

Keep:FY 2012 Big Bill words at end (shell is 2010 Act 156)

No. XXX. An act making appropriations for the support of government.
(H.XXX)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL - Fiscal Year 2012 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 2012. 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, 2011. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2012 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 2012.

(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, 2012.

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 2012, 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 2012, federal funds available to the state of Vermont and designated as federal in this and other acts of the 2011 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 2012 except for new positions authorized by the 2011 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</u>
	<u>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</u>
	<u>actions</u>

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Sec. B.1100 FISCAL YEAR 2012 GENERAL FUND RESERVES, ALLOCATIONS AND APPROPRIATIONS

(a) The amount of \$4,793,000 is reserved in the general fund. The executive committee of the workforce development council, created in 10 V.S.A. Sec. 541, in collaboration with the agency of commerce and community development, the agency of human services, and the departments of labor and education, shall make recommendations to the governor and House and Senate Committees on Appropriations and on Education, and the House Committee on Commerce and Economic

Development, and the Senate Committee on Economic Development, Housing and General Affairs, no later than March 1, 2011, on how this reserve of \$4,793,000 should be allocated or appropriated to provide maximum benefit to workforce development, participation in postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont. These funds shall be unreserved, and allocated or appropriated by the general assembly after receipt and consideration of the council's recommendation.

(b) The amount of \$4,100,000 is appropriated to the department of labor for unemployment insurance interest payments to the federal government.

EXPLANATION: (a) Replaces the next generation initiative fund distribution and allows the executive committee of the Workforce Development Council to recommend distribution of the same amount of reserved funds toward workforce development. (b) Provides Labor the funds necessary to pay the interest owed on its federal unemployment insurance borrowings. As this appropriation is meant to be on-going, the legislative draft of this bill should establish a new section among the Part B numbers in Labor for (b).

Sec. B.1101 FISCAL YEAR 2012 BASE REDUCTIONS

(a) In fiscal year 2012, the secretary of administration is authorized to reduce appropriations for labor savings due to unfilled vacant positions, voluntary reduced workweeks, modified health insurance plans for active and retired state employees, reduced state costs in supporting retirement plans, and close management of personal services contracts:

General fund \$12,000,000

EXPLANATION: These savings are achievable without imposing pay cuts or layoffs of existing state workers

Sec. B.1102 FISCAL YEAR 2012 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:

General fund \$556,500

EXPLANATION: The fiscal year 2011-2012 State/VSEA contract includes the usual provisions for dependent care and tuition reimbursement, and the Department of Human Resources budget depends on the usual contract implementation costs.

Sec. B.1103 FISCAL YEAR 2012 ONE-TIME APPROPRIATION

(a) In fiscal year 2012, there is appropriated to the department of tourism and marketing for the Vermont civil war sesquicentennial commission:

General fund \$50,000

EXPLANATION: For commemorations of the 150th anniversary of the start of the Civil War, and to attract heritage tourism to Vermont.

Sec. C.100 Sec. D.106(c)(1) of No. 156 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(1) ~~\$10,000,000~~ \$9,547,500 is appropriated to the ~~department of buildings and general services for planning and construction of replacement for Vermont State Hospital beds.~~ following agencies and departments for information technology projects:

(A) to the agency of human services to replace legacy technologies to determine eligibility, enroll beneficiaries, and provide benefits in a faster, and more efficient, secure, and accessible way:

\$3,600,000

(B) to the department of corrections to replace outdated components of the offender case management system:

\$2,000,000

(C) to the department of public service for a case management system for electronic tracking, organizing, and utilization of docket files:

\$250,000

(D) to the agency of commerce and community development for an internet-based historic resources digital database:

\$300,000

(E) to the department of finance and management to upgrade the Human Capital Management (HCM) system to process payroll and manage associated employee and financial data and retire the legacy Paradox application; and to upgrade the VISION financial management system to better integrate with HCM and the budget and planning application:

\$3,397,500

EXPLANATION: Lack of progress in replacement of Vermont State Hospital beds permits use of these funds for one-time information technology expenditures, thereby relieving pressure on the capital budget.

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 \$8,622,500 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 \$8,622,500 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 \$3,325,476 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above \$3,325,476 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The \$3,325,476 shall be allocated as follows:

(A) \$2,508,076 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.

EXPLANATION: Appropriations of the Property Transfer Tax (PTT) are level-funded from FY 2011, except that the Vermont Housing and Conservation Trust (HCT) appropriation is according to their statutory share (10 VSA Sec 32, after statutory 1% to Tax for PVR administration – 32 VSA Sec 9610(c)) based on the 1/14/11 consensus PTT revenue forecast, less \$4M (which is separately available to the HCT in the proposed Capital Bill); and the Regional Planning Commission allocation incorporates the on-going \$123,951 reduction incident to the Challenges for Change reduction authorized in 2010 Act 156 Sec. F.14, superseding 2010 Act 68 Sec 9(c)(8).

Sec. D.101 FUND TRANSFERS AND RESERVES

(a) Notwithstanding any provisions of law, the following amounts are transferred from the funds indicated:

(1) from the general fund to the communications and information technology internal service fund established by 22 V.S.A. § 902a: \$1,200,000.

EXPLANATION: This transfer is to fund the grant from DII to the Vermont Telecommunications Authority (VTA) for the purpose of more rapidly improving VTA's infrastructure.

(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.

EXPLANATION: Transportation Fund transfer to the Downtown Transportation and Related Capital Improvement Fund at the same amount as in FY 2011.

(3) from the transportation infrastructure bond fund established by 19 V.S.A. Sec. 11f to the transportation revenue bonds debt service fund for the purpose of funding fiscal year 2013 transportation infrastructure bond debt service: \$990,063.

EXPLANATION: Debt service for the next fiscal year must be fully funded for the transportation infrastructure bond fund to be available for use on projects.

(4) from the DUI Enforcement Special Fund (#21140), established in 23 V.S.A. Sec. 1220a, to the general fund: \$1,500,343

EXPLANATION: Availability of federal National Highway Transportation Safety Administration (NHTSA) funds dedicated to DUI mitigation allows for this transfer to the GF.

(b) The amount of \$29,098,615 is unreserved and made available for expenditure in fiscal year 2012 from the human services caseload reserve created by 32 V.S.A. § 308b.

EXPLANATION: The balance in the Human Services Caseload Reserve is used in the FY 2012 budget to offset upward pressures in the Agency of Human Services.

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 2011 in the tobacco litigation settlement fund shall remain for appropriation in fiscal year 2012.

EXPLANATION: Transfer of Tobacco Litigation Settlement Fund balances to be used for providing health care assistance under the Global Commitment Fund, instead of statutory transfer to the Tobacco Trust Fund. Same language as last year. .

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 2012 and any additional amount necessary to ensure the balance in the tobacco litigation settlement

fund at the close of fiscal year 2012 is not negative, shall be transferred from the tobacco trust fund to the tobacco litigation settlement fund in fiscal year 2012.

EXPLANATION: Transfer of Tobacco Litigation Settlement Fund balances to be used for providing health care assistance under the Global Commitment Fund. Same language as last year, as amended in the FY 2011 Budget Adjustment.

* * * GENERAL GOVERNMENT * * *

Sec. E.101 Information and innovation - communications and information technology

(a) Of this appropriation, \$1,200,000 is for a grant to the Vermont telecommunications authority established in 30 V.S.A. § 8061.

EXPLANATION: The Vermont Telecommunications Authority (VTA) was established to bring about universal cellular and broadband coverage in Vermont through bonding and leveraging private investment. This amount is intended to more rapidly improve VTA's infrastructure.

Sec. E.103 32 V.S.A. Sec. 183 is amended to read:

Sec. 183. Financial and human resource information internal service fund

(a) There is established in the department of finance and management a financial and human resource information internal service fund, to consist of revenues from charges to agencies, departments, and similar units of Vermont state government, and to be available to fund the costs of the division of financial operations in the department of finance and management, and the technical support and services provided by the department of information and innovation for the statewide central accounting and encumbrance, budget development, and human resource management systems. ~~Expenditures shall be managed in accordance with subsection 462(b) of this title.~~

(b) The rate of the charges shall be proposed by the commissioner of finance and management, subject to the approval of the secretary of administration. Proposed rates of charges shall be based upon the cost of operations. ~~The proposed rates to be paid by departments and agencies shall be included in the administration budget recommendations each fiscal year for legislative authorization as part of the budget process. Any changes in rates shall be approved by subsequent legislative action.~~

EXPLANATION: There is no need to single out the financial management internal service fund, since all internal service funds are budgeted and appropriated pursuant to 32 V.S.A. Secs. 462(b) and 307(e) [see below].

Sec. E.103.1 32 V.S.A. Sec. 307(e) is amended to read:

(e) The budget shall also include any proposed expenditures and charges for enterprise and internal service funds to be billed to departmental budgets ~~for payment to the financial management, workers' compensation, and facilities operations internal service funds. Such charges shall be subject to legislative approval. The departments of finance and management and buildings and general services shall include with their annual budget submissions details of any such charges to be made projected by department and the financial case for the proposed changes in charges for the three internal services funds.~~ Expenditures from enterprise and internal service funds shall be managed in accordance with subsection 462(b) of this title.

EXPLANATION: There is no need to single out financial management, workers' compensation, and facilities operations internal service funds, since all internal service funds are budgeted and appropriated pursuant to 32 V.S.A. Sec. 462(b) and this section.

Sec. E.104 3 V.S.A. Sec. 2283 is amended to read:

Sec. 2283. Department of human resources

~~(a) The department of human resources is created in the agency of administration. In addition to other responsibilities assigned to it by law, the department is responsible for the provision of centralized human resources management services for state government, including the administration of a classification and compensation system for state employees under chapter 13 of this title and the performance of duties assigned to the commissioner of human resources under chapter 27 of this title. The department shall administer the human resources functions of the agency of administration in consultation with the agency of administration commissioners and the state librarian. A department~~ All agencies and departments of the agency of administration state which receives receive services of from the consolidated agency human resources unit department shall be charged for those services through an interdepartmental transfer assessment payable to the human resource services internal service fund on a basis established by the commissioner of finance and management in consultation with the commissioner of human resources and with the approval of the secretary of administration.

(b)(1) There is established in the department of human resources a human resource services internal service fund, to consist of revenues from charges to agencies, departments, and similar units of Vermont state government, and to be available to fund the costs of the consolidated human resource services in the department of human resources.

(2) The rate of the charges shall be proposed by the commissioner of human resources, subject to the approval of the secretary of administration. Proposed rates of charges shall be based upon the cost of operations associated with human resource services provided to agencies, departments, and similar units of Vermont state government.

EXPLANATION: Establishes an internal service fund as the source of funding for consolidated human resource services, pursuant to Executive Order 3-51, effective 4/16/10.

Sec. E.107 Tax – administration/collection

(a) Of this appropriation, \$20,000 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.

EXPLANATION: The Tax Department has requested this money be designated for software programming to ensure the CAPTAP system remains up to date.

Sec. E.109 Buildings and general services - engineering

(a) The \$2,428,802 interdepartmental transfer in this appropriation shall be from the general bond fund appropriation in the Capital Appropriations Act of the 2011 session.

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

Sec. E.110 REPEAL

(a) 19 V.S.A. Sec. 41 (funding for rest areas, information centers, and welcome centers) is repealed.

EXPLANATION: Our FY 2012 budget proposal funds rest areas, information centers, and welcome centers with transportation fund, and a small amount of special funds, instead of general fund.

Sec. E.121 29 V.S.A. Sec. 160a is amended to read:

Sec. 160a Facilities operations ~~revolving~~ internal service fund

(a) There is created a facilities operations revolving internal service fund in the department of buildings and general services. The purpose of this fund is to provide for:

* * *

(b) The fund shall consist of:

* * *

(3) Fees paid by departments and agencies including the legislative and judicial branches. The rate of said fees shall be proposed to the legislature by the commissioner of buildings and general services subject to the approval of the secretary of administration. Proposed rates shall be based upon the cost of operations, debt service and depreciation. ~~The fees to be paid by departments and agencies shall be included in the administration budget recommendations each fiscal year for legislative approval as part of the budget process. Any changes in rates shall be approved by subsequent legislative action.~~

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EXPLANATION: 1. The term “revolving” is obsolete; should be “internal service” fund. 2. There is no need to single out the facilities operations internal service fund, since all internal service funds are budgeted and appropriated pursuant to 32 V.S.A. Secs. 462(b) and 307(e) [see above].

Sec. E.127 Joint Fiscal Committee

(a) Notwithstanding 3 V.S.A. Sec. 2222(g) and 22 V.S.A. Sec. 901(6), up to \$127,500 may 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.

EXPLANATION: Provides an exemption from the independent review requirement in 3 V.S.A. Sec. 2222(g), and the DII review and approval requirement in 22 V.S.A. Sec. 901(6) for the Joint Fiscal Committee’s contract with a consultant on health care information technology.

Sec. E.133 Vermont state retirement system

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2012, investment fees shall be paid from the corpus of the fund.

EXPLANATION: Same as in FY 2011, this language allows investment fees to be paid from the fund, instead of from the FY 2012 state contribution charged to the Departments of state government.

Sec. E.141 Lottery commission

(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.

EXPLANATION: Same provisions as in fiscal year 2011.

Sec. E.142 Payments in lieu of taxes

(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.

EXPLANATION: Clarifies that these payments are in addition to and separate from those appropriated elsewhere in the bill for the city of Montpelier and correctional facilities. Standard language.

Sec. E.143 Payments in lieu of taxes - Montpelier

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. § 3709.

EXPLANATION: Clarifies that the Montpelier PILOT payment is to come from the PILOT special fund. Standard language.

Sec. E.144 Payments in lieu of taxes – correctional facilities

(a) Payments in lieu of taxes under this section shall be paid from the pilot special fund under 32 V.S.A. § 3709.

EXPLANATION: Clarifies that the correctional facilities payment is to come from the PILOT special fund. Standard language.

* * * PROTECTION TO PERSONS AND PROPERTY * * *

Sec. E.200 Attorney general

(a) Notwithstanding any other provisions of law, the office of the attorney general, Medicaid fraud and residential abuse unit, is authorized to retain, subject to appropriation, one-half of the state share of any recoveries from Medicaid fraud settlements, excluding interest, that exceed the state share of restitution to the Medicaid program. All such designated additional recoveries 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), \$610,000 is appropriated in Sec. B.200 of this act.

EXPLANATION: In (a), the revenues help cover the cost of this unit in the Attorney General's Office. Revised language is consistent with amendment in FY 2011 Budget Adjustment. In (b), language was included in FY 2011 budget and it should be included in FY 2012 as well. The amount is \$100,000 higher to reflect the position added by the legislature for FY 2011 that is to be paid for out of this fund.

Sec. E.204 Judiciary

(a) For compensation paid from July 1, 2011 to June 30, 2012, 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.

EXPLANATION: Continuation of language for FY 2011 that is in 2010 Act 156 Sec E.204. Judiciary has requested this continuation in FY 2012 to give them needed authority related to judicial branch salaries.

Sec. E. 205 State's Attorneys

(a) In fiscal year 2012, the annual salaries of all state's attorneys shall be reduced by five percent from the salaries which would otherwise be paid under the provisions of 32 V.S.A. § 1183.

EXPLANATION: This language is needed to continue the FY 2011 salary reductions (see 2010 Act 67 Sec 95a) for the State's Attorneys in FY 2012. The State's Attorneys have agreed to continue the reduction in FY 2012.

Sec. E.207 Sheriffs

(a) In fiscal year 2012, 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.

EXPLANATION: This language is needed to continue the FY 2011 salary reductions (see 2010 Act 156 Sec E.207) for the Sheriffs in FY 2012. The Sheriffs have agreed to continue the reduction in FY 2012.

Sec. E.209 Public safety - state police

(a) 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.

(b) 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.

EXPLANATION: (a) and (b) are same as in FY 2011.

Sec. E.212 Public safety - fire safety

(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.

EXPLANATION: Language same as in FY 2011.

Sec. E.214 Public safety - emergency management - radiological emergency response plan

(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.

EXPLANATION: Language same as in FY 2011.

Sec. E.215 Military – administration

(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.

EXPLANATION: Language same as in FY 2011.

Sec. E.219 Military - veterans' affairs

(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.

EXPLANATION: Continued support for Veterans' Affairs programs. Language same as in FY 2011.

Sec. E.220 Center for crime victim services

(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 2012 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).

EXPLANATION: This provision is included because the dedicated revenue stream may be less than forecast and in that case the amount spent on these activities will be reduced to match actual revenues. C CVS requested it be retained.

Sec. E.221 REPEAL

(a) 20 V.S.A. Sec. 2363 (criminal justice training council special fund) is repealed. Upon repeal, balances in the fund shall be transferred to the general fund.

EXPLANATION: The FY 2012 budget replaces special funds with general fund to support the Criminal Justice Training Council (CJTC). Elimination of the CJTC special fund, and amending the language in 13 VSA Sec 7282, so that everything but the victims' compensation portion goes to the general fund, are necessary to effectuate this funding change.

Sec. E.221.1 V.S.A. Title 13 Chapter 223 Subchapter 4 is amended to read:

Subchapter 4. Assessment and Collection of Additional ~~Fees~~ Surcharges

EXPLANATION: We are replacing "fee" with "surcharge", as the definition of "fee" in 32 VSA Sec 602(2)(A) specifies that fees are to pay the costs of specific services or regulatory activity; the "add-ons" in Sec 7282 are more properly called "surcharges".

Sec. E.221.2 REPEAL

(a) 13 V.S.A. Sec. 7281 (statement of legislative intent) is repealed.

EXPLANATION: This section is inaccurate and unnecessary. "Funds collected under this subchapter" include part of the surcharge that goes to the general fund, and is therefore not limited to the victims' assistance and compensation programs. Also, under our FY 2012 budget proposal, the cost of training provided by the criminal justice training council will no longer be supported by funds collected under this subchapter. The portion of the surcharge that goes to the Victims' Compensation Fund and the Victims' Restitution Fund are clearly identified in Sec 7282, and will continue to serve those purposes.

Sec. E.221.3 13 V.S.A. Sec. 7282 is amended to read:

Sec. 7282. ~~Assessment~~ Surcharge

(a) In addition to any penalty or fine imposed by the court or judicial bureau for a criminal offense or any civil penalty imposed for a traffic violation, including any violation of a fish and wildlife statute or regulation, violation of a motor vehicle statute, or violation of any local ordinance relating to the operation of a motor vehicle, except violations relating to seat belts and child restraints and ordinances relating to parking violations, the clerk of the court or judicial bureau shall levy an additional ~~fee~~ surcharge of:

* * *

(5) \$20.50 for any offense or violation committed after June 30, 2001, but before July 1, 2003, of which \$13.50 shall be deposited into a special fund account to be known as the victims' compensation fund, ~~and \$2.00 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(6) For any offense or violation committed after June 30, 2003, but before July 1, 2005, \$21.00, of which \$13.75 shall be deposited into the victims' compensation special fund, ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(7) For any offense or violation committed after June 30, 2005, but before July 1, 2006, \$22.00, of which \$14.75 shall be deposited into the victims' compensation special fund ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(8)(A) For any offense or violation committed after June 30, 2006, but before July 1, 2008, \$26.00, of which \$18.75 shall be deposited in the victims' compensation special fund ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(B) For any offense or violation committed after June 30, 2008, \$36.00, of which \$28.75 shall be deposited in the victims' compensation special fund ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(C) For any offense or violation committed after June 30, 2009, \$41.00, of which \$33.75 shall be deposited in the victims' compensation special fund, ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

* * *

(b) The ~~fees~~ surcharges imposed by this section shall ~~be used for the purposes set out in section 7281 of this title and shall not be waived by the court.~~

(c) SIU Assessment surcharge. ~~Notwithstanding section 7281 of this title and subsection (b) of this section, in~~ In addition to any penalty or fine imposed by the court or judicial bureau for a criminal offense committed after July 1, 2009, the clerk of the court or judicial bureau shall levy an additional ~~fee~~ surcharge of \$100.00 to be deposited ~~with~~ in the general fund, in support of the specialized investigative unit grants board created in 24 V.S.A. § 1940(c), to be and used to pay for ~~staffing for the costs of specialized investigative units.~~

EXPLANATION: The FY 2012 budget replaces special funds with general fund to support the Criminal Justice Training Council (CJTC). Elimination of the CJTC special fund, and amending the language in 13 VSA Sec 7282, so that everything but the victims' compensation portion goes to the general fund, are necessary to effectuate this funding change. We are replacing "fee" with "surcharge", as the definition of "fee" in 32 VSA Sec 602(2)(A) specifies that fees are to pay the costs of specific services or regulatory activity; the "add-ons" in Sec 7282 are more properly called "surcharges". Other corrections to statute are for purposes of consistency and to reflect current operations.

Sec. E.221.4 REPEAL

(a) 13 V.S.A. Sec. 7283 (collection and transmittal) is repealed.

EXPLANATION: This section – having surcharges deposited in the general fund - was enacted before the surcharges in this subchapter were in part directed to the Victims' Compensation Special Fund and the Victims' Restitution Special Fund. Also, Sec 7282 already directs where the surcharges should go; Sec 7283 is not needed.

Sec. E.231 Banking, insurance, securities, and health care administration –health care administration

(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.

EXPLANATION: Annual language that makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.232 Secretary of state

(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(b).

EXPLANATION: Establishes the amount to be transferred in FY 2012 to fund the corporation division from the securities regulation and supervision fund, as authorized by 9 VSA Sec 5613(b).

* * * HUMAN SERVICES * * *

Sec. E.301 Secretary's office – Global Commitment

(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 \$27,726,781 is anticipated to be certified as state matching funds under the Global Commitment as follows:

(1) \$17,066,700 certified state match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with \$23,433,300 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) \$3,774,162 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) \$2,290,874 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) \$2,479,534 certified state match available via the University of Vermont's child health improvement program for quality improvement initiatives for the Medicaid program.

(5) \$2,115,511 certified state match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

EXPLANATION: Annual language (with updated revenue estimates) to establish certified state fund match as defined in the Global Commitment waiver.

Sec. E.301.1 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

(4) "Department" means the department of Vermont health access.

(5) "Gross revenue" means a practicing dentist's gross charges for performing dental and other health care services including any separate charges for drugs, medicines, and other substances administered or provided to a patient as part of the dental or other health care services delivered to the patient. "Gross revenue" also includes any separate charges for prosthetic devices, including dental prostheses, that are part of the dental or other health care services delivered to patients.

(6) "Fund" means the state health care resources fund consisting in part of assessments from health care providers under this subchapter.

(5) (7) "Health care provider" means any hospital, nursing home, intermediate care facility for the mentally retarded, home health agency, practicing dentist, or retail pharmacy.

(6) (8) "Home health agency" means an entity that has received a certificate of need from the state to provide home health services or is certified to provide services pursuant to 42 U.S.C. § 1395x(o).

(7) (9) "Hospital" means a hospital licensed under chapter 43 of Title 18.

(8) (10) "Intermediate Care Facility for the Mentally Retarded" ("ICF/MR") means a facility which provides long-term health related care to residents with mental retardation pursuant to subdivision 1902(a)(31) of the Social Security Act (42 U.S.C. § 1396a(a)(31)).

(11) "Managed care organization" shall have the same meaning as in 18 V.S.A. § 9402(14).

(9) (12) "Mental hospital" or "psychiatric facility" means a hospital as defined in 18 V.S.A. § 1902(1)(B) or (H), but does not include psychiatric units of general hospitals.

(10) (13) "Net operating revenues" means a provider's gross charges less any deductions for bad debts, charity care, contractual allowances, and other payer discounts.

(11) (14) "Nursing home" means a health care facility licensed under chapter 71 of this title.

(12) "Department" means the department of Vermont health access.

(13) (15) "Pharmacy" means a Vermont drug outlet licensed by the Vermont state board of pharmacy pursuant to chapter 36 of Title 26 in which prescription drugs are sold at retail.

(16) "Practicing dentist" means a person, licensed in Vermont, practicing dentistry as defined in 26 V.S.A. § 721.

(14) (17) "Secretary" means the secretary of the agency of human services.

EXPLANATION: Adds definitions for dental practices and managed care organizations as health care providers related to provider assessments.

Sec. E.301.2 33 V.S.A. Sec. 1952(f) is amended to read:

(f)(1) If a health care provider fails to pay its assessments under this subchapter according to the schedule or a variation thereof adopted by the commissioner, the 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 commissioner.

(2) If any managed care organization fails to pay the assessment established in section 1955d of this title within 45 days after notice from the commissioner, the commissioner, or designee, shall notify the commissioner of banking, insurance, securities, and health care administration of the failure to pay. In addition to any other remedy or sanction provided for by law, if the commissioner of banking, insurance, securities, and health care administration finds, after notice and an opportunity to be heard, that the managed care organization has violated this section or any rule or order adopted or issued pursuant to this section, the commissioner of banking, insurance, securities, and health care administration may take any one or more of the following actions:

(A) Assess an administrative penalty on the managed care organization of not more than \$1,000.00 for each violation and not more than \$10,000.00 for each willful violation;

(B) Order the managed care organization to cease and desist in further violations; or

(C) Order the managed care organization to remediate the violation, including the payment of assessments in arrears and payment of interest on assessments in arrears at the rate of 12 percent per annum.

EXPLANATION: Adds language for penalties for late payment of assessments.

Sec. E.301.3 33 V.S.A. Sec. 1955c is added to read:

§ 1955c. Practicing dentist assessment.

Practicing dentists shall be subject to an annual assessment as follows:

(1) Beginning July 1, 2011, each practicing dentist's assessment shall be 3 percent of the dentist's gross revenues from performing dental and other health care services. The amount of the assessment shall be determined annually by the commissioner based on the practicing dentist's gross revenues as reported to the department, on the department's form provided to each practicing dentist, on or before January 1 of each year. The annual assessment for calendar year 2011 shall be based on each practicing dentist's 2010 gross revenue as reported to the department on or before July 30, 2011. Each succeeding year's report will be based upon the prior calendar year's gross revenue as reported to the department on or before January 30.

(2) Each practicing dentist shall be notified in writing by the department of the assessment made pursuant to this section. If a practicing dentist does not submit a request for reconsideration under section 1958 of this title, the assessment shall be considered final.

(3) Each practicing dentist shall submit its assessment to the department according to a payment schedule adopted by the commissioner. Variations in payment schedules shall be permitted as deemed necessary by the commissioner.

(4) Any practicing dentist that fails to make a payment to the department on or before the specified schedule, or under any schedule for delayed payments established by the commissioner, shall be assessed not more than \$1,000.00 in penalties. The commissioner may waive this late payment assessment provided for in this subsection for good cause shown.

EXPLANATION: Makes dentists subject to provider assessment.

Sec. E.301.4 33 V.S.A. Sec. 1955d is added to read:

Sec. 1955d. Managed care organization assessment

(a) Beginning October 1, 2011 and annually thereafter, each managed care organization shall pay an assessment in the amount of 1.33 percent of all health insurance premiums paid to the managed care organization by its Vermont members in the previous fiscal year ending June 30. The annual assessment shall be paid in quarterly installments on October 1, January 1, April 1, and July 1.

EXPLANATION: Defines payment cycle for assessments.

Sec. E.301.5 33 V.S.A. Sec. 1956 is amended to read:

Sec. 1956. PROCEEDS FROM ASSESSMENTS

All assessments, including late-payment assessments, from health care providers ~~and managed care organizations~~ under this subchapter shall be deposited in the state health care resources fund established in section 1901d of this title. No provision of this subchapter shall permit the state to reduce the level of state funds expended on the nursing home Medicaid program in any fiscal year below the level expended in fiscal year 1991 from the general fund for the nursing home Medicaid program.

EXPLANATION: Adds managed care organizations to health care provider proceeds.

Sec. E.301.6 33 V.S.A. Sec. 1953(a) is amended to read:

(a) Hospitals shall be subject to an annual assessment as follows:

(1) 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 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 through September 30, 2011.~~ Beginning October 1, 2011, each hospital's assessment, except for hospitals assessed under subdivision (2) of this subsection, shall be 6.0 percent of its net patient revenues (less chronic, skilled, and swing bed revenues). The annual assessment shall be based on data from a hospital's most recent ~~full budgeted~~ 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 through September 30, 2011, 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. The annual assessment shall be based on data from the mental hospital's or psychiatric facility's most recent full fiscal year for which data has been provided to the department of Vermont health access. Beginning October 1, 2011, each mental hospital or psychiatric facility assessment shall be 6.0 percent.

EXPLANATION: Amends hospital and mental hospital and psychiatric facility assessments to reflect the expiration of the federal sunset and the revenue needs for the 2012 budget proposal.

Sec. E.301.7 33 V.S.A. Sec. 1954(a) is amended to read:

(a) Beginning July 1, ~~2007~~ 2011, each nursing home's annual assessment shall be ~~\$4,322.90~~ \$4,509.57, and beginning ~~January 1, 2008, \$3,962.66~~ October 1, 2011, \$4,919.53 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 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.

EXPLANATION: Amends nursing home assessments to reflect the expiration of the federal sunset and the revenue needs for the 2012 budget proposal.

Sec. E.301.8 33 V.S.A. Sec. 1955(a) is amended to read:

(a) Beginning January 1, 2008, each ICF/MR's annual assessment shall be 5.5 percent of the ICF/MR's total annual direct and indirect expenses for the most recently settled ICF/MR audit. Beginning October 1, 2011, each ICF/MR's annual assessment shall be 6.0 percent of the ICF/MR's total annual direct and indirect expenses for the most recently settled ICF/MR audit.

EXPLANATION: Amends ICF/MR assessments to reflect the expiration of the federal sunset and the revenue needs for the 2012 budget proposal.

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 2012 as 100 percent of each program's final per diem rate in effect on June 30, 2011. 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 their 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 2012.

(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 2012 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, 2011. 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 2012, 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 2012 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 2012.

(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.

(B) Adjustments to rates based on changes in licensed capacity. Programs that increase or decrease licensed capacity in state fiscal year 2012 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 2012, programs must have prior written approval from the PADs before applying to the division for an adjustment to the state fiscal year 2012 per diem rate.

(I) The allowable budget amount for state fiscal year 2012 may be no more than the final approved budget for the rate year which includes June 30, 2011.

(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 2012, 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, 2011.

(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.

EXPLANATION: Language needed to level fund PNMI providers; similar language was included last year.

Sec. E.306 Department of Vermont health access – administration

(a) The establishment of one (1) new classified position – Palliative Care Nurse Manager – is authorized in fiscal year 2012.

EXPLANATION: The position is needed to implement the legislative initiative on palliative care services.

Sec. E.306.1 3 V.S.A. Sec. 3051 is amended to read:

Sec. 3051. Commissioners; deputy commissioners; appointment; term

(a) The secretary, with the approval of the governor, shall appoint a commissioner of each department, who shall be the chief executive and administrative officer and shall serve at the pleasure of the secretary.

(b) For the department of health, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

(1) public health;

(2) substance abuse.

(c) For the department for children and families, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

(1) economic services;

(2) child development;

(3) family services.

(d) For the department of Vermont health access, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

(1) Medicaid health services and managed care;

(2) Medicaid policy, fiscal and support services;

(3) health care reform.

(e) Deputy commissioners shall be exempt from the classified service. Their appointments shall be in writing and shall be filed in the office of the secretary of state.

EXPLANATION: The Office of Vermont Health Access became a Department in 2010 Act 156 Secs I.1 to I.79, and its head changed from Director to Commissioner. The three (exempt) Division Directors should correspondingly be changed to Deputy Commissioners.

Sec. E.306.2 32 V.S.A. Sec. 10301 is amended to read:
§ 10301. Health IT-fund

* * *

(g) The secretary of administration or his or her designee shall submit an annual report on the receipts, expenditures, and balances in the health IT-fund to the joint fiscal committee at its September meeting and to the commission on health care reform by October 1. The report shall include information on the results of an annual ~~independent~~ study of the effectiveness of programs and initiatives funded through the health IT-fund, with reference to a baseline, benchmarks, and other measures for monitoring progress and including data on return on investments made.

* * *

EXPLANATION: When the Health IT Fund was originally created, there was no Division of Health Care Reform at the Department of Vermont Health Access (DVHA) with responsibility for oversight and coordination of state health information technology policy, planning, and implementation., so it made sense to have an independent evaluator; there was not a place in state government to perform the function. However, with enactment of 18 V.S.A. Sec. 9351 (health information technology plan), DVHA has the infrastructure to complete this work internally without incurring the \$25,000 annual cost of an external entity doing the work. The baseline has been established by the independent study completed last year, with benchmarks and other measures for monitoring progress established that can now be completed by DVHA staff going forward.

Sec. E.307 VERMONT HEALTH ACCESS PLAN; WAIVER AMENDMENT

(a) The commissioner of Vermont health access shall seek an amendment to the Global Commitment to Health Section 1115 waiver (Global Commitment) to provide:

(1) health coverage for individuals with incomes at or below 300 percent of the federal poverty level (FPL) in the Vermont health access plan (VHAP) established in 33 V.S.A. Sec. 1973, as amended, and as provided for in subsection (c) of this section;

(2) health coverage for individuals with incomes at or below 300 percent of FPL in the employer-sponsored insurance program established in 33 V.S.A. Sec. 1974, as amended;

(3) health coverage for individuals with incomes over 300 percent of FPL in VHAP at the full per member per month cost as provided for in subsection (d) of this section; and

(4) a process for transferring current subscribers of Catamount Health and Catamount Health Assistance to VHAP without applying the 12 month waiting period. For individuals who transfer from Catamount Health Assistance to VHAP, the premiums shall be set as provided for in **Sec. E.307.4** of this act, which reflect the most recent, actual premiums paid by individuals.

(b) If necessary, the commissioner shall seek an amendment to Global Commitment to allow college students to be eligible for VHAP to the same extent as college students are currently eligible for Catamount Health. If a waiver amendment is not required by the Centers for Medicare and Medicaid Services (CMS), the commissioner shall amend the rules for VHAP to make this eligibility change.

(c) The commissioner shall create by rule a deductible of \$1,200.00 per month in VHAP for individuals with incomes greater than 150 percent of FPL who do not have children and for parents of minor children with incomes greater than 185 percent of FPL.

(d)(1) The commissioner shall create by rule a process for individuals with incomes over 300 percent of FPL to purchase VHAP at full per member per month cost.

(2) For individuals purchasing VHAP at full per member per month cost, there shall be a \$1,200.00 deductible for health services. The cost-sharing shall be the same as currently provided for by rule for individuals with incomes at or below 150 percent of FPL.

EXPLANATION: Language to incorporate Catamount into the VHAP program.

Sec. E.307.1 33 V.S.A. Sec. 1973 is amended to read:
Sec. 1973. Vermont health access plan

* * *

(d) ~~An individual who has been enrolled in Catamount Health, with or without premium assistance, shall not be subject to a 12-month waiting period before becoming eligible for the Vermont health access plan.~~

(e) An individual who is or becomes eligible for Medicare shall not be eligible for the Vermont health access plan.

(f) (e) For purposes of this section, "uninsured" means:

* * *

(4) ~~Notwithstanding any other provision of law, when an individual is enrolled in Catamount Health solely under the high deductible standard outlined in 8 V.S.A. § 4080f(a)(9), the individual shall not be eligible for the Vermont health access plan for the 12-month period following the date of enrollment in Catamount Health.~~

EXPLANATION: Language to incorporate Catamount into the VHAP program; existing Catamount provisions no longer applicable.

Sec. E.307.2 33 V.S.A. Sec. 1974 is amended to read:

Sec. 1974. Employer-sponsored insurance, premium assistance

(a) No later than October 1, 2007, subject to approval by the Centers for Medicare and Medicaid Services, the agency of human services shall establish a premium assistance program to assist individuals eligible for or enrolled in the Vermont health access plan ~~and uninsured individuals with incomes under 300 percent of the federal poverty guidelines and their dependents~~ to purchase an approved employer-sponsored insurance plan if offered to those individuals by an employer. The agency shall determine whether to include children who are eligible for Medicaid or Dr. Dynasaur in the premium assistance program at their parent's option. The agency shall not mandate participation of children in employer-sponsored insurance.

(b) VHAP-eligible premium assistance for individuals with lower incomes.

(1) For individuals enrolled in or who apply for enrollment in the Vermont health access plan on or after October 1, 2007 who have access to an approved employer-sponsored insurance plan and who have income at or below 150 percent of the federal poverty level for adults without children or at or below 185 percent of FPL for parents with minor children, the premium assistance program shall provide:

(A) A subsidy of premiums or cost-sharing amounts based on the household income of the eligible individual to ensure that the individual is obligated to make out-of-pocket expenditures for premiums and cost-sharing amounts which are substantially equivalent to or less than the premium and cost-sharing obligations on an annual basis under the Vermont health access plan.

(B) Supplemental benefit coverage equivalent to the benefits offered by the Vermont health access plan.

* * *

~~(3) The agency shall determine whether it is cost effective to the state to enroll an individual in an approved employer-sponsored insurance plan with the premium assistance under this subsection as compared to enrolling the individual in the Vermont health access plan. If the agency determines that it is cost effective, the individual shall be required to enroll in the approved employer-sponsored plan as a condition of continued assistance under this section or coverage under the Vermont health access plan, except that dependents who are children of eligible individuals shall not be required to enroll in the premium assistance program. Notwithstanding this requirement, an individual shall be provided benefits under the Vermont health access plan until the next open enrollment period offered by the employer or insurer. The agency shall not consider the medical history, medical conditions, or claims history of any individual for whom cost effectiveness is being evaluated.~~

~~(4) An individual who is or becomes eligible for Medicare shall not be eligible for premium assistance under this subsection.~~

~~(5) Decisions regarding plan approval and cost effectiveness are matters fully within the agency's discretion. On appeal pursuant to 3 V.S.A. § 3091, the human services board may overturn the agency's decision only if it is arbitrary or unreasonable.~~

~~(6) Notwithstanding any other provision of law, when an individual is enrolled in Catamount Health solely under the high deductible standard outlined in 8 V.S.A. § 4080f(a)(9), the individual shall not be eligible for premium assistance for the 12-month period following the date of enrollment in Catamount Health.~~

(c) ~~Uninsured individuals;~~ premium assistance VHAP-eligible premium assistance for individuals with higher incomes.

(1) ~~For the purposes of this subsection:~~

(A) ~~"Chronic care" means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, and prevent complications related to chronic conditions. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, mental illness, spinal cord injury, and hyperlipidemia.~~

(B) "Uninsured" means an individual who does not qualify for Medicare, Medicaid, the Vermont health access plan, or Dr. Dynasaur and had no private insurance or employer-sponsored coverage that includes both hospital and physician services within 12 months prior to the month of application, or lost private insurance or employer-sponsored coverage during the prior 12 months for the following reasons:

(i) the individual's private insurance or employer-sponsored coverage ended because of:

(I) loss of employment, including a reduction in hours that results in ineligibility for employer-sponsored coverage, unless the employer has terminated its employees or reduced their hours for the primary purpose of discontinuing employer-sponsored coverage and establishing their eligibility for Catamount Health;

(II) death of the principal insurance policyholder;

(III) divorce or dissolution of a civil union;

(IV) no longer receiving coverage as a dependent under the plan of a parent or caretaker relative; or

(V) no longer receiving COBRA, VIPER, or other state continuation coverage.

(ii) College or university-sponsored health insurance became unavailable to the individual because the individual graduated, took a leave of absence, decreased enrollment below a threshold set for continued coverage, or otherwise terminated studies.

(iii)(I) The individual lost health insurance as a result of domestic violence. The individual shall provide the agency of human services with satisfactory documentation of the domestic violence. The documentation may include a sworn statement from the individual attesting to the abuse, law enforcement or court records, or other documentation from an attorney or legal advisor, member of the clergy, or health care provider, as defined in 18 V.S.A. § 9402. Information relating to the domestic violence, including the individual's statement and corroborating evidence, provided to the agency shall not be disclosed by the agency unless the individual has signed a consent to disclose form. In the event the agency is legally required to release this information without consent of the individual, the agency shall notify the individual at the time the notice or request for release of information is received by the agency and prior to releasing the requested information.

(II) Subdivision (I) of this subdivision (B)(iii) shall take effect upon issuance by the Centers for Medicare and Medicaid Services of approval of an amendment to the waiver set forth in subsection (f) of this section allowing for a domestic violence exception to the premium assistance program waiting period.

(C) "Vermont resident" means an individual domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent.

(2) An individual is eligible for premium assistance under this subsection if the individual:

(A) is an uninsured Vermont resident;

(B) has income less than or equal to 300 percent of the federal poverty level;

(C) has access to an approved employer-sponsored insurance plan; and

(D) is 18 or over and is not claimed on a tax return as a dependent of a resident of another state.

(3) The premium assistance program under this subsection. For individuals enrolled in or who apply for enrollment in the Vermont health access plan on or after October 1, 2011 who have access to an approved employer-sponsored insurance plan and have incomes over 150 percent of the federal poverty level (FPL) for adults without children and over 185 percent of FPL for parents with minor children, the premium assistance program shall provide a subsidy of premiums or cost-sharing amounts based on the household income of the eligible individual, with greater amounts of financial assistance provided to eligible individuals with lower household income and lesser amounts of assistance provided to eligible individuals with higher household income. Until an approved employer-sponsored plan is required to meet the standard in subdivision

(4)(B)(ii) of this subsection (e) of this section, the subsidy shall include premium assistance and assistance to cover cost-sharing amounts for chronic care health services covered by the Vermont health access plan that are related to evidence-based guidelines for ongoing prevention and clinical management of the chronic condition specified in the blueprint for health in 18 V.S.A. § 702. Notwithstanding any other provision of law, when an individual is enrolled in Catamount Health solely under the high deductible standard outlined in 8 V.S.A. § 4080f(a)(9), the individual shall not be eligible for premium assistance for the 12-month period following the date of enrollment in Catamount Health.

(4) (2) In consultation with the department of banking, insurance, securities, and health care administration, the agency shall develop criteria for approving employer-sponsored health insurance plans to ensure the plans provide comprehensive and affordable health insurance when combined with the assistance under this section. At minimum, an approved employer-sponsored insurance plan shall include:

(A) covered benefits to be substantially similar, as determined by the agency, to the benefits covered under Catamount Health coverage for the following services:

(i) Physician visits;

- (ii) Inpatient care;
- (iii) Outpatient services, including diagnostics, physical therapy, and surgery;
- (iv) Prescription drugs;
- (v) Emergency room services;
- (vi) Ambulance services;
- (vii) Mental health and substance abuse treatment;
- (viii) Medical equipment and supplies; and
- (ix) Maternity care; and

(B) (i) ~~until January 1, 2009 or when statewide participation in the Vermont blueprint for health is achieved,~~ appropriate coverage of chronic conditions in a manner consistent with statewide participation by health insurers in the Vermont blueprint for health, and in accordance with the standards established in 18 V.S.A. § 702;

~~(ii) after statewide participation is achieved, coverage of chronic conditions substantially similar to Catamount Health.~~

~~(5) The agency shall determine whether it is cost effective to the state to require the individual to purchase the approved employer sponsored insurance plan with premium assistance under this subsection instead of Catamount Health established in 8 V.S.A. § 4080f with assistance under subchapter 3a of chapter 19 of this title. If providing the individual with assistance to purchase Catamount Health is more cost effective to the state than providing the individual with premium assistance to purchase the individual's approved employer sponsored plan, the state shall provide the individual the option of purchasing Catamount Health with assistance for that product. An individual may purchase Catamount Health and receive Catamount Health assistance until the approved employer-sponsored plan has an open enrollment period, but the individual shall be required to enroll in the approved employer-sponsored plan in order to continue to receive any assistance. The agency shall not consider the medical history, medical conditions, or claims history of any individual for whom cost effectiveness is being evaluated.~~

~~(6) Decisions regarding plan approval and cost effectiveness are matters fully within the agency's discretion. On appeal pursuant to 3 V.S.A. § 3091, the human services board may overturn the agency's decision only if it is arbitrary or unreasonable.~~

~~(d)(1) Participation in an approved employer-sponsored insurance plan with premium assistance under this section or Catamount Health shall not disqualify an individual from the Vermont health access plan if an approved employer-sponsored insurance plan or Catamount Health is no longer available to that individual.~~

(2) An individual who has been enrolled in Medicaid, VHAP, Dr. Dynasaur, or any other health benefit plan authorized under Title XIX or Title XX of the Social Security Act shall not be subject to a 12-month waiting period before becoming eligible for premium assistance to purchase an approved employer-sponsored insurance plan.

~~(3) Enrollment in Catamount Health, with or without premium assistance, shall not disqualify an individual for premium assistance in connection with an approved employer-sponsored insurance plan.~~

~~(e) If the emergency board determines that the funds appropriated for either of the premium assistance programs under this section are insufficient to meet the projected costs of enrolling new program participants into the appropriate program, the emergency board shall suspend new enrollment in that program or restrict enrollment to eligible lower income individuals. This subsection does not affect eligibility for the Vermont health access plan or purchase of Catamount Health. The agency shall determine whether it is cost-effective to the state to enroll an individual in an approved employer-sponsored insurance plan with the premium assistance under this section as compared to enrolling the individual in the Vermont health access plan. If the agency determines that it is cost-effective, the individual shall be required to enroll in the approved employer-sponsored plan as a condition of continued assistance under this section or coverage under the Vermont health access plan, except that dependents who are children of eligible individuals shall not be required to enroll in the premium assistance program. Notwithstanding this requirement, an individual shall be provided benefits under the Vermont health access plan until the next open enrollment period offered by the employer. Insurers shall provide an open enrollment period as provided for in 8 V.S.A. Sec. 4080. The agency shall not consider the medical history, medical conditions, or claims history of any individual for whom cost-effectiveness is being evaluated.~~

~~(f) The agency of human services shall request federal approval for an amendment to the Global Commitment for Health Medicaid Section 1115 waiver for the premium assistance program authorized by this section. An individual who is or becomes eligible for Medicare shall not be eligible for premium assistance under this section.~~

~~(g)(1) Of the amount appropriated in No. 215 of the Act of the 2005 Adj. Sess. (2006) for the employer-sponsored insurance premium assistance program established by this section, no more than \$250,000.00 may be expended for start-up and initial administrative expenses until the report as required by subdivision (2) of this subsection has been received and approved.~~

(2) No additional amounts appropriated in No. 215 of the Act of the 2005 Adj. Sess. (2006) for the employer-sponsored premium assistance program may be made after November 15, 2006 without approval of a majority of the combined membership of the joint fiscal committee and the health access oversight committee at a joint meeting upon receipt of a report from the agency, which must include the following:

(A) a plan for the additional expenditures;

(B) a survey to determine whether and how many individuals currently enrolled in VHAP, including those eligible as caretakers, are potentially eligible for employer-sponsored premium assistance under this section;

(C) the sliding scale premium and cost sharing assistance amounts provided under the premium assistance program to individuals;

(D) a description and estimate of benefits offered by the Vermont health access plan that are likely to be provided as supplemental benefits for the employer-sponsored premium assistance program enrollees;

(E) a plan for covering dependent children through the premium assistance program; and

(F) the anticipated budgetary impact of an employer-sponsored insurance premium assistance program for fiscal year 2008, including savings attributable to enrolling current VHAP enrollees in the premium assistance program established under this section, the start up and administrative costs of the program, and the cost of providing the subsidy to these enrollees.

Decisions regarding plan approval and cost-effectiveness are matters fully within the agency's discretion. On appeal pursuant to 3 V.S.A. Sec. 3091, the human services board may overturn the agency's decision only if it is arbitrary or unreasonable.

(h) The agency shall report monthly to the joint fiscal committee, the health access oversight committee, and the commission on health care reform with the number of individuals enrolled in the premium assistance program; and the income levels of the individuals, a description of the range and types of employer-sponsored plans that have been approved, the percentage of premium and cost sharing amounts paid by employers whose employees participate in the premium assistance program, and the net savings or cost of the program.

(i) The health access oversight committee shall monitor the development, implementation, and ongoing operation of the employer-sponsored premium assistance program under this section.

(j) The premium contributions for individuals shall be as follows:

(1) Monthly premiums for each individual who is eligible for premium assistance under subsection (b) of this section shall be the same as charged in the Vermont health access plan.

(2) Monthly premiums for each individual who is not eligible for the Vermont health access plan shall be the same as the premiums established in subsections 1984(b) and (c) of this title.

EXPLANATION: Language to incorporate Catamount into the VHAP program.

Sec. E.307.3 EMPLOYER-SPONSORED INSURANCE; COMPARISON

(a) The commissioner of Vermont health access shall modify the deductible amount from \$500.00 to \$1,200.00 per individual for the benefits comparison in the employer-sponsored insurance program for individuals with incomes over 150 percent of the federal poverty level for adults without children or with incomes over 185 percent of the federal poverty level for parents with minor children as provided for in 33 V.S.A. Sec.1974.

EXPLANATION: Language to incorporate Catamount into the VHAP program; increase in the deductible for higher-income participants.

Sec. E.307.4 Sec. 147(d) of No. 66 of the Acts of 2003, as amended by Sec. 129 of No. 122 of the Acts of the 2003 Adj. Sess. (2004), Sec. 279 of No. 71 of the Acts of 2005, and Sec. 11 of No. 191 of the Acts of 2005 (Adj. Sess.), is further amended to read:

(d) VHAP, ~~premium-based~~ and employer-sponsored insurance premium assistance.

* * *

(2) The agency shall establish per individual premiums for ~~the VHAP Uninsured program~~ for the following brackets of income ~~for the VHAP group~~ as a percentage of federal poverty level (FPL):

(A) Income greater than 50 percent and less than or equal to 75 percent of FPL: \$7.00 per month.

(B) Income greater than 75 percent and less than or equal to 100 percent of FPL: \$25.00 per month.

(C) Income greater than 100 percent and less than or equal to 150 percent of FPL: \$33.00 per month.

(D) ~~Income~~ For parents with minor children, income greater than 150 percent and less than or equal to 185 percent of FPL: \$49.00 per month.

(E) Except as provided for in (D), income greater than 150 percent and less than or equal to 200 percent of FPL: \$60.00 per month.

(F) Income greater than 200 percent and less than or equal to 225 percent of FPL: \$124.00 per month.

(G) Income greater than 225 percent and less than or equal to 250 percent of FPL: \$152.00 per month.

(H) Income greater than 250 percent and less than or equal to 275 percent of FPL: \$180.00 per month.

(I) Income greater than 275 percent and less than or equal to 300 percent of FPL: \$208.00 per month.

(J) Income greater than 300 percent of FPL: the full per member per month cost.

EXPLANATION: Language to incorporate Catamount into the VHAP program; setting member premiums for new VHAP eligibility categories.

Sec. E.307.5 21 V.S.A. Sec. 2003 is amended to read:

Sec. 2003. Health care fund contribution assessment

* * *

(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~~ the per member per month amount in the Vermont health access plan for that fiscal year; provided, however, that to the extent that ~~Catamount Health~~ the Vermont health access 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.

* * *

(d) Revenues from the health care fund contributions collected shall be deposited into the ~~Catamount Fund~~ state health care resources fund established under 33 V.S.A. Sec. ~~1984~~ 1901d for the purpose of financing health care coverage ~~under Catamount Health Assistance~~, as provided under ~~subchapter 3a of chapter 19 of Title 33.~~

EXPLANATION: Language to incorporate Catamount into the VHAP program; shifts revenues from employer assessment from Catamount Fund to State Health Care Resources Fund.

Sec. E.307.6 33 V.S.A. Sec. 1901d(b)(1) is amended to read:

(1) all revenue from the tobacco products tax and ~~84.5 percent of the revenue~~ from the cigarette tax levied pursuant to chapter 205 of Title 32;

EXPLANATION: Language to incorporate Catamount into the VHAP program; shifts revenues from cigarette tax from Catamount Fund to State Health Care Resources Fund.

Sec. E.307.7 FUND TRANSFER

(a) Any funds remaining in the Catamount Fund after the termination of Catamount Health Assistance shall be transferred to the state health care resources fund.

EXPLANATION: Language to incorporate Catamount into the VHAP program.

Sec. E.307.8 EMERGENCY RULES

(a) In order to administer **Secs. E.307 – E.307.5** of this act relating to consolidating Catamount Health and Catamount Health Assistance into the Vermont health access program, 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. Sec. 844(a).

EXPLANATION: Language to incorporate Catamount into the VHAP program; provides emergency rules to implement the transfer.

Sec. E.307.9 REPEAL

33 V.S.A. chapter 19, subchapter 3a (Catamount Health Assistance) and 8 V.S.A. Sec. 4080f (Catamount Health) are repealed on September 30, 2011 for the purposes of enrolling new individuals. The agency may continue to operate the Catamount Health and Catamount Health Assistance until the individuals enrolled in those programs transition to the Vermont health access plan or terminate their participation.

EXPLANATION: Language to incorporate Catamount into the VHAP program.

Sec. E.307.10 EFFECTIVE DATES

(a) Secs. E.307.1 – E.307.7 (Catamount Health and VHAP related changes) of this act shall become effective on October 1, 2011 or upon completion of the rules provided for in Sec. E.307.8, whichever is later.

(b) Secs. E.307 (Waiver), E.307.8 (Emergency Rules for VHAP), E.307.9 (Repeals) and this section shall become effective upon passage.

EXPLANATION: Language to incorporate Catamount into the VHAP program.

Sec.E.307.11 REPEAL

(a) Sec. 22 of No. 61 of the Acts of 2009 (global commitment waiver amendments; rulemaking) is repealed.

EXPLANATION: Deletes the requirement to allow depreciation in determining waiver-program eligibility. The legislature has not appropriated funds for this initiative and CMS will not approve the waiver unless it is fully funded.

Sec. E.307.12 REPEAL

(a) Sec 2(c) of No. 71 of the Acts of 2007, as amended by Sec. 5.903 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) and Sec. 103 of No. 4 of the Acts of 2009 (VHAP payment beginning with date of application) is repealed.

EXPLANATION: Funds are not available to provide for retroactive VHAP eligibility, so statutory intent is repealed.

Sec. E.308 FISCAL YEAR 2012 NURSING HOME RATE SETTING

(a) Notwithstanding any other provisions of law, the division of rate setting shall maintain the decrease by one-half in 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 (PA 1). The decrease by one-half in these case-mix weights shall be maintained in each facility's average case-mix score for Medicaid residents from picture dates in the January 2010, April 2010 and July 2010 quarters, which were used to set the July 2010, October 2010 and January 2011 rates.

EXPLANATION: Language needed to maintain case-mix score adjustments from FY 2011.

Sec. E.309 STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP) AND MEDICAID PROGRAMS COVERING CHILDREN PREMIUM GRACE PERIOD

(a) Notwithstanding any other provisions of law, effective beginning fiscal year 2012 and continuing thereafter , the commissioner shall make such changes in the billing and collection process as are necessary to achieve state compliance with the premium grace period and notice requirements of section 504 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) (42 U.S.C. § 1397cc(e)(3)(C)). These changes shall:

(1) Afford individuals enrolled in the state's SCHIP and Medicaid programs covering children, a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before coverage may be terminated. The new coverage period will begin the month immediately following the last month for which a premium was paid.

(2) Inform SCHIP and Medicaid programs covering children enrollees, not later than seven days after the first day of such grace period provided under subdivision (1) of this subsection:

(A) that failure to make a required premium payment within the grace period will result in termination of coverage; and

(B) of the individual's right to challenge the proposed termination pursuant to applicable rules.

(3) Provide this same grace period and notice as provided under this subsection for each coverage period for which a premium has not been received.

EXPLANATION: The Affordable Care Act (ACA) has a provision under CHIPRA which allows a grace period for payment of premiums. This language brings VT into compliance of the federal rule and is needed for the continuance of federal funding. The language applies the same grace period to Medicaid programs covering children; the result is that all children under the marketing brand "Dr. Dynasaur" will be subject to the same grace period.

Sec. E.312 Health - public health

(a) AIDS/HIV funding:

(1) In fiscal year 2012 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 2012 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 2012, 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 2012 shall consist of the \$694,000 in tobacco funds and \$302,507 in Global Commitment funds appropriated in Sec. B.312 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.

EXPLANATION: Annual language. Distribution to AIDS service organizations is unchanged from last year. Carryforward of \$140,000 dating back to FY 2009 is expected to be used in FY 2012. Tobacco program language reflects FY 2012 Governor's Recommend appropriation.

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

(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)(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 (b)(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.

EXPLANATION: Annual language affirms the department's policy for utilization of ADAP's preferred provider network. The more efficient use of the system allows the department to serve more applicants.

Sec. E.316 Department for children and families – administration and support services

(a) The establishment of three (3) new classified positions – benefit program specialist - is authorized in fiscal year 2012.

One of those positions is authorized to work only 1040 hours in fiscal year 2012.

EXPLANATION: The staffing is needed to process applications for the Catamount to VHAP initiative.

Sec. E.323 33 V.S.A. Sec. 1121 is amended to read:

Sec. 1121. Authorization to segregate state funds and create separate state and solely state-funded programs

* * *

(g) To maximize the state's ability to support solely state funded programs and to ensure equal treatment of Reach Up families receiving retroactive payments from the Social Security Administration (SSA), any Reach Up family receiving state-funded financial assistance and including a member who has a pending SSI/AABD application, or who is being referred by the department to the SSA to apply for SSI/AABD, must sign a Recovery of Financial Assistance Agreement authorizing SSA to send the initial SSI/AABD payment to the department. From the retroactive SSI/AABD payment the department shall deduct, as reimbursement, an amount equal to the Reach Up financial assistance paid to the family for the needs of the SSI recipient during the period(s) in which the family received state-funded Reach Up financial assistance. The deducted reimbursement shall be for no more than the prorated portion of Reach Up assistance provided for those members included in the SSI/AABD grant. The department shall send any remainder due to the SSI/AABD recipient within 10 days.

(h) In furtherance of the policy goals of this section and in order to establish an excess of maintenance-of-effort state funds, the commissioner shall maximize maintenance-of-effort state funds in the reports to the U.S. Administration for Children and Families.

EXPLANATION: Language permits DCF to recoup a portion of past Reach Up payments if an applicant for Supplemental Security Income and Aid to Aged, Blind, and Disabled is deemed eligible for SSI/AABD and receives retroactive SSI/AABD payments. DCF may recoup that portion of the Reach Up benefits attributable to the applicant during the period in which both Reach Up and SSI/AABD payments were made.

Sec. E.324 Department for children and families – home heating fuel assistance/LIHEAP

(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.

EXPLANATION: Annual language; same amount as FY 2011 As Passed.

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, 2011, 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 2011–2012 crisis set-aside and for seasonal home heating fuel assistance through December 31, 2011, and if LIHEAP funds awarded as of December 31, 2011, for fiscal year 2012 do not exceed \$2,550,000, subsequent payments under the home heating fuel assistance program shall not be made prior to January 30, 2012. 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, 2011, the commissioner of finance and management may anticipate receipts into the home weatherization assistance trust fund.

EXPLANATION: Annual language to authorize a transfer from the Weatherization Trust Fund if Congress fails to appropriate LIHEAP funds timely. The language allows DCF to issue partial fuel assistance benefits until the legislature reconvenes.

Sec. E.325 Department for children and families – office of economic opportunity

(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.

EXPLANATION: Annual language; same amount as FY 2011 As Passed.

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

(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. Sec. 305a.

EXPLANATION: Annual language to affirm spending for home heating equipment (same amount as last year) and to avoid overspending of the revenues.

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.

EXPLANATION: Language repeated from FY 2011 As Passed; legislative initiative to reflect Veterans' Home unique resident requirements.

Sec. E.330 Disabilities, aging, and independent living - advocacy and independent living

(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 2011.

EXPLANATION: Language repeated from FY 2011 As Passed.

Sec. E.330.1 EXPEDITED RULES; LONG-TERM CARE, AND DISABILITIES, AGING AND INDEPENDENT LIVING

(a) In order to administer the provisions of this act in Sections B.308, B.330, and B.333, relating to the changes in Choices for Care 1115 Medicaid Waiver Programs, Attendant Services Programs, Developmental Disabilities Services Waiver Program, notwithstanding the provisions of 3 V.S.A. chapter 25, the department of disabilities, aging and independent living shall adopt rules pursuant to the following:

(1) The commissioner shall file final proposed rules with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841, after publication, in three daily newspapers with the highest average circulation in the state, of a notice that lists the rules to be adopted pursuant to this process and a seven-day public comment period following publication.

(2) The commissioner shall file final proposed rules with the legislative committee on administrative rules no later than 28 days after the effective date of this act.

(3) The legislative committee on administrative rules shall review, and may approve or object to, the final proposed rules under 3 V.S.A. § 842, except that its action shall be completed no later than 14 days after the final proposed rules are filed with the committee.

(4) The commissioner may adopt a properly filed final proposed rule after the passage of 14 days from the date of filing final proposed rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the secretary:

(A) has not received a notice of objection from the legislative committee on administrative rules; or

(B) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(5) Rules adopted under this section shall be effective upon being filed with the secretary of state and shall have the full force and effect of rules adopted pursuant to 3 V.S.A. chapter 25. Rules filed by the commissioner of disabilities, aging and independent living with the secretary of state pursuant to this section shall be deemed to be in full compliance with 3 V.S.A. § 843, and shall be accepted by the secretary of state if filed with a certification by the commissioner of disabilities, aging and independent living that the rule is required to meet the purposes of this section.

EXPLANATION: Expedited rule-making authority is necessary to implement provisions of the Governor's Recommended budget in DAIL and DVHA-Long Term Care.

Sec. E.337 REPEAL

(a) 28 V.S.A. Sec. 120(g) (annual budget: appropriation to the department of corrections based on full-time equivalent students times statewide per pupil spending) is repealed.

EXPLANATION: Repeal allows the Corrections department to spend the appropriated funds as compared to statutory language mandating appropriations at the statewide per pupil spending. Statutory language has been "notwithstanding" for many years and should now be repealed.

Sec. E. 338 Corrections – correctional services

(a) The establishment of fourteen (14) new classified positions - Correctional Officer I –is authorized in fiscal year 2012 to accommodate the expansion of the Caledonia Community Work Camp (2 positions), implementation of video arrangement at correctional facilities (4 positions), and the conversion of temporary Correctional Officer I to full-time classified positions (8 positions).

EXPLANATION: Language authorizes creation of additional positions, consistent with the Governor's Recommended budget for the Department of Corrections.

Sec. E. 339 Correctional services – out of state beds

(a) The level of funding in this appropriation is contingent upon enactment of separate legislation related to reduced incarceration of specified non-violent misdemeanants.

EXPLANATION: The amount appropriated in this appropriation reflects the proposed initiatives to reduce incarceration of non-violent misdemeanants. The Department of Corrections will request separate legislation that identifies the specific initiatives and required statutory changes.

Sec. E.342 Vermont veterans' home – care and support services

(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.

EXPLANATION: (a) Ensures that if Global Commitment funds are not available the full appropriation will be met through General Funds. (b) Annual language that makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

* * * LABOR * * *

Sec. E.401 Labor - programs

(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.

EXPLANATION: Language allows the Labor Department greater flexibility in distributing grants to the Workforce Investment Boards. Provides grants on a competitive basis instead of an equal distribution, to target funds where they are most productive. Same as in FY 2011.

* * * K-12 EDUCATION * * *

Sec. E.500 Education – finance and administration

(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.

EXPLANATION: Annual language that makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.502 Education – special education: formula grants

(a) 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.

EXPLANATION: (a) The language establishes how much of the special education funding formula shall be used for 16 VSA Sec 2967(b)(2)–(6). It also allows use of these funds to go to entities other than school districts such as UVM and the Vermont Association for the Blind and Visually Impaired. Standard language.

Sec. E.503 Education – state-placed students

(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.

EXPLANATION: Allows payments for pregnant and parenting teens to be made to the Independence Place program of the Lund Family Center. Same as in FY 2011.

Sec. E.504 Education – adult education and literacy

(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).

EXPLANATION: Subsection (a) ensures that education funds are paid directly to school districts to fund the high school completion program. Same as in FY 2011.

Sec. E.512 Education – Act 117 cost containment

(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.

EXPLANATION: This language, in effect, makes funding for Act 117 activities come out of the amount appropriated for the special education funding formula. The special funds source in this Act 117 appropriation, i.e., Medicaid, would ordinarily be deposited into the Education Fund. Because the Education Fund does not receive that revenue, expenditures from the Education Fund are reduced by the same amount, thereby having a neutral impact on the Fund. Standard language.

Sec. E.513 Appropriation and transfer to education fund

(a) Notwithstanding 16 V.S.A. § 4025(a)(2), for fiscal year 2012, the general fund transfer to the education fund shall be \$271,913,749.

EXPLANATION: Transfers the general fund appropriation to the education fund at an amount less than required under current law. The statutorily required formula amount, \$300,546,925, is required to be reduced by the amount necessary to fund the Early Education Initiative grants, \$1,131,751, and the Community High School of Vermont, \$4,321,425 per 2010 Act 156 Sections E.501 & E.505.1, respectively. This current law amount, \$295,093,749 is reduced an additional \$23.18M by the administration.

Sec. E.514 State teachers' retirement system

(a) The annual contribution to the Vermont state teachers' retirement system shall be \$52,991,932, of which \$51,241,932 shall be contributed in accordance with 16 V.S.A. § 1944(g)(2) and an additional \$1,750,000 in general funds.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, \$10,574,040 is the "normal contribution," and \$40,667,892 is the "accrued liability contribution."

(c) A combination of \$51,672,307 in general funds, and an estimated \$1,319,625 of Medicare Part D reimbursement funds is utilized to achieve funding at \$1,750,000 above the actuarially recommended level of \$51,241,932.

EXPLANATION: Standard language, with clarification about the extra \$1,750,000 GF contribution for FY 2012.

Sec. E.515 REPEAL

(a) 16 V.S.A. Sec. 2887 (next generation initiative fund) is repealed.

EXPLANATION: The Workforce Development Council will now recommend to the legislature how the money previously appropriated to the next generation initiative fund should be distributed. **Section B.1100** effectuates this change for the purposes of workforce development.

* * * HIGHER EDUCATION * * *

Sec. E.600 University of Vermont

(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, \$380,326 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.

EXPLANATION: (a) – (c): Establishes the grant disbursement schedule for the appropriation and ensures that if Global Commitment funds are not available the full appropriation will be met through general or other funding sources. Dedicates a fixed amount of the appropriation to EPSCoR. This amount is adjusted annually by the same percentage as the total appropriation. Standard language. (d) Annual language that makes clear that that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.602 Vermont state colleges

(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, \$427,898 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.

EXPLANATION: (a) Establishes the grant disbursement schedule for the appropriation.

(b) Dedicates a fixed amount of the appropriation to the Vt. Manufacturing Extension Center. This amount is adjusted annually by the same percentage as the total appropriation. Standard language.

Sec. E.603 Vermont state colleges – allied health

(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.

EXPLANATION: (a) Ensures that if Global Commitment funds are not available the full appropriation will be met through general or other funding sources. (b) Annual language that makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes.

Sec. E.605 Vermont student assistance corporation

(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) of this act, \$100,000 shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

EXPLANATION: (a) Provides that \$25,000 of the appropriation be set aside for children in state custody seeking to attend institutions of higher education. (b) allows 7% of the appropriation to be used by VSAC for administrative purposes and the remainder is for direct student aid subject to the restriction in subsection (a). (c) Makes clear that the \$100,000 transfer from Military to VSAC under section E.215(a) is for the National Guard educational assistance program in 16 V.S.A. Sec. 2856. Any unexpended funds, at the end of the fiscal year, shall carry forward to the next for use by the National Guard educational assistance program.

* * * NATURAL RESOURCES * * *

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

(a) This special fund appropriation shall be authorized, notwithstanding 3 V.S.A. § 2807(c)(2).

EXPLANATION: This language is needed to allow the level of use of the Lands and Facilities Trust fund in Sec. B.704.

Sec. E.704.1 10 V.S.A. § 2603(h) is added to read:

(h) All interest accrued from bonds deposited in the agency fund and forfeited bonds in the agency fund for the department of forests, parks and recreation's timber management program, may be transferred annually by the commissioner, with the approval of the commissioner of finance and management, to the natural resources management fund.

EXPLANATION: The Department of Forests, Parks & Recreation (FPR) requires bonds from all timber contractors harvesting on state lands. These bonds are deposited into the timber bond fund and held for the life of the contract. Bonds are released back to the contractor upon successful completion of a job. There are some instances where the Department keeps the bond if a contractor did not meet the requirements of the contract. This language will allow the department to transfer the forfeited bonds and any interest accrued in the agency fund to the Natural Resources Management fund. FPR will then spend these funds in support of its timber management program and for any remediation needed on state lands. Total annual interest into the bond fund has ranged from \$200 to \$2,000 over the five years.

* * * COMMERCE AND COMMUNITY DEVELOPMENT * * *

Sec. E.803 Community development block grants

(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.

EXPLANATION: In (a), this language allows grants received in FY 2012 to be carried forward until grants are fully expended. These types of projects often extend over several years. (a) and (b) are standard language.

* * * TRANSPORTATION * * *

Sec. E.909 Transportation – central garage

(a) Of this appropriation, \$6,070,010 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).

EXPLANATION: This amount is the sum of the transfer to the central garage fund, depreciation and proceeds from surplus equipment sales. 19 VSA Sec 13(c) requires the amount to be distinctly appropriated.

Sec. E.915 Transportation – town highway aid program

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

EXPLANATION: Standard language.

Sec. E.922 19 V.S.A. Sec. 11a is amended to read:

Sec. 11a. Transportation funds appropriated for the department of public safety

No transportation funds shall be appropriated for the support of government other than for the agency of transportation, the transportation board, transportation pay act funds, construction of transportation capital facilities used by the agency of transportation, transportation debt service, the department of buildings and general services information centers, and the department of public safety. The amount of transportation funds appropriated to the department of public safety shall:

- (1) in fiscal year 2010 not exceed \$30,850,000.00;
- (2) in fiscal year 2011 not exceed \$28,350,000.00; ~~and~~
- (3) in fiscal year 2012 not exceed \$25,250,000.00; and
- (4) in fiscal year 2013 not exceed \$20,750,000.

EXPLANATION: The FY 2012 budget proposal funds information centers with transportation fund, and a small amount of special funds, instead of general fund. The reduction in FY 2013 (\$4,500,000) is equal to the expected FY 2013 cost of information center operations

* * * TRANSPORTATION INFRASTRUCTURE BOND AND DEBT SERVICE FUNDS * * *

Sec. F.100 19 V.S.A. Sec. 11f is amended to read:

Sec. 11f. Transportation infrastructure bond fund

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

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

(A) to pay principal, interest, and related costs on principal and interest, and investment return on and maturity value of the bonds, and associated costs as specified in 32 V.S.A. Sec. 951a(c), for transportation infrastructure bonds issued pursuant to 32 V.S.A. Sec. 972; and

* * *

(2) However, in any fiscal year, no payments shall be made under this subsection unless the amount needed to pay for the following items for that fiscal year, to the extent required by the terms of any trust agreement applicable to the transportation infrastructure bonds, is either in the fund and available to pay for those items, or the items have been paid: debt service due on the bonds for that fiscal year; any associated reserve or sinking funds; and any associated costs of the bonds as defined in 32 V.S.A. ~~§ 972(b)~~ Sec. 951a(c).

* * *

EXPLANATION: Amendment is consistent with language in amendment proposed for 32 VSA Sec 951a, (see **Sec F.101**, below). Also, technical change in use of term “fund”, and periodicity of crediting of interest, which is in fact monthly. No substantive change here.

Sec. F.101 32 V.S.A. Sec. 951a is added to read:

Sec. 951a. Debt Service Funds

(a) Three governmental debt service funds are hereby established: (1) the general obligation bonds debt service fund, for general obligation bond debt service from all funding sources; (2) the transportation revenue bonds debt service fund, for transportation revenue bond debt service funded primarily by the revenues from the transportation infrastructure bond fund; and (3) other debt service funds, for other long term debt service funded by governmental fund dedicated revenue sources.
(b) Financial resources in each fund shall consist of the transfer of appropriations and the funding sources appropriated by the general assembly for debt service, the transfer of the funding sources by the general assembly for future debt service, investment income earned on balances held in trust agreement accounts as required by the trust agreement and other amounts as directed by the general assembly. Each debt service fund shall account for the accumulation of resources for, and the payment of, general long term debt principal and interest, when legally mandated or if financial resources are being accumulated for principal and interest payments maturing in future years.
(c) Principal and interest on the bonds, and investment return on and maturity value of the bonds may be paid from the governmental debt service funds established in this section, as they fall due without further order or authority. Associated costs of bonds include sinking fund payments; reserves; redemption premiums; additional security, insurance, or other form of credit enhancement required or provided for in any trust agreement entered to secure bonds; and expenses of preparing, issuing and marketing the bonds. These associated costs, except for expenses of preparing, issuing and marketing the bonds, may be paid from the governmental debt service funds established in this section, as they fall due without further order or authority.

EXPLANATION: This change aligns our methods for managing debt service with generally accepted accounting principles.

Sec. F.102 32 V.S.A. Sec. 954(a) is amended to read:

(a) The proceeds arising from the sale of such bonds, except premiums, shall be applied to the purposes for which they were authorized and such purposes shall be considered to include the expenses of preparing, issuing and marketing such bonds and any notes issued under section 955 of this title, and amounts for reserves, but no purchasers of such bonds shall be in any way bound to see to the proper application of the proceeds thereof. The state treasurer shall pay the interest on, principal of, investment return on and maturity value of such bonds and notes as the same fall due or accrue without further order or authority. Any premium received upon the sale of such bonds or notes shall be applied to the payment of the first principal or interest to come due thereon. The state treasurer with the approval of the governor, may establish sinking funds, reserve funds or other special funds of the state as he or she may deem for the best interest of the state. To the extent not otherwise provided, the amount necessary each year to pay the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on all such bonds then outstanding shall be included in and made a part of the annual appropriation bill for the expense of state government, and such principal and interest on, investment return and maturity value of, and sinking fund installments on the bonds as may come due before appropriations for the payment thereof have been made shall be paid from the ~~general fund or from the transportation or other~~ applicable ~~special debt service fund~~.

EXPLANATION: This change aligns our methods for managing debt service with generally accepted accounting principles.

Sec. F.103 32 V.S.A. Sec. 972 is amended to read:

Sec. 972. Transportation infrastructure bonds

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

(b) Principal and interest on the bonds, and investment return on and maturity value of the bonds, and associated costs as specified in section 951a(c) of this title shall may be paid from the transportation infrastructure bond fund established in 19 V.S.A. § 11f, ~~as they fall due without further order or authority. Associated costs of bonds include sinking fund payments; reserves; redemption premiums; additional security, insurance, or other form of credit enhancement required or provided for in any trust agreement entered to secure bonds; and related costs of issuance.~~

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

- (1) the rehabilitation, reconstruction, or replacement of state bridges and culverts;
 - (2) the rehabilitation, reconstruction, or replacement of municipal bridges and culverts; and
 - (3) the rehabilitation, reconstruction, or replacement of state roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 30 years or more;
- (4) Principal and interest on the bonds, and investment return on and maturity value of the bonds, and associated costs as specified in section 951a(c) of this title;

(5) any notes issued under section 976 of this title;

(6) amounts for any reserves.

(d) No purchasers of the bonds shall be bound to see the proper application of the proceeds thereof.

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

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

(g) The general assembly shall appropriate the amount necessary to pay the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on transportation infrastructure bonds then outstanding in the annual appropriations bill and the principal and interest on, investment return and maturity value of, and sinking fund installments on the transportation infrastructure bonds as may come due before appropriations for payment have been made may be paid from the transportation revenue bonds debt service fund.

EXPLANATION: Current law requires principal and interest and associated costs of the Transportation Infrastructure Bonds to be paid from the Transportation Infrastructure Bond (TIB) Fund (see subsection (b), above). 19 VSA Sec 11f(b)(2) requires that these costs must be either reserved or already paid out of the TIB Fund before the TIB Fund can be used for transportation infrastructure projects (e.g., rehabilitation, reconstruction or replacement of state or municipal bridges, culverts, etc. – see 19 VSA Sec 11f(b)(1)(B)). In the event that a TIB issuance is larger than anticipated or planned, the principal and interest and associated costs may, under the requirements of Sec 11f(b)(2), prevent continuation of the transportation infrastructure projects until the TIB Fund is replenished by the motor fuel assessments. This amendment to 32 VSA Sec 972 first and foremost permits principal and interest and associated costs of the Transportation Infrastructure Bonds to be paid from the TIB Fund, or from bond proceeds, removing the possibility that the TIB Fund will be exhausted on a cash basis and transportation infrastructure projects would have to cease. (This allowable use of bond proceeds is similar to the capability granted by 32 V.S.A. Sec. 954 for state bonds in general.) Subsection (g) specifies that debt service is ultimately paid from the transportation revenue bonds debt service fund, established in Sec 951a. Funding sources are transferred to that debt service fund.

Sec. F.104 32 V.S.A. Sec. 974(d)(2) is amended to read:

(2) the treasurer shall only use other revenues to pay for debt service and associated costs as ~~defined~~ specified in section ~~972~~ 951a(c) of this title on transportation infrastructure bonds to which the full faith and credit of the state has been pledged in the event that monies in the transportation infrastructure bond fund and the transportation revenue bonds debt service fund are insufficient to pay for it.

EXPLANATION: This change consolidates the definition of associated costs in Sec. 951a(c), and includes the appropriate debt service fund in the resources to be used to cover the debt service before resorting to the full faith and credit of the state.

Sec. F.105 REPEAL

(a) 32 V.S.A. Sec. 975 (proceeds of transportation infrastructure bonds) is repealed.

EXPLANATION: Sec 975 contains similar conditions to Sec 972, and would have to be similarly amended. We have instead elaborated section 972 to include all operative language from section 975; therefore, section 975 can be repealed. See explanation for amendment to Sec 972, above.

Sec. F.106 32 V.S.A. Sec. 979 is amended to read:

Sec. 979. Authorities

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

(1) sections 951a, 953, 956, 958, and 960;

* * *

EXPLANATION: Adds a reference to Sec. 951a to align our methods for managing debt service with generally accepted accounting principles for transportation infrastructure bonds.

Sec. G.100. EFFECTIVE DATES

(a) This section and **Secs. C.100** (human services caseload reserve appropriation), **D.102** (tobacco litigation settlement fund balance), **E.307.10(b)** (effective dates – VHAP waiver, VHAP emergency rules, Catamount repeals), **E.330.1** (expedited

rules – long-term care, and disabilities, aging and independent living), and **F.100 through F.106** (transportation infrastructure bond and debt service funds) of this act shall take effect upon passage.