act Relating To Unfair Business Practices Of Credit Card Companies And Fraudulent Use Of Scanning Devices And Re-Encoders*, to become law without my signature for the reasons stated herein.

I understand and sympathize with the frustration and concern of Vermont's merchants regarding credit card fees, credit card rules and interchange fees imposed upon them without the opportunity to negotiate terms and the freedom to choose pricing options or the type of payment they will accept.

I do not believe, however, that legislation of this nature is best handled at the state level. This is a national, if not an international, issue that is best addressed in a wider forum. Indeed, Congress is starting to address these concerns. A recent amendment to the United States Senate version of the national financial regulatory reform legislation places restrictions on the fees and practices that card companies may impose on merchants when a buyer uses a debit card. While I appreciate the General Assembly's strong desire to address this issue, a better approach would have been to encourage our Congressional delegation to support amendments to federal law.

With the passage of S. 138, Vermont will be the first state in the nation to challenge the rules of the electronic payment system through legislation. This is not without risk to Vermonters and, particularly, those who depend on visitors to our state for their livelihoods. Consumers may find that their debit and credit cards are not accepted by certain merchants or in certain situations. Also, certain electronic payment systems may decide to pull out of the state or only offer limited services in Vermont.

These reservations were shared with legislators and, despite them, S.138 passed unanimously. I will encourage our delegation to address these issues on

a nationwide basis so that uniformity among and between states will be achieved.

Sincerely,

/s/James H. Douglas

James H. Douglas
Governor

JHD/psy

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-fourth day of May, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 182. An act relating to determining unemployment compensation experience rating for successor businesses.

S. 205. An act relating to the Revised Uniform Anatomical Gift Act.

S. 290. An act relating to restoring solvency to the unemployment trust fund.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-seventh day of May, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 90. An act relating to representative annual meetings.

S. 103. An act relating to the study and recommendation of ignition interlock device legislation.

S. 262. An act relating to a study of coverage of appropriate services for children with autism spectrum disorders.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-seventh day of May, 2010, he did not approve and *allowed to become law without his signature* a bill originating in the Senate of the following title:

S. 88. An act relating to health care financing and universal access to health care in Vermont.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, setting forth his reasons for refusing to sign and *allowing to become law without his signature*, **Senate Bill No. 88**, is as follows:

May 27, 2010

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Gibson:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow S. 88, *An Act Relating to Health Care Financing and Universal Access to Health Care in Vermont*, to become law without my signature for the reasons stated herein.

S. 88 includes a number of provisions that I strongly support and a number of provisions about which I have significant concerns.

On the one hand, it provides critically important codification of our Blueprint for Health – Vermont’s signature, forward-thinking effort to improve quality and reduce growth in health care costs. But at the same time, physicians, non-profits and other organizations across Vermont have expressed significant concern about the chilling effect certain provisions could have on the ability of low-income Vermonters to receive free samples of vital prescription drugs. And family-owned restaurants in Vermont have voiced concern about S. 88’s accelerated implementation of menu labeling requirements that were included in recently enacted federal health care reform.

Vermont has been at the forefront of state-led health care reform efforts and worked closely with our Congressional delegation on the recently enacted Patient Protection and Affordable Care Act. After five solid years of state-led reform and with President Obama’s sweeping health care law barely in hand, S. 88’s “design options” study mandates that Vermont now consider striking

out on its own, in a totally different direction. Moreover, the study is a wasteful expense of time and scarce resources, as Vermont would be prevented by the federal health care reform law from implementing any of the new “designs” until 2017 at the earliest.

I thank the Legislature, however, for the careful, positive work they put into many provisions of S. 88. The revisions to the Blueprint are vitally important, outweighing the other objectionable portions of the bill. Indeed, the bill represents the culmination of years of work positioning Vermont to lead the nation in a comprehensive effort that has been recognized for its groundbreaking innovation in a multi-payer approach to payment and delivery system reform.

The need to enact the Blueprint revisions rests on two critical developments in the evolution of the program that require legislative authority. First, the Blueprint’s integrated medical home and community health team payment reform model grew out of language authorizing a pilot program in Act 71 of 2007. S. 88 articulates the components of that pilot as they have subsequently been designed and implemented, providing statutory recognition for what the Blueprint has become, how it functions, and authority to make further modifications and development.

S. 88 takes an added needed step in Blueprint development by requiring insurance carriers to participate in the statewide expansion of the Blueprint as a condition of doing business in Vermont. Hospitals will establish and maintain interoperable connectivity to the state Health Information Exchange network operated by Vermont Information Technology Leaders, Inc. (VITL) in order to support the Blueprint’s clinical data repository and make lab, hospital discharge and other data broadly available to physicians.

Absent these provisions, Vermont participation in the Centers for Medicare and Medicaid Services Advanced Primary Care Practice Medicare demonstration program, which is based in large measure on the Blueprint, would be jeopardized. Statewide expansion (to at least two medical home sites in each Hospital Service Area by July 1, 2011 and to all primary care practices by October 1, 2013) is premised on Medicare participation. Medicare participation in the Blueprint is premised on comprehensive participation by commercial insurers. S. 88 is needed to ensure this happens.

In an initiative that complements the Blueprint, the bill also establishes an important, one year primary care work force development committee to determine the additional capacity needed in the primary care delivery system when Vermont achieves health reform goals that place such a key emphasis on enhancing the primary care infrastructure. The committee’s charge is to create

a strategic plan for ensuring that the necessary workforce capacity is achieved to meet the needs of our primary care delivery system.

S. 88 provides important direction to the Department of Banking, Insurance, Securities and Health Care Administration to limit the rate of growth in hospital spending and insurance premiums. At a time when schools, state employees, and employers across the state are tightening their belts and reducing spending, hospitals must also share in that sacrifice. Controls have been built in to assure that safety and quality won't be compromised, but the time for business as usual has ended. Creative and innovative approaches to operating our state's hospitals more efficiently must be pursued.

Again, it is unfortunate that the many exciting and useful provisions in this bill have been clouded by the objectionable provisions outlined, which is why I must let S. 88 become law without my signature.

Sincerely,

/s/James H. Douglas

James H. Douglas

Governor

JHD/pht

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-ninth day of May, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 64. An act relating to growth center designations and appeals of such designations.

S. 278. An act relating to the department of banking, insurance, securities, and health care administration.

S. 296. An act relating to sale or lease of the John H. Boylan state airport.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the first day of June, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 207. An act relating to preliminary incubation testing of milk; raw milk quality study and report; and unlawful cutting of trees.

S. 264. An act relating to stop and hauling charges.

S. 280. An act relating to prohibiting texting, prohibiting use of portable electronic devices by junior operators, and primary seatbelt enforcement for persons under 18..

S. 282. An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles.

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the first day of June, 2010, he did not approve and *allowed to become law without his signature* a bill originating in the Senate of the following title:

S. 97. An act relating to a Vermont state employees' cost-savings incentive program.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, setting forth his reasons for refusing to sign and *allowing to become law without his signature*, **Senate Bill No. 97**, is as follows:

June 1, 2010

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Gibson:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow S.97, *Vermont State Employees' Cost-Savings Incentive Program*, to become law without my signature. I support efforts to find cost savings in state

government and had hoped to sign a bill that created incentives for state employees to offer their ideas. In its final form, however, S.97 contains provisions that prevent me from fully supporting what is otherwise a valuable program.

First, S.97 creates a panel that will hear appeals from state employees when their suggestions have not been adopted. That panel is composed of five members, two of whom would be appointed by the Vermont State Employees' Association. Inserting the union into executive branch decision-making is an inappropriate intrusion into the labor-management relationship and opens the door to increasing levels of union access into future administrations.

Further, with this new panel, S.97 creates more state bureaucracy and increases administrative burdens. The appeals panel adds no value to taxpayers, but rather serves as an internal bureaucratic process designed to second-guess managers. This process will redirect state employees' focus away from their primary responsibilities, consume precious time, and create additional administrative costs – a result at odds with the very purpose of the bill.

I am also concerned that S.97 does not require as a prerequisite for an award that the employee who has made the suggestion has performed his or her job in a satisfactory manner, as evidenced by his or her last performance evaluation. Those few employees who are not doing the very jobs the taxpayers already pay them to do should not be rewarded. S.97 has the potential to encourage state employees to divert time and energy away from the jobs that taxpayers employ them to do during working hours.

Finally, S.97 provides that an employee could receive as much as \$25,000 for submitting a suggestion. Many other states adopting employee incentive programs have limited awards to \$10,000 or less, and there is no indication that these programs have not created the desired results. I believe a cap of \$10,000 would be more than sufficient to provide an incentive to employees to develop creative cost saving ideas. Moreover, it is the taxpayer who should reap the savings achieved through actions taken by state government.

As public servants, it is the job of state employees to make government more efficient and effective for the benefit of Vermont taxpayers. If state employees want to switch from the current seniority-based pay scale to a performance-based salary system, I would welcome that conversation as part of the next collective bargaining process.

Despite these objections, I will let S.97 go into law without my signature because in these difficult economic times any effort to trim the cost of the state budget, even a flawed effort, is a useful endeavor. The bill allows for a review of the program by the State Auditor and the Joint Legislative Committee on

Government Accountability after the first fiscal year of its operation and sunsets the program on June 1, 2012. A full analysis of the cost to the State in administering the program and the cost savings associated with any idea actually implemented will highlight issues in implementation and the efficacy of the program and allow for necessary amendments or for the sunset of the program if it proves to be unsuccessful.

Sincerely,

/s/ James H. Douglas

James H. Douglas
Governor

JHD/lkp

Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the third day of June, 2010, he approved and signed bills originating in the Senate of the following titles:

S. 292. An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees.

S. 295. An act relating to agricultural development, including agency positions and creation of development board; establishment of livestock care standards; operation of commercial slaughter facilities; animal rescue organizations; and health certificates for importation of certain animals.

Message from the House No. 91

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 Governor has informed the House that on the May 11, 2010, he approved and signed bills originating in the House of the following titles:

H. 765. An act relating to establishing the Vermont agricultural innovation authority.

H. 772. An act relating to alcoholic beverage tastings and other liquor licensing issues.

The Governor has informed the House that on the May 12, 2010, he approved and signed bills originating in the House of the following titles:

H. 562. An act relating to the regulation of professions and occupations.

H. 770. An act relating to approval of amendments to the charter of the city of Barre.

The Governor has informed the House that on the May 13, 2010, he approved and signed bills originating in the House of the following titles:

H. 578. An act relating to requiring all state law enforcement officers to serve under the direction and control of the commissioner of public safety.

H. 648. An act relating to harassment and hazing policies at independent colleges.

The Governor has informed the House that on the May 18, 2010, he approved and signed bills originating in the House of the following titles:

H. 725. An act relating to farmers' markets.

H. 763. An act relating to establishment of an agency of natural resources' river corridor management program.

The Governor has informed the House that on the May 19, 2010, he approved and signed bills originating in the House of the following titles:

H. 788. An act relating to approval of amendments to the charter of the town of Berlin.

H. 793. An act relating to approval of amendments to the charter of the village of Essex Junction.

The Governor has informed the House that on the May 20, 2010, he approved and signed bills originating in the House of the following titles:

H. 540. An act relating to motor vehicles passing vulnerable users on the highway and to bicycle operation.

H. 794. An act relating to approval of the merger of the town of Cabot and the village of Cabot.

H. 780. An act relating to approval of amendments to the charter of the city of St. Albans.

The Governor has informed the House that on the May 24, 2010, he approved and signed a bill originating in the House of the following title:

H. 462. An act relating to encroachments on public waters.

The Governor has informed the House that on the May 26, 2010, he approved and signed bills originating in the House of the following titles:

H. 524. An act relating to interference with or cruelty to a service animal guide dog, warrants to impound a dog or wolf-hybrid, and the definition of "humane officer".

H. 243. An act relating to the creation of a mentored hunting license.

H. 555. An act relating to youth hunting.

H. 784. An act relating to the state's transportation program.

The Governor has informed the House that on May 27, 2010, he returned without signature and vetoed a bill originating in the House of the following title:

H. 485. An act relating to the use value appraisal program.

Text of Communication from Governor

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 485** to the House is as follows:

May 27, 2010

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H. 485, *An Act Relating to the Use Value Appraisal Program*, without my signature because of objections described herein.

Earlier this year, I recommended full funding of the Use Value Appraisal Program – otherwise known as Current Use – as a part of my proposed FY 2011 budget. I did so because Current Use is critically important to maintaining our working landscape. Current Use allows agricultural and managed forest lands to be taxed on their use value as opposed to their fair market value, thus relieving the pressure on farmers and foresters to remove land from agriculture and forestry and develop it to pay the taxes. While some see this as simply a benefit to enrolled landowners, the entire state is the beneficiary of keeping farms as farms and forests as forests.

H. 485, however, greatly undermines the original intent of the Current Use program, is complicated, highly nuanced, difficult to understand, administratively complex, and needlessly and unfairly increases three taxes. I am disappointed that, in spite of many opportunities to compromise, the Legislature chose to move forward without addressing any of the objections and concerns raised by my Administration and many other Vermonters.

Just when Vermont's agriculture and forest products industries are facing the most daunting economic times in modern history, H. 485 imposes additional taxes and burdensome bureaucracy on the owners of our state's farm and forest land. This approach is in direct opposition to helping our traditional industries prosper in the 21st Century. We should find ways to lower costs for farmers and foresters rather than dump additional taxes and requirements on an already fragile sector of our economy.

Dedicated, long-term participants, who entered into an agreement with the state under one set of provisions, are facing significant changes when they can least afford the impact. Difficult, far-reaching, permanent ownership and enrollment decisions that will affect struggling farm and forest owners must be made in a very short time frame, and may well result in a serious negative impact on Vermont's working landscape. The bill punitively increases the Land Use Change Tax (LUCT) which, among other things, would require farmers to pay the penalty for development of a farm labor housing site and punish parents who wish to provide some land to their children by requiring them to pay a high penalty to do so.

In the FY 2010 budget, the Legislature set a target for themselves to "save" \$1.6 million in the Current Use program. Instead they created a new "one-time" \$128 assessment on all enrolled landowners. Charging a fee to allow continued enrollment in a program that is designed to make land ownership affordable is both ironic and counterproductive.

H. 485 increases a second tax – the property transfer tax. The bill increases the tax in some cases by 150 percent – from .5 percent to 1.25 percent.

The third tax increase – the increase in the LUCT – is a significant policy change and perhaps the most troublesome aspect of H. 485. While those who support this redesign of Current Use say it will "strengthen" the program, I believe it will have the opposite effect. The current penalty calculation motivates participants to stay in the program by reducing the penalty percentage after ten years; the new calculation would not provide any benefit for long periods of enrollment.

Further, by changing from the enrolled per acre value as the basis for the LUCT to the parcel value of the removed land, the penalty on a small parcel is likely to be very large. An unintended consequence of H. 485 is that people

who remove a parcel will likely take out more land than they would otherwise, so that the assessment per acre will be lower.

Some have claimed that the LUCT increase is necessary to prevent abuses, such as putting land in Current Use for a short period (called “parking”) to reap tax benefits prior to development. While there are a few anecdotal instances of this behavior, it is a small problem as roughly two-tenths of one percent of the total land in the program has been subject to the LUCT annually over the past five years. If, in fact, the object is to address the “parking” problem, the penalty should be structured to accomplish that goal, and not to penalize all participants.

Above and beyond its intent, the LUCT will affect far more landowners than those who plan to sell land. Although H. 485 includes a so-called “easy out” option, it is clear there’s nothing easy about it. The limitation cited in Section 8b that any parcel that has been developed as defined in 32 V.S.A. § 3752(5) will not be eligible for the “easy out” is especially problematic and raises troubling issues.

For example, cross referencing to the definition of development includes activity such as cutting trees contrary to a forest management plan. The increased penalty will apply, as a result, to forest landowners who have been found to have “cut contrary” to their forest management plan – even if unintentional. This is a severe penalty for what can be a small mistake. H. 485 is clear that the penalty is due “at the time of development,” thereby unfairly increasing the penalty for landowners.

Because there is no database for parcels that have been “cut contrary,” county foresters will need to review paper files, chewing up precious time and creating an unnecessary administrative burden. How this limitation is defined and/or interpreted will be important and will require further refinement prior to application on a parcel-by-parcel basis. Ultimately, this provision raises more questions than it answers. Does it apply to any parcel that had a “portion” developed? What if the parcel was sold and subdivided? What if the parcel was found in violation of its management plan, removed from the program, and then re-enrolled after 5 years? What if the parcel is now under new ownership?

Section 6 is fundamentally unfair to the pending program applicants, who filed their applications under the old rules. With the new LUCT, it is expected that some may want to amend their applications, but they can’t do so without paying a penalty. Common sense and basic fairness dictate that an applicant should be able to amend an application based on a major change in the program.

H. 485 requires that the Department of Taxes provide timely notice to all program participants of the changes to the current use penalty and the participant's options in terms of continued enrollment of some or all of their current use property. Those applicants who have applied to enroll some 900 parcels in 2009 must be informed of their option to choose not to enroll under the new penalties, taxes and fees. They must respond by July 1, 2010—an unworkable and unfair time frame of just over a month in which timely notification and responses must occur.

In addition to the notice provisions there are a number of difficult administrative issues associated with the implementation of H. 485. In order to assess and collect the \$128 per owner surcharge through municipal property tax bills, electronic information systems will have to be developed and in place by July 1, 2010, as electronic files must be transmitted from the State to towns identifying which properties within each municipality are to be assessed the surcharge. Changes to the New England Municipal Resource Center (NEMRC) tax billing and collection software modules to get the assessment on all tax bills will be necessary for Towns to account for the surcharge and issue reports on collection status.

Collectively, the administrative issues in H. 485, given the timeframe within which they have to be accomplished, would make it extremely difficult, if not impossible, to implement. Not only would implementation issues associated with H. 485 be problematic for the Tax Department, they would result in a significant burden for municipal listers and treasurers to change the grand list values and revise tax bills to be consistent with changes required by the bill.

Prior to the legislative session, the Tax Commissioner warned legislative leaders about the inevitable confusion and cost that would be involved in the implementation of broad changes to the Current Use program for FY 2011. In his letter, he suggested that a more realistic timeframe that would allow all parties to be engaged and to do the necessary education and outreach would be for any changes to become effective in FY 2012.

The change in the LUCT is clearly a policy issue that deserves a full and open public discussion, along with other aspects of the Current Use program. Section 8 of the bill raises important issues that need to be thoughtfully considered. In addition to those, other facts must be gathered and other issues must be discussed more fully prior to making any major changes to the program. These include: the identification and analysis of parcels/acres removed from the program for the last five years and the subsequent use of those parcels; the level of productivity expected from smaller parcels; review of the eligibility standards in Title 32 § 3752 to determine if they need to be revised or updated; the need to monitor the actual use of enrolled farm structures; consideration of a per acre cap for municipal reimbursement; and the advisability of decentralizing the calculation of fair market value when assessing the

LUCT by transferring that responsibility from the state to the towns in which the property is located.

Any revenue implications from not implementing this legislation can be addressed if necessary in the FY 2011 budget adjustment or supplemented through contingent appropriations or excess FY 2011 revenue.

I continue to support the Current Use program, and believe that it has provided great benefits to our state. It is unfortunate that the General Assembly chose to raise taxes unnecessarily and punitively on the stewards of Vermont's working landscape in an effort to address the perceived misuse of the program. A more calibrated approach is required to achieve the desired objectives.

Therefore I am returning H. 485 without my signature.

Sincerely,

/s/James H. Douglas

James H. Douglas
Governor

JHD/pem

The Governor has informed the House that on the May 29, 2010, he did not approve and allowed to become law without his signature bill originating in the House of the following title:

H. 778 An act relating to amending miscellaneous provisions in Vermont's public retirement systems.

Text of Communication from Governor

The text of the communication to the House from His Excellency, the Governor, setting forth his reasons for refusing to sign and *allowing to become law without his signature*, **House Bill No. 778**, is as follows:

May 29, 2010

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow H. 778, *An Act Relating to Amending Miscellaneous Provisions in Vermont's Public Retirement System*, to become law without my signature. I am unable to fully endorse the bill because I am concerned that H. 778 may significantly

increase General Fund pressure in order to ensure the long-term sustainability of state retirement plans.

Demographic trends and the recent upheaval in the financial markets have required Vermont to make significantly larger contributions to the systems to maintain them in a financially responsible manner. Last year, the Legislature empanelled a commission to study the state's retirement systems. This year, the *Commission on the Design and Funding of Retirement and Retiree Health Benefit Plans for State Employees and Teachers* returned a comprehensive plan to reform pension systems for both teachers and state employees and lower costs for taxpayers. While the Legislature enacted some welcome changes to teachers' retirement, it failed to make any meaningful cost saving reforms for the state employees' system. In fact, with the passage of H. 778, the Legislature went in the opposite direction, as this bill could increase the amount Vermont taxpayers must contribute to the systems by millions of dollars.

Of greatest concern, Section 2b of H. 778 provides that the salary reductions negotiated with the Vermont State Employees' Association and the Vermont Troopers' Association in an effort to balance the State's budget, will not be reflected in the retirement calculations for employees who retire on or after June 30, 2011. This bill is an effort to circumvent the financial reality of the new collective bargaining agreements; this reality well understood by all parties negotiating the wage reductions in those new agreements. The salaries for those employees who will be retiring over the next two years reflect many years where the increases in salaries were quite large – increases that are unlikely to be given to state workers anytime in the near future. From at least 1986 to the present, employees covered under collective bargaining agreements received no reductions in wages; to the contrary, they received increases as high as 6, 7 and 8%. Even in the last two years, wages to these employees increased by 3.5% in each year. Just as these employees' retirement calculations should reflect these increases, I believe they should also reflect the decreases, with the amounts averaging out over time.

The General Assembly's budget reflects ongoing savings to be achieved as a result of the revised retirement calculation in FY2011 of \$4.4 million dollars without including the cost of Section 2b. Beginning in FY2012, if this provision is enacted we must achieve an additional \$2.4 million dollars of savings – for a total of \$6.8 million – to offset this new and unanticipated interpretation of the bargain.

Essentially acknowledging the fiscal irresponsibility of Section 2b, the bill includes the caveat that it will be “contingent upon the implementation of a plan to make this section cost-neutral by achieving ongoing savings” in the

future. Yet nothing in H. 778 suggests how those savings will be achieved. More fundamentally, it ignores that the state pension system is already facing unprecedented costs, and that this bill will only increase the difficult choices that are ahead.

Further, H. 778 is narrowly tailored to support union employees in a defined benefit plan to the exclusion of many exempt state employees. The bill does not acknowledge or account for exempt employees in the defined contribution plan, many of whom have experienced a 5% pay decrease and frozen salaries since 2008. This pay reduction comes with a corresponding decrease in the state's contribution to their retirement plan. Does the Legislature intend to redress this inequity in future years? Instead of focusing on one group of employees, the Legislature should have dealt fairly with all employees and found responsible ways to fund the retirement plan so that it will be solvent into the future.

Other provisions in H. 778 are also problematic because they increase the costs that must be allocated from the General Fund to fund the retirement systems. In Sections 2a, 6a, and 6b the bill sets a floor for post-retirement adjustments for beneficiaries of the state employees and teachers' retirement plans, so that no reductions will be made if there is a decrease in the Consumer Price Index.

H. 778 contains a provision that I support that will ensure that employees cannot take advantage of the retirement system by working an excessive amount of overtime in the last two years of their careers to increase their retirement benefit. I understand there are also technical corrections to the teachers' retirement reforms that are necessary for the successful implementation of those changes. I think these efforts are an important step in the right direction to reduce costs to taxpayers.

Because additional legislative action will inevitably be necessary before the plan developed under Section 2b can be implemented, there is time next session for the Legislature to reconsider the sustainability and fairness of the proposed changes. Likewise, the changes in sections 2a, 6a and 6b will sunset on July 1, 2011 so the potential for increased cost will sunset as well. Thus, despite my objections, I am letting H. 778 go into law without my signature.

Sincerely,

/s/James H. Douglas

James H. Douglas
Governor

JHD/psy

The Governor has informed the House that on the May 29, 2010, he approved and signed bills originating in the House of the following titles:

H. 213. An act to provide fairness to tenants in cases of contested housing security deposit withholding.

H. 488. An act relating to the use of felt-soled boots in the waters of Vermont.

H. 498. An act relating to maintenance of private roads.

H. 590. An act relating to mediation in foreclosure proceedings.

H. 709. An act relating to creating a prekindergarten–16 council.

H. 759. An act relating to executive branch fees.

H. 760. An act relating to the repeal or revision of certain boards and commissions.

The Governor has informed the House that on the June 1, 2010, he approved and signed bills originating in the House of the following titles:

H. 281. An act relating to the removal of bodily remains.

H. 542. An act relating to transfers of mobile homes and rent-to-own transactions.

H. 614. An act relating to the regulation of composting.

H. 647. An act relating to misclassification of employees to lower premiums for workers' compensation and unemployment compensation.

H. 722. An act relating to ticket scalping.

H. 769. An act relating to the licensing and inspection of plant and tree nurseries.

H. 779. An act relating to potable water supply and wastewater system permits.

H. 792. An act relating to implementation of challenges for change.

The Governor has informed the House that on the June 3, 2010, he did not approve and allowed to become law without his signature bill originating in the House of the following title:

H. 66 An act relating to voluntary school district merger, virtual merger, supervisory union duties, and including secondary students with disabilities in senior year activities and ceremonies.

Text of Communication from Governor

The text of the communication to the House from His Excellency, the Governor, setting forth his reasons for refusing to sign and *allowing to become law without his signature*, **House Bill No. 66**, is as follows:

June 3, 2010

The Honorable Don Milne
House Clerk
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow H.66, *An Act Relating to Voluntary School District Merger, Virtual Merger, Supervisory Union Duties, and Including Secondary Students with Disabilities in Senior Year Activities and Ceremonies*, to become law without my signature for the reasons stated herein.

It is quite clear that Vermont's system of education is out of balance. Per-pupil spending in Vermont is among the highest in the nation – and still growing – yet our student-to-teacher ratio is the lowest in the nation and without reforms will continue to shrink as our student population continues to decline. The result is property taxes that increase every year – straining the budgets of Vermonters and limiting the full potential of our economy.

During my tenure as Governor, I have repeatedly asked legislators to address the burden of property taxes. For the past five years, I have suggested various means of controlling school spending and thus property tax growth. One recommendation from this year was to move from our current 10:1 student-to-teacher ratio to a 13:1 ratio. That modest change would ensure Vermont retains among the lowest ratios in the country, while saving property tax payers nearly \$100 million.

The consolidation of school districts to achieve greater economies-of-scale and administrative efficiencies could help, over time, contain costs and increase opportunities for Vermont students. But while I fully support such efforts, I cannot endorse a bill that will have little, if any, meaningful impact. H.66 is a mere façade of reform and its efforts to make our system of education more efficient and affordable are flawed in a number of ways.

This bill fails to recognize the immediacy of the challenges in the Education Fund. Because the Legislature chose not to take meaningful steps this year to address property tax growth, there could be as much as a \$100 million shortfall

in the Fiscal Year 2012 Education Fund depending on the Legislature's choices to resolve General Fund challenges. In contrast, the timeline established by H.66 unfolds through 2017. Vermont taxpayers do not have seven more years to wait for relief.

In fact, the incentives in H.66 themselves could increase pressure in the Education Fund. These incentives include tax rate relief up to \$0.08, facilitation grants up to \$150,000, enhanced income sensitivity payments, and consulting services grants up to \$20,000, among others. However, paying for all of this is a zero-sum game, since the funding source for these "incentives" is the Education Fund, which is supported by property taxes from other school districts, many of which are well managed. When one district gains because of H.66, other districts must lose. This is a poorly constructed system that does not require offsetting savings for cost neutrality.

While H.66 offers short term incentives to merge school districts, there is a built-in long-term disincentive for efficient school districts to participate in such mergers. The averaging of costs and tax rates across such districts will lower tax rates in high tax districts but raise taxes in low tax districts. Thus, low tax rate districts are less likely to participate, leaving high tax rate districts with few opportunities to partner.

H.66 retains subsidies for the duration of school years covered by the statute, such as small school grants and "phantom student" subsidies, both of which encourage the status quo and discourage consolidation. For example, school districts will retain small school grants during the 5-year period – although such grants are now renamed "merger support grants"; simply changing the nomenclature does not make this unnecessary stipend any more effective.

Further, H.66 sets no performance goals from which to measure success or failure including measures of fiscal success. Expected changes in basic outcome parameters such as student-to-teacher ratios, average daily membership per district, and the percent reduction in education spending per pupil, among other measures, are not specified nor established. Also, while H.66 requires "cost-benefit" analyses by districts considering a merger, the law provides no reference to any measures of success or failure. The simple enumeration of information, such as student-to-teacher ratios, is not an analysis. Absent the benchmarking of this information relative to desired and measurable outcomes, taxpayers have no way to know whether fiscal goals are being achieved.

Finally, H.66 is built upon the byzantine infrastructure of Act 60, which has substantially weakened local control with regard to education funding. Vermonters understand the traditional meaning of local control. It integrates

the authority to approve governmental spending with the responsibility to raise the associated revenues. Municipal budgets are still built upon these balanced principles while education budgets no longer are. While local voters retained the authority to approve local school spending, the responsibility to raise the associated revenues is now divorced from this authority.

While some of this separation is the proper result of the *Brigham* decision, the Legislature has gone much farther than *Brigham* requires. Current law provisions for key components of Act 60 and Act 68 – such as the income sensitivity program, provisions shifting education costs onto the general fund, the sales tax and the purchase and use tax, and our bifurcated grand list, which allows for a cost shift onto nonresidential property – are not threshold *Brigham* requirements. H.66 aggravates the burden of these provisions by enhancing income sensitivity for residents of merged districts and shifting a greater tax burden onto non-income sensitized properties.

H.66 proposes to make an omelet without cracking any eggs. The bill has none of the strong measures necessary to constrain education spending and reduce property taxes. The many flaws and complexities of H.66 will essentially result in few, if any, mergers among Vermont school districts and thus will prove to be of no material consequence. Therefore, I cannot endorse this timid approach and I worry that some may consider it a sufficient effort to avoid needed reforms in the future.

Despite good work in other areas of the state budget, the Legislature's near paralysis on education spending reform and failure to live up to the education component of *Challenges for Change* – a bar the Legislature set for itself – will result in higher property taxes for Vermonters for years to come. H.66 stands as a symbol of the Legislature's continued ineffectiveness with regard to protecting the justifiable interests of property tax payers.

We need the broad concerns of tax-burdened constituents to outweigh the narrow demands of Vermont's education lobby who seek to sustain the status quo. We need real reform in the face of a serious reckoning in our Education Fund. Vermonters can neither afford nor abide another year of inaction.

Sincerely,

/s/James H. Douglas

James H. Douglas

Governor

JHD/pkp

The Governor has informed the House that on the June 3, 2010, he approved and signed bills originating in the House of the following titles:

H. 470. An act relating to restructuring of the judiciary.

H. 689. An act relating to the Uniform Common Interest Ownership Act.

H. 789. An act making appropriations for the support of government.

The Governor has informed the House that on the June 4, 2010, he approved and signed bills originating in the House of the following titles:

H. 781. An act relating to renewable energy.

H. 783. An act relating to miscellaneous tax provisions.

H. 790. An act relating to capital construction and state bonding.