

2009
Burlington
Legislative Review



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EXECUTIVE SUMMARY

The historic 2009 legislative session focused almost exclusively on the tremendous challenge of balancing the State budget in the face of an ever-worsening revenue picture caused by the worst economic downturn since the Great Depression. The most notable exception was passage of the civil marriage bill -- the Legislature's first ever successful effort to override a veto by Governor Douglas. The Legislature also passed major sex offender, energy and economic development bills.

Otherwise budget and revenue considerations overshadowed nearly every area of public policy, engaging legislators in a discussion about the fundamental role of state government, the services it provides -- especially to vulnerable Vermonters -- and how to fund those equitably. The legislative year began with the election of a new House Speaker in January and adjourned temporarily in early May. Proving Yogi Berra's adage that "it ain't over till it's over," legislators returned for a special two-day session in June to override the Governor's unprecedented veto of the FY 2010 budget. Passing easily in the Senate, the override succeeded by only one vote in the House. The special session also saw passage of two companion bills: a package of revenue enhancement measures and an important technical corrections bill that made a number of concessions to the Governor.

In spite of the overwhelming fiscal focus of the session, 457 House bills were introduced and 147 in the Senate. Of these, 53 House and 25 Senate bills became law. Because this was the first year of a legislative biennium, all bills that did not pass are still alive and may be considered anew next year. Legislative activity since the Legislature adjourned has been unusually high this year. With the Joint Fiscal Committee and numerous other special committees and working groups meeting on a monthly basis during the summer and fall, legislative activity now continues throughout the year.

What follows is a summary of Burlington's legislative highlights. Additional legislation affecting municipal interests in general was summarized in the Vermont League of Cities and Towns' (VLCT's) excellent 2009 Legislative Wrap-Up (http://www.vlct.org/d/advocacy/wrapup_09.pdf). In order to avoid duplicating the League's report, this summary focuses more closely on those municipal issues that affect the City's specific interests.

Education Tax Rate – The Legislature set the equalized statewide homestead rate at \$0.86 and the non-homestead rate at \$1.35, each a penny less than last year. When adjusted for Burlington's Common Level of Appraisal (CLA), as well as for the approved school budget, the homestead rate translated into a local rate of \$1.24, up from \$1.11 last year. The non-homestead rate translated into a local rate of \$1.53, up from last year's rate of \$1.46. The maximum percentage of income that an income-sensitized household pays for education taxes remained at 1.80%. The tax rate could have been another two cents lower, except that the Legislature shifted about \$23 million in General Fund expenses to the Education Fund to help cure the State's large budget deficit. The Legislature rejected the Governor's proposal to have the Ed Fund also absorb the State's share of the teacher's retirement fund, which would have shifted \$63 million in costs onto the property tax. It also rejected his proposal to reduce income sensitivity.

Appropriations and Revenues – Appropriators were faced with closing a \$282 million gap in the FY 2009 budget while avoiding draconian cuts that would result in reduced State services, especially to low-income and vulnerable Vermonters. The Legislature rejected most of the Governor's drastic cutbacks and built a balanced budget based on a combination of modest spending cuts, revenue increases, use of rainy day funds and federal stimulus funds from the American Recovery and Reinvestment Act (ARRA). After the Legislature overrode the Governor's budget veto and adjourned for the year, a further revenue downgrade led to another \$28 million in rescissions. Budget writers face far greater challenges when they return this winter to close an FY 2011 budget gap once estimated at \$89 million, but now in the \$140 - \$160 million range because of new spending pressures -- which could grow as high as \$260 million for FY 2012.

Payments in Lieu of Taxes – For FY 2010, the overall PILOT budget for general State buildings was \$4.9 million, up from \$4.5 million for FY 2009. The Governor’s original budget recommendation was for \$4.35 million. Burlington was scheduled to receive \$705,413, up from \$650,000 last year. Until two years ago, PILOT was funded through a combination of local option tax revenues and General Fund moneys. This year PILOT was once again funded exclusively from the 30% share of local option taxes that go to the State.

Tax Increment Financing (TIF) – Burlington got new legislative authority for its existing TIF district to fund infrastructure improvements necessary for new waterfront development. Burlington won approval to incur new TIF-financed debt for an additional five years on condition that the City pay the State 25 percent of the estimated incremental new education property taxes generated by the new development, which reflects current law practice for towns using tax incremental financing. The City was required to submit an implementation plan to the Legislature’s Joint Fiscal Committee, which reviewed and approved the plan in September.

Airport Issues – This year’s big economic development bill established the airport’s various projects as a legislative priority for receiving competitive ARRA funds, hopefully giving it a leg up on the competition. The Transportation Act directed VTrans to study the feasibility of creating a new interstate interchange at Hinesburg Road, a longtime airport priority for creating more direct access via Kennedy Drive and alleviating traffic on Williston Road.

Energy Issues -- The Legislature authorized creation of Clean Energy Assessment Districts (CEADs), a major priority for BED. These specially created, voter-authorized districts enable municipalities to offer long term debt financing for individual renewable energy and energy efficiency projects to participating property owners. Project costs will be repaid through a special assessment collected on an individual property owner’s tax bill. Additional energy related measures included: incentive rates for small renewable electric energy projects; over \$30 million in federal stimulus dollars channeled into the State’s Clean Energy Development Fund and opening it up to district heating projects; expedited certification of small-scale hydroelectric projects; and development of new residential and commercial building energy standards.

Charter Changes – The Legislature passed two separate bills dealing with the November 2008 and March 2009 charter changes approved by Burlington voters. The bills authorized the “Penny for Parks” initiative; allowed the Voter Registration Board to add voters to the checklist at the last allowable opportunity; gave the CAO the ability to designate an assistant to be the presiding officer for elections; increased the School Department’s borrowing authority for capital improvements; allowed a registered nurse to be appointed to the Board of Health; and gave the Board of Health the full powers provided under Vermont statute.

Environmental protection and permitting – The economic development bill included numerous provisions dealing with environmental protection and permitting, with a view towards promoting the state’s economic recovery and facilitating the use of ARRA funds. Among other things, the bill extended the State’s interim stormwater permit program; exempted telecommunications facilities from Act 250 and local zoning; expanded the Act 250 exemption for expanding existing municipal structures and extended it to include county and State projects and ARRA-funded road and bridge projects; gave the Agency of Natural Resources (ANR) ticketing authority for environmental violations, expedited permitting for ARRA-funded projects; and authorized ANR to expand the use of general permits.

Sex offender bill -- The act contained significant and comprehensive changes to the laws regarding sexual violence, as well as greatly expanded funding for Special Investigation Units. Chief among its many features, it created the new crimes of Aggravated Sexual Assault of a Child, with a mandatory minimum prison sentence of 25 years, and Sexual Exploitation of a Minor. It also expanded collection of DNA; changed the way deferred sentences may be used for people

convicted of crimes of sexual violence; expanded protections for child victims who are called as witnesses; expanded pre-sentence investigations; allowed courts further access to sealed juvenile records for sentencing and supervision purposes; expanded probation conditions for sex offenders; required schools to provide education on sexual violence and healthy relationships; and urged local communities not to enact sex offender residency restrictions.

Affordable Housing – In his initial budget, Governor Douglas proposed a 70 percent cut to the Vermont Housing and Conservation Board, the State’s major funding source for affordable housing. Leading up to the veto override session, the Governor went so far as to propose virtual elimination of this successful program. While the Legislature was able to restore some of VHCB’s funding, the program still saw a 55% cut to its core State funding. To address the emergency needs of homeless and precariously housed Vermonters, the Legislature increased funding for Homeless Shelters and Services by one-third and boosted the General Assistance Program by over 40 percent. Most other housing programs were either spared the budget axe entirely or saw relatively small cuts.

BURLINGTON/CHITTENDEN DELEGATION & COMMITTEE ASSIGNMENTS

The work of the City's legislative liaisons at the State House was made easier by the hard work and considerable skill of all our Burlington representatives and Chittenden County senators. We thank them for their efforts on behalf of the City. Here is a complete list of the delegation members and the committees on which they sit. We include Senator Mazza who, though he represents the "Grand Isle District," is from the Chittenden County town of Colchester and helps look out for Burlington and Chittenden County interests:

Chittenden County Senators

Sen. Tim Ashe

- Economic Development, Housing & General Affairs (Clerk)
- Institutions (Clerk)

Sen. Ed Flanagan

- Health & Welfare (Vice-Chair)
- Government Operations

Sen. Ginny Lyons

- Natural Resources & Energy (Chair)
- Health & Welfare

Sen. Hinda Miller

- Appropriations
- Economic Development, Housing & General Affairs (Vice-Chair)

Sen. Doug Racine

- Health & Welfare (Chair)
- Economic Development, Housing & General Affairs

Sen. Diane Snelling

- Appropriations
- Natural Resources & Energy

Sen. Dick Mazza

- Transportation (Chair)
- Institutions (Vice-Chair)

Burlington/Winooski Representatives

Chittenden-3-1

- Rep. Bill Aswad – Transportation
- Rep. Kurt Wright – Natural Resources & Energy

Chittenden-3-2

- Rep. Mark Larson – Appropriations (Vice-Chair)

Chittenden-3-3

- Rep. Jason Lorber – Commerce & Economic Development
- Rep. Rachel Weston – Natural Resources & Energy (Clerk)

Chittenden-3-4

- Rep. Kesha Ram - General, Housing & Military Affairs (Clerk)
- Rep. David Zuckerman – Ways & Means

Chittenden-3-5

- Rep. Joey Donovan – Education (Chair)
- Rep. Suzi Wizowaty – Health Care

Chittenden-3-6

- Rep. Ken Atkins – Government Operations (Vice-Chair)
- Rep. Clem Bissonnette - Commerce & Economic Development

EDUCATION

Education Funding & Property Taxes (H.441/Act 1; H.12/Act 60)

After Vermont property values escalated rapidly for much of the past decade, they leveled off over the last year and a half as the economic recession deepened. Revenues flowing into the Education Fund from property taxes have thus leveled off as well. Unlike many states, however, Vermont has not yet seen a substantial decline in its real estate values. The State's equalized grand list is expected to grow, on average, 6.9 percent in fiscal year 2010.

Meanwhile, school spending continued to rise, driven by a number of factors:

1. Health care, special education and energy costs, among others, continued to escalate;
2. The number of pupils continued to shrink statewide (though Burlington's again increased); and
3. Non-property tax revenues failed to keep up with spending increases.

As a result, after a number of years of substantial decreases, State homestead and non-homestead education tax rates did not decrease at all last year and decreased by only one cent for FY 2010. The tax rate could have been another two cents lower, except that to help cure the State's substantial budget deficit, the Legislature shifted about \$23 million onto the property tax by underfunding the State's annual transfer from the General Fund to the Education Fund and by tapping the Education Fund to cover some expenses that are normally supported by the General Fund, including the Corrections Department's education program, the Agency of Human Services' early education initiative, and by eliminating Medicaid reimbursement for certain school services.

Unfortunate as these cost shifts were, the Governor's proposal was worse. In addition to shifting the corrections and early education programs to the Ed Fund, the Governor's budget would have had it absorb the State's share of the teacher's retirement fund, increasing the cost shift to \$63 million. The Governor also proposed reducing income sensitivity for 14,000 homeowners by lowering the maximum annual household income from \$90,000 to \$75,000, proposed delaying school budget votes, and freezing spending at the FY 09 per-pupil rate. The Legislature rejected all of these measures.

H.12/Act 60 set the equalized statewide homestead education tax rate at \$0.86 and the non-homestead rate at \$1.35.¹ When adjusted for Burlington's Common Level of Appraisal (CLA), set at 88% by the Tax Department, and for the school budget approved by voters last March, the statewide homestead rate translates into a local Burlington rate of \$1.24, up from \$1.11 last year. 55 percent of the \$0.13 increase (\$0.07) was due to the CLA adjustment and would have occurred even if school spending had not increased.

H.12 also set the maximum percentage of income that an income-sensitized household pays for education taxes at 1.80%, same as last year.² When adjusted for fiscal 2010 school spending, this translates into a local maximum education tax payment of 2.28% of annual income, a slight increase from last year, when Burlington homeowners paid 2.14% of income. H.12 also froze the base education payment at \$8,544 for fiscal 2010 and 2011. While that amount follows the statutory formula for 2010, if school spending increases in 2011 and the amount remains the same, the result will be a higher statewide property tax rate.

¹ These rates are set annually. The original rates set under Act 68 were \$1.10 and \$1.59 respectively. The homestead rate must be adjusted for both the city's CLA and our local spending percentage above the statewide base education spending per equalized pupil. The non-homestead rate needs to be adjusted only for CLA.

² Also set annually, the original percentage set under Act 68 was 2.0%. The statewide percentage must be multiplied by a local district's FY 2010 spending adjustment in order to determine the actual maximum percentage an income-sensitized household pays for education taxes.

The maximum annual household income to qualify for full income sensitivity remained the same as last year at \$90,000. For people over that income limit and who therefore qualified only for partial income sensitivity, the homestead (or “housesite”) value on which they can receive income sensitivity remained capped at \$200,000.

When adjusted for the CLA, the proposed non-homestead rate of \$1.35 translates into a local Burlington rate of \$1.53, up from last year’s \$1.46.

Renters whose incomes are below \$47,000 a year continued to receive protection through the Renters’ Rebate, which attributes 21% of rent paid to property taxes (or actual taxes paid, at the taxpayer’s option). Please note that the preceding comments refer to the State’s education property tax rates, not municipal rates. Renters and homeowners under \$47,000 per year continue to receive property tax adjustments on both their education and municipal property taxes.

The following table provides a four-year comparison of statewide equalized education tax rates and income sensitivity ceilings and translates them into local Burlington numbers:

Tax Rate Multi-Year Comparison of Homestead Education Tax Rates³	Act 68 FY2007	Act 68 FY 2008	Act 68 FY 2009	Act 68 FY2010
Base equalized statewide homestead education tax	\$0.95	\$0.87	\$0.87	\$0.86
Budgeted Burlington education expenditures, total	\$38,113,325	\$41,574,566	\$45,724,107	\$49,903,088
Burlington education spending per equalized pupil	\$8,462	\$8,962	\$9,777	\$10,841
Statewide base education spending per equalized pupil	\$7,330	\$7,736	\$8,210	\$8,544
Burlington tax rate adjustment for local spending above statewide base	115.442%	115.851%	119.086%	126.88%
Common Level of Appraisal (CLA)	110.55%	98.65%	93.38%	88.04%
Burlington local homestead rate (State rate x local spending adjustment ÷ CLA)	0.9920	1.0217	1.1095	1.2394
Statewide maximum percentage of household income to be paid for education tax	1.80%	1.80%	1.80%	1.80%
Burlington maximum percentage of income, adjusted for local spending above statewide base	2.078%	2.085%	2.144%	2.284%
Maximum household income eligibility limit for full income sensitivity	\$85,000	\$90,000	\$90,000	\$90,000
Cap on housesite value for partial income sensitivity	\$200,000	\$200,000	\$200,000	\$200,000
Non-Homestead Education Tax Rates				
Statewide non-homestead education tax	\$1.44	\$1.36	\$1.36	\$1.35
Burlington local non-homestead rate (State rate÷CLA)	1.3026	1.3786	1.4564	\$1.5334

Though it rejected shifting the State share of the teachers’ retirement system to the Ed Fund, the Legislature created a commission to study the teachers’ and State employee’s retirement systems, as well as a committee to study potential improvements to the structure and funding of the State’s educational system. It also eliminated the State-mandated property tax bill insert that is designed to explain that “The more you spend, the more you pay.”

³ Adapted from information at <http://www.state.vt.us/tax/pdf.word.excel/pvr/txrpdfs/Burlington.pdf> and <http://bsdweb.bsdvt.org/Board/BoardBudget.php>.

Miscellaneous Education Amendments (H.427/Act 44)

In addition to the changes in education funding outlined above, Act 44, the Miscellaneous Education Amendments Act, made a number of changes to education policy. It amended the “vote-twice” education law passed two years ago (Act 82) by:

1. Simplifying and clarifying the required ballot language for towns whose per-pupil spending is above the state average and whose proposed budget exceeds the prior year’s, when adjusted for inflation;
2. Exempting certain expenses from the education spending that triggers the vote-twice requirement, including capital construction costs, tuition costs for students in grades that their district does not offer, costs associated with school merger planning, the district’s cost of running 21st Century after-school programs, and spending on alternative education programs for at-risk students; and
3. Exempting certain expenses from education spending for the purpose of triggering the excess spending threshold, including capital construction costs and costs associated with school merger planning.⁴

Though the vote-twice law does not affect Burlington in the near term, it is in effect until after the 2014 budget approval process and could affect us in the future. Superintendent Jeanne Collins supported efforts last year to repeal this controversial provision, which have failed thus far. This past year, ten districts proposed budgets that triggered the divided vote; six passed. The Miscellaneous Education Amendments Act made a number of other changes to education policy, including measures promoting high school completion for at-risk students, codifying how schools pay for pregnant or parenting students to enroll in a teen parent education program, and repealing a statewide school calendar law that was never implemented and which caused concern for Burlington.

Unfortunately, one of the School Department’s high priorities, lifting the caps on pre-K enrollment, was passed by the House, but then lost in conference committee. Lifting these caps is important because Burlington is already up against the current limits and will otherwise not be able to increase State-funded pre-K enrollment. Our program currently serves only about half our three and four-year old population, while serving a high percentage of poverty level and non-English speaking children. The current caps prevent us from serving many needy children, particularly the large number of pre-schoolers among our Bantu population. Jeanne Collins testified several times on both the pre-K caps and special education issues.

APPROPRIATIONS & REVENUES

(H.441/Act 1; S.2/Act 2)⁵

Balancing the Budget

The State’s grim fiscal realities overshadowed almost all other legislative activity. Appropriators were faced with the very difficult challenge of balancing the budget while avoiding draconian cuts that would result in reduced State services to Vermonters, especially low-income and the vulnerable. Before the Legislature even convened in January, its Joint Fiscal Committee, which has authority to make limited budget adjustments when the full Legislature is out of session, had already made two rounds of rescissions as a result of revised revenue projections, one in August of 2008, the other in December, resulting in a total of \$43.5 million in cuts from the FY 09 budget.

⁴ Current law requires any district that spends over 125% of the statewide per-pupil average to send a dollar to Montpelier for every dollar over 125% it spends locally. Burlington’s spending rate for FY 2009 stood at 119%.

⁵ The League’s table showing FY 2010 appropriations of general interest to municipalities, including transportation funding, is included in the attachments.

Revenue projections were revised downward again soon after the Legislature convened in January. Together with pressures to spend more in some budget areas to keep pace with increased demand for State services, the revenue downgrade resulted in the need for further cuts from the FY 09 budget and increased the anticipated budget shortfall for FY 2010 to \$281.5 million.

The Governor delivered a budget recommendation that was in line with the revised revenue realities, but resorted to cuts and constructs that were out of step with the priorities of the strong Democratic majority in both chambers. Coupled with the Governor's unwillingness to consider new revenues to help make up the budget shortfall, this led to an inevitable showdown between the two branches of government at the end of the session.

As outlined earlier, to make up for the budget shortfall, the Governor proposed reducing the General Fund's share of education expenses and shifting a variety of expenses to the Education Fund, which would have increased property tax rates. In addition, the Governor proposed the following cuts, among many others:

- Eliminating the VPharm Program;
- Four percent cuts to human services grants and health care providers;
- No funding for students with disabilities graduating from high school in June;
- Reduced funding for alcohol and drug treatment programs;
- A fifty percent reduction to smoking cessation programs;
- No cost of living increases for Aid to the Aged, Blind and Disabled (AABD);
- Major reductions to Reach-Up and elimination of Reach Ahead (formerly TANF, or welfare)
- A two-thirds reduction in the Vermont Housing and Conservation Board's State funding;⁶ and
- Elimination of the Micro Business Development Program and Individual Development Accounts.

The Governor's budget also proposed spending the State's entire human services caseload reserve.

Appropriators were able to avoid most of the worst of the cost shifts and cutbacks in services, especially to low-income and vulnerable Vermonters, that were proposed in the Governor's budget. This was accomplished through a combination of budget cuts, new revenues, increased reliance on funds from the American Recovery and Reinvestment Act (ARRA, the federal stimulus package), a reduced transfer onto the Education Fund, and a smaller expenditure of caseload reserves. The following shows the construct used by the Legislature to close the budget gap:

Cuts	\$59.3 million
Collecting unpaid taxes	\$4.8 million
New revenue measures	\$21.3 million
Reduced General Fund transfer to Education Fund	\$18.4 million
Reduced reliance on caseload reserves	\$3.2 million
Federal stimulus funds (ARRA)	\$174.5 million
Total	\$281.5 million

⁶ A 73 percent reduction from the budget approved in May 2008, prior to the FY 09 rescissions. Leading up to the veto override session, the Douglas Administration proposed an *Alternative Approach to the FY 2010 Budget*, which called for almost complete elimination of VHCB funding.

Clearly, the Legislature relied in great measure on ARRA funds to replace existing State spending, which will pose new challenges when these funds run out in 2011. However, many painful cuts were also made, including a \$7 million reduction (55 percent) in the Vermont Housing and Conservation Board's core State funding, \$2.7 million from human services providers, grants and contracts, \$4 million from college aid, \$1.6 million from smoking cessation, \$7.1 million from hospital reimbursements, half of the AABD cost of living increase, and \$500,000 each from nursing homes and interstate rest areas, among others.

Nevertheless, the Legislature was able to restore VPharm; reduce cuts to human services grants and health care providers to two percent, with a priority setting process that spared the worst cuts to grantees; restored half the funding for June graduates; restored funding for alcohol and drug abuse treatment services; partially restored Micro Business and Individual Development Account funding; restored half the AABD cost of living adjustment;⁷ added \$2 million in State and \$5 million in federal funds to the VHCB; budgeted \$1 million for home access improvements for people with disabilities; restored funding for Reach-Up and Reach Ahead; and left \$10 million in the caseload reserve.

The Legislature also relied on a package of revenue enhancements with the following elements:

- The taxation of capital gains income was converted to a flat exclusion of \$2,500 for tax years 2009 and 2010, and to \$5,000 after that; the existing 40 percent exclusion of capital gains income remains for the sale of a farm, standing timber, and sales by those 70 years or older;⁸
- The pass-through of the federal deduction of State income tax was limited to \$5,000;
- Several consumption taxes were modestly raised (on cigarettes, tobacco products, gasoline, and liquor);
- The Vermont estate tax exclusion amount will remain at \$2 million and not follow the 2009 federal increase to \$3.5 million.
- The sales and use tax was extended to digital downloads; and
- A tax amnesty was authorized to collect money owed to the State.

In addition to helping to avoid \$26 million in additional cuts to State programs, revenues generated from these measures enabled the Legislature to provide a modest income tax break for middle and lower income Vermonters. It also lowered the top marginal tax rate, which has come under attack from both the Douglas administration and business interests because of its potential impact on the state's competitiveness. Several of the initiatives were further refined in a companion bill to the budget passed during the veto override session as an olive branch to the Governor. The new revenues break down as follows:

Closing capital gains loophole (with \$5,000 exclusion)	\$16.2 million
Closing income tax deduction loophole (with \$5,000 cap)	\$15.5 million
Consumption taxes	\$8.3 million
Estate tax	\$3.0 million
Digital downloads	\$0.8 million
Lowering marginal income tax rates	- \$22.4 million
Net new revenue	\$21.3 million
Collecting unpaid taxes	\$4.8 million
Total	\$26.1 million

⁷ Since passage of the budget, the feds ended up not giving a COLA.

⁸ For farm and timber sales, the 40 percent exclusion will continue to be the rule. Over-70 taxpayers may choose the 40 percent or the flat exclusion. The over-70 carve-out ends January 1, 2011.

For additional detail on changes to State tax law, see [Highlights of 2009 Tax Legislation](#) on the Tax Department's web site.

Because of the rapidly changing nature of the State's revenue outlook, the Legislature and the Douglas Administration have been getting updated projections every quarter for the last year and a half. As in 2008, in late April the State's economists delivered a new revenue downgrade, near the tail end of the budget-writing process and two short weeks before adjournment. FY 09 and 2010 General Fund revenues were reduced another \$14.6 and \$43.4 million respectively from the January projections on which the House and Senate had built their budgets, requiring additional cuts. Negotiations between legislative leadership and the administration ended in stalemate and lead to the passage of a budget that was headed for the first ever gubernatorial veto.

The Legislature adjourned in early May knowing it would likely be back to attempt a veto override. The Douglas Administration issued its *Alternative Approach to the FY 2010 Budget* in mid-May, but the stalemate between the Governor and legislative leaders continued and lead inevitably to the special two-day veto override session in early June. While the outcome in the Senate was never in doubt, the House voted to override by a dramatic one-vote margin. All 150 House members were in attendance, including one who interrupted a vacation in Greece to return for the vote. The vote was along party lines, with Democrats, Progressives and one Independent voting to overturn the veto and Republicans and two Independents voting against.

Just two short months after the Legislature's budget became law, a new revenue downgrade resulted in \$28 million in rescissions. Unlike the Appropriations Act itself, this round of reductions grew out of negotiations between key legislative leaders and the Douglas Administration, with legislators making clear that they would not tolerate substantial new reductions in services to the vulnerable and low-income favored by the Douglas Administration. One major component of the agreed upon rescissions involved an additional \$7.4 million in unidentified labor cost reductions. Unfortunately, negotiations between the Douglas Administration and the Vermont State Employees Association over how those cost reductions might be realized broke down, resulting in a new round of position reductions and lay-offs that will likely have an impact on the City, including reductions in Corrections staff. Also included was an additional \$1.8 million cost shift from the General Fund onto the Education Fund for Adult Education.

New revenue projections announced in November fortunately forecast that State revenues will stabilize, though the possibility of future downgrades still exists, depending on whether the national economy continues to recover. Extremely troubling, however, is that the FY 11 shortfall, which was once projected at \$89 million, is now anticipated to be in the \$140 - \$160 million range because of new spending pressures – and could grow as high as \$260 million for FY 2012. The revenue projected for the General Fund in FY 11, which starts next July, is less than the amount that came in during FY 06, five years earlier. As a result, the Douglas Administration has instructed agency heads to prepare FY 11 budgets that are 8 percent lower than current spending.

When the Legislature convenes in January, it is likely to be faced with difficult choices of an entirely different level of magnitude than this past year, especially since over 40 percent of the federal funding from ARRA used to plug holes in the current budget will run out during FY 11, and a second broad federal stimulus package seems unlikely given concerns over the national deficit.

What is the City's interest in all this? Other than State aid to education, the City does not have many budget line items from which it derives direct benefit. Nonetheless, the City was deeply concerned that State budget cuts and cost shifts onto the Ed Fund would result in service reductions that have a direct impact on the City and place additional burden on Burlington property taxpayers. For example, reduced ability on the part of Corrections staff to supervise parolees and others under their supervision would put an increased burden on the Police

Department, as would reductions in mental health spending. Further, cutbacks in human services and housing and State employee reductions negatively affect the City's substantial population of low-income people living on fixed incomes or working low-wage jobs. State cutbacks in social services also place an increased burden on the schools, which are forced to absorb added costs.

The following State budget items have direct impact on the City's budget.

Payments in Lieu of Taxes (PILOT)

The PILOT program is designed to reimburse cities and towns for a portion of the municipal property tax revenues they lose because they host State owned buildings and lands that are exempt from property taxes. The State has four separate PILOT funds to pay cities and towns for different types of properties: (1) general State buildings, (2) corrections facilities, (3) Agency of Natural Resources lands, and (4) State-owned properties in Montpelier. PILOT payments help support the municipal police, fire, highway, and other public services from which State facilities benefit. Burlington receives payments from the first of these funds.

For FY 2010, the overall PILOT budget for general State buildings is \$4.9 million, up from \$4.5 million for FY 2009. Burlington was scheduled to receive \$705,413, a \$650,000 increase over last year. The Governor's original budget recommendation was for \$4.35 million.

Until two years ago, PILOT was funded through a combination of local option tax revenues and General Fund moneys. This year PILOT is once again funded exclusively from the 30% share of local option taxes that go to the State. The local option share has increased steadily over the last several years as more towns adopt local sales and rooms and meals taxes. This has enabled the State to completely eliminate General Fund contributions to PILOT, while still increasing the overall fund. PILOT payments for Corrections facilities and State buildings in Montpelier were also funded solely from local option taxes for the second year in a row. This reduces the amount available to communities under the PILOT fund for general State buildings.

Even though the PILOT fund has increased over the last several years, the State's reimbursement to municipalities for FY 2010 is only about 72% of what it should be. Full PILOT funding for FY 2010 would have been about \$6.8 million, which would have yielded \$978,803 for the City. Further, funding is currently based on insurance replacement value, which is considerably less than the full market value that owners of taxable properties are required to pay.

This year once again saw the introduction of legislation that would require full funding of the State's obligation under PILOT and value State buildings and land at fair market value. Unfortunately H. 362, like its predecessors in previous sessions, failed to make it out of committee.

Community Justice Center & Corrections Budget

The City's primary objective was to protect the funding for the Community Justice Center (CJC) in the 2010 budget. As with most human services contracts and grants, the Governor's recommend in the Department of Corrections (DOC) budget was to cut CJC funding statewide by four percent. This would have resulted in a \$5,600 cut for Burlington's center from its FY 09 State funding level of approximately \$140,000. In the end, neither Burlington nor any of the other fifteen centers saw their State funding cut, though the final result did not become clear until July, over a month after the Legislature overrode the Governor's budget veto. DOC funding for all the centers statewide is approximately \$1 million annually.

The final status of this and many other human services budget items remained unclear because the budget included language giving the Agency of Human Services (AHS) the discretion to cut up to \$740,000 out of its budget based on guidance that sought to spare grants that (1) provided direct services to Vermonters, (2) to vulnerable populations most at risk for negative outcomes,

(3) would result in increased need and a shift to more expensive services, and (4) would have a negative impact on community based service providers. AHS presented its grant reduction plan to the Joint Fiscal Committee in mid-July.

The other issue for the City in the Corrections budget was transitional housing, funded at about \$1.2 million for the last several years. Transitional housing is critical to the success of offenders re-entering the community in order to reduce recidivism rates. Several Burlington organizations receive funding from this line item, including the Burlington Housing Authority and Northern Lights. They were originally slated for the same four percent cut outlined above, which would have cost them just under \$12,000, but in the end received level funding.

The overall transitional housing budget was scheduled to double to \$2.4 million for FY 2010 as a result of projected savings resulting from the reconfiguration of several state prisons and other cost-saving initiatives outlined in last year's Justice Reinvestment bill. These funds will be reinvested in transitional housing and other community services designed to enhance the success of offenders re-entering the community. The Appropriations Act allocated \$200,000 of this amount for rental assistance, which had been a City priority last year and remained unrealized until this year. With 150 or more inmates in prison who could otherwise be released but for the availability of housing on the outside, we saw rental assistance as one of the most effective and fastest ways to get people out and save the State money – at least for those who do not need an intensive residential setting with on-site supportive services in order to succeed on the outside.

Church Street Marketplace Outreach Program

Spearheaded by the Church Street Marketplace District and Howard Center for Human Services, this award-winning program is a partnership between a broad variety of public, non-profit and private organizations. The program provides outreach and referral to people with psychiatric disabilities, substance abuse issues and homelessness in and around downtown. The program is funded through a variety of private donations and public funds, including State funds from the Department of Mental Health budget. State funding for the program was spared the budget cutting axe and level funded at \$110,000 for FY 2010. In 2008 it received the Green Mountain Award for "Best Public/Private Partnership" from the Vermont Downtown Program.

Municipal & Regional Planning

Funding for the Municipal and Regional Planning Fund was hard hit by funding cuts even before the Legislature convened last January. Over the summer and fall of 2008, the Joint Fiscal Committee rescinded approximately \$853,000 (20 percent) from the original FY 09 budget of \$4,302,105. For FY 2010, due to the State's revenue shortfalls, the Legislature chose to level fund planning at the reduced level of \$3,449,427. Of this amount, \$2,632,027 goes to the Regional Planning Commissions (RPCs) and \$408,700 each goes to municipal planning and the Center for Geographic Information. This represents a 13 percent cut for Regional Planning from two years ago, and a 53 percent cut for Municipal Planning Grants.

Burlington has made extensive use of these funds over the years, including for the Comprehensive Development Ordinance, Municipal Development Plan, and Open Space Plan. According to Planning Director David White, it is the only reliable external funding source the Planning Department has for regular planning projects. A 53 percent cut essentially kills the program, as the grant funds are almost too small to justify the paperwork and ability to hire outside consultants to do the work.

By statute, the Municipal and Regional Planning Fund is supposed to be funded by a dedicated 17 percent share of the State's property transfer tax (PTT). For years the Legislature has diverted transfer tax revenues away from their intended use and deposited them into the State's General Fund. This year, because of the turmoil in the real estate market, transfer tax revenues

are projected to be less than half what they were a few years ago. Based on the July update of the official State revenue forecast, the statutory funding level for planning would be \$3.5 million, which ironically is actually close to the budgeted amount for the first time in years. The Big Bill expresses the Legislature's intent to fund planning at the statutory level for FY 2011.

ECONOMIC DEVELOPMENT AND RECOVERY

(H.313/Act 54)

Tax Increment Financing

Tax Increment Financing (TIF) was once again one of the City's top legislative items for the fifth year in a row. Readers will recall that TIF is a municipal financing tool that helps pay for public infrastructure improvements needed to stimulate development or redevelopment within a State-approved TIF district. The incremental property tax revenues from new private development are captured and set aside to help retire the debt that funded the public infrastructure improvements. Once the debt is retired, all taxes revert to the respective taxing authorities.

Burlington has an existing TIF district, created in 1996 and expanded in 1997, that encompasses the downtown waterfront and an adjacent block-wide strip of the Central Business District. Our TIF district has allowed us to use the incremental new State education and local municipal property tax revenues to pay off the debt on infrastructure improvements that paved the way for that development. These infrastructure improvements have included street and storm water improvements, parking garages, acquisition of railroad lands, a fishing pier and other shore land improvements. They have lead directly to tens of millions of dollars of new private investment, including an anchor department store, 40 units of affordable housing, market rate condos, office and commercial development, redevelopment of the downtown mall, and construction of a new hotel. Located within our designated downtown district, all of this growth is consistent with smart growth principles.

The City's ability to incur and repay new debt in its Waterfront/Downtown TIF district ended in March 2006. The City thus needed new legislative authority to use TIF to fund infrastructure improvements necessary for new development on the waterfront, most notably the Moran Plant, but also at the corner of Battery and Main Streets and the foot of King Street. The City began the legislative session with an ambitious plan to expand the existing TIF by creating an "overlay" district, but the Tax Department did not feel comfortable with this concept, maintaining that it was too cumbersome to administer. In the end they supported Burlington's ability to incur new TIF-financed debt for an additional five years, beginning January 1, 2010. This opened the way for the Legislature to include Burlington's new TIF authority in Act 54 (H.313), the Vermont Recovery and Reinvestment Act of 2009 (see attachments for legislative language).

The Legislature's approval came with several limitations:

- While Act 54 extends the City's ability to incur new debt, it does not extend our ability to repay it with TIF revenues beyond 2025, the original life of the district. Unlike previous TIF debt, the City will have at most fifteen years to repay future debt, not twenty.
- The City is required to estimate the incremental new tax revenues and pay the State a 25 percent portion of the education property taxes, which reflects current law practice for towns using tax incremental financing. This 25 percent "payment in lieu of tax increment" is levied only on the incremental growth generated by the new TIF-financed infrastructure investments and not on the current district assessment, or those properties expected to come online before new debt is incurred. Only the education tax is shared, not the municipal side.
- Act 54 required the City to submit for the Joint Fiscal Committee's approval an implementation plan estimating the total new incremental education tax revenue growth

projected from the TIF district and outlining how the City plans to pay the State its 25 percent share. The City submitted its plan and received the committee's approval in September.

Even though not required under its original TIF authority, the City agreed to share new tax revenues with the State as a quid pro quo for its new borrowing authority. City officials tried several different compromises before settling on a solution that the Tax Department and opposing legislators could live with. The City believes this is good economic development policy, which allows Moran and other waterfront projects to move forward. Without it we would not be able to promote new development that improves and broadens the tax base, creates new jobs, generates considerable economic activity, and enhances the general economic vitality of the city, region and state.

In addition, Act 54 does not preclude Burlington from applying to the Vermont Economic Progress Council (VEPC) for a second, wholly new TIF district in areas that do not overlap with the existing district, as allowed for in current law, so long as it meets the other criteria in the underlying TIF legislation. Towards that end, CEDO issued an RFP for assistance in developing a new TIF district over the summer. The Fee Bill (H.136/Act 47) allows VEPC to require a third-party analysis of any TIF application, with the cost covered by the applicant municipality.

Act 54 also made changes that help the town of Milton use the TIF statute more effectively, giving it more options for financing infrastructure improvements in its TIF, among others.

As in previous sessions, the extremely complex TIF issue once again consumed countless hours of legislative testimony, discussion and negotiation, especially during the waning days of the regular session. Not surprisingly, TIF was again one of the last items to be settled in one of the last bills to be finalized at the end of the regular session. This year's challenges were due largely to the Tax Department's opposition to the City's original proposal and continued resistance among certain key legislators to the entire TIF concept. Karen Lafayette worked closely with City staff, including CEDO Director Larry Kupferman, Special Projects Coordinator David Weinstein, CAO Jonathan Leopold, and Assistant City Attorney Richard Haesler, who all made numerous trips to the State House to give expert testimony and meet with legislators and other stakeholders. The TIF legislation was one of the City's highest legislative priorities and required more time and energy than any other bill. Senators Illuzzi, Miller, Racine and Ashe were key in helping secure passage. Senator Snelling and Representative Larson were instrumental in facilitating Joint Fiscal approval of the City's implementation plan.

Burlington Airport

The big economic development and recovery bill also benefited the Burlington International Airport, recognizing the importance of maintaining and upgrading the programs and facilities at BTV, Vermont's primary commercial airport, and its economic impact of over one-half billion dollars annually. Through the bill, the General Assembly established the various planned projects associated with the airport as legislative priorities for receiving competitive ARRA funds:

- A new aviation technical center facility,
- A new customs border protection office,
- Three south-end taxiway projects, and
- A green roof on the parking structure.

The hope was that giving these projects priority status would, to the extent possible, give them a leg up on the competition. Airport Director Brian Searles and other airport representatives testified in the Senate Economic Development, Housing and General Affairs Committee, which was very supportive of the airport's efforts. The bill also established several agriculture and

municipal telecommunications projects as legislative priorities for the receipt of competitive ARRA funds.

Downtown Tax Credits

The economic development bill permanently increased the cap on downtown tax credits from \$1.6 million to \$1.7 million, making additional money available for the Downtown and Village Center Program, which is administered by the Vermont Downtown Development Board. The tax credits are available for historic rehabilitation, façade improvement and code improvement. Burlington has made extensive use of these tax credits to assist downtown development.

ENERGY

(H.446/Act 45; H.313/Act 54; H.441/Act 1; H.442/Act 2; S.1/Act 3)⁹

Burlington Electric Department tracked a large number of energy bills introduced early in the 2009 session. By the end of the session, the majority of the efforts that survived the process were consolidated into two acts, though some ended up in the FY 2010 Appropriations Act. There were also two supplemental bills passed in the special veto session in June that further amended and corrected some of the energy measures passed earlier.

Probably the most significant piece of energy legislation passed in 2009 was House Bill 446, now known as Act 45, which the Governor allowed to become law without his signature. As a part of helping to pass this act, Burlington staffers worked hard, along with a coalition of energy efficiency and consumer advocates, to enable the development of Clean Energy Assessment Districts: a mechanism that authorizes municipalities to pay for individual renewable energy and energy efficiency projects through debt financing that is made available to specially created Clean Energy Districts. Individual participating property owners then repay the cost of these projects through an assessment to be collected over very long terms on their individual property tax bill, making them more affordable. Such districts must be authorized by the municipal voters as a whole.

The legislation was carefully designed so that all costs are absorbed by the district participants and will have no financial impact on non-participating taxpayers. Specific requirements include the following:

- Only property owners who have entered into written agreements with the municipality will be subject to a special assessment.
- Before a written agreement is entered into, an analysis of project costs, energy savings, and estimated carbon impacts must be performed or reviewed and approved by the energy efficiency utility, which for Burlington is BED.
- The Vermont Department of Banking, Insurance, Securities and Health Care Administration (BISHCA) will establish program underwriting guidelines designed to help municipalities ensure that participants can repay their assessments.
- The length of time allowed for the property owner to repay the assessment must be less than the life expectancy of the project, up to a maximum of 20 years for owner-occupied property.
- The total amount a property owner can finance must be less than 15 percent of the assessed value of the property, not to exceed \$30,000 for owner-occupied property. The combined amount of the assessment, plus any outstanding mortgage obligations for the property, shall not exceed 90 percent of its assessed value.

⁹ Energy update prepared by Tom Buckley of BED.

- In the event a property subject to the assessment is transferred, all past due balances must be paid and the requirement for future payments will constitute a lien on the property.
- Municipalities may establish reserve funds to pay for past due balances and outstanding principal in the event of foreclosure.

Though these requirements were all designed to insulate non-participating taxpayers from costs associated with the Clean Energy District, they left municipalities with less flexibility to design programs suited to their individual needs than the original legislative proposal. Similar legislation in other states provides broader statutory authority and imposes fewer restrictions on cities and towns.

Since the passage of this enabling legislation, Burlington is now moving forward with the design of a CEAD-based program to be known as POWER (Property Owners Win with Efficiency and Renewables). Pending support from the City Council, approval of establishing the District and starting up the program will be on the March town meeting ballot.

The Energy Bill also established a “Right to Dry,” specifying that outdoor clothes drying cannot be prohibited in the state. Specifically, municipalities may not adopt ordinances that prohibit the installation of clotheslines, as well as solar collectors and other energy devices based on renewable resources, nor may such prohibitions be included in deed restrictions, covenants, or similar binding agreements.

In addition, the act opened consideration of siting wind energy generation on State lands, and softened the traditional hard prohibition that has been advocated by the current administration. Finally, and perhaps most significantly, the act established so-called “standard offers” or “feed-in tariffs” that propose to reward small renewable electric energy projects (up to 2 megawatt) with generous prices for their electric product in order to spur their development further. Tariffs vary depending on the energy source (e.g., \$0.12 per kWh for methane, \$0.20 for wind, and \$0.30 for solar). The program was capped at 50 megawatts total and a recently completed application process surfaced proposals for four times that amount.

The entire Energy Bill is available online at <http://www.leg.state.vt.us/docs/2010/Acts/ACT045.pdf>.

Much energy policy legislation was also contained in House Bill 313, which ultimately became known as the Economic Development Act (Act 54), as well as in H. 441, the FY 2010 Appropriations Act (Act 1 of the Special Session). Both of these bills, as well as the energy bill (H.446), were further amended and corrected through Acts 2 and 3 of the Special Session to eliminate duplicate provisions inserted into several bills as safeguards against the Governor’s vetoes, both anticipated and actual. The energy highlights of those acts:

- Provided specific guidance to help start up statewide programs for “all-fuels” weatherization that would be available to a broader spectrum of Vermonters than in the past. Specified that the fund is to receive 50 percent of the net proceeds above cost for the sale of carbon credits made available through the Regional Greenhouse Gas Initiative (RGGI).
- Appropriated \$31.6 million from ARRA (Recovery) funds into the State’s Clean Energy Development Fund (CEDF), including \$2 million for government and other “public-serving institution” buildings and \$880,000 for the 11 Regional Planning Commissions. It changed the governance structure of that fund with a new oversight board, two-thirds appointed by legislative leadership. It also expanded the range of eligible measures to include district heating projects, which could include proposals under consideration for the McNeil generating station.

- Directed the Department of Public Service (DPS) and Vermont utilities to collaborate on identifying and applying for competitive ARRA grants, and directed the Governor, DPS, Public Service Board (PSB), and necessary State and local government entities to take steps required by ARRA to qualify for additional State energy grants available from the U.S. Department of Energy.
- Required the Agency of Natural Resources (ANR) to expedite reviews and adopt a process for certification of small-scale hydroelectric projects (up to 1 megawatt).
- Clarified that individuals and businesses can accept grants from State-administered sources such as the CEDF, or utilize Solar Energy Tax Credits, but not have both.
- Established two Vermont Village Green Renewable “pilot” projects, one in Montpelier and one in Randolph, to bring district heat and electric generation to a designated downtown district or growth center. Customers who connect are eligible for financial incentives from the CEDF fund.
- Directed the Commissioner of Public Service to adopt new residential and commercial building energy standards by January 1, 2011, and devise a plan to implement them by 2017 by September 1, 2011.

BED’s Tom Buckley followed all energy related legislation closely, providing expert testimony on BED’s behalf in numerous committees. In addition, CAO Jonathan Leopold testified on CEAD on several occasions. The CEAD bill went through numerous committees in both the House and Senate, including House and Senate Natural Resources, House Commerce and Ways and Means. Burlington/Chittenden delegation members on those committees helped move the bill forward. All in all, this was in many ways a milestone year for energy legislation, and BED feels that many of the outcomes will significantly and positively impact future energy policy direction for Vermont.

LOCAL GOVERNMENT

Burlington Charter Changes (H.95/Act M-1; H.451/Act M-11)

The Legislature passed two separate bills dealing with the November 2008 and March 2009 charter changes approved by Burlington voters. H.95 allowed for a one-cent tax to be levied and collected for improvements to the City’s parks (“Penny for Parks”). H.451 authorized five additional changes:

1. The Voter Registration Board can add voters to the checklist at the last allowable opportunity. Under State law, a Board of Civil Authority may meet as may be necessary before an election to revise the checklist. The charter amendment deleted language that provides that the Voter Registration Board may not meet later than three days prior to the election to revise the checklist. The Board may now meet anytime prior to the election to correct the checklist.
2. The Chief Administrative Officer may designate an assistant to be the presiding officer for elections. As Burlington has multiple polling places and voting districts, there was a need to clearly identify the persons responsible for providing leadership and organizational support for the administration of elections.
3. The annual borrowing authority for School Department working capital, capital improvements, additions, and replacements was increased from \$750,000 to \$2 million. Major infrastructure improvements to Burlington’s ten schools, ranging in age from 108 to 47 years old, have been deferred for decades to meet the needs of kids during difficult budget times. Five years ago, voters approved \$750,000 in annual bonding for pro-active preventive maintenance on the buildings. In March, voters approved an increase to \$2 million a year for capital improvements focused particularly on the health and safety of the buildings. This year, funds were designated for replacing an exterior

wall at Hunt, which is separating from the building, replacing a boiler, and working on storm gardens as the eroding stairs at Edmunds are fixed.

4. A registered nurse may be appointed to the board of health. This allows additional qualified professionals to serve on the Board.
5. The Board of Health received the powers provided under Vermont statute for a local Board of Health, subject to the orders and ordinances of the City Council. This clarifies the Board's authority.

Sponsored by the entire Burlington delegation, the charter change bills moved smoothly through both chambers, thanks to the House and Senate Government Operations Committees and the efforts of Burlington/Winooski Rep. Ken Atkins, Vice-Chair of the House committee. City Attorney Ken Schatz testified on the City's behalf.

Miscellaneous Election Bill (S.121/Act 40)

This bill contained several technical changes that help Burlington. The most important one authorizes election officials in towns that use vote tabulating machines to announce unofficial results after the close of the polls, so long as all absentee and transfer ballots have been fed into the machine, and the results are clearly described as "unofficial incomplete results" (see attachments for bill language).

Burlington requested this change to avoid repeating the experience of several recent elections where officials had to wait until all ballots, including numerous write-ins and other ballots that the machines could not read, had been counted, leaving candidates and the public in the dark until the early morning hours. A strict interpretation of the law had lead the City and Secretary of State to conclude that it was not authorized to read unofficial results as soon as they were tabulated and printed out by the machine, as had been the practice in the past. The Secretary of State supported the City's request for the technical change, which allows it to safely reinstate this popular and helpful practice.

Another important change was that candidates who request a recount may now have it conducted using an optical scanner, rather than by hand count, saving the City time and expense. This change was adopted for both State and local elections. The bill also extends the life of mobile polling stations.

Same day voter registration and instant run-off voting bills were once again introduced but died in committee.

Local Option Sales Tax Holiday (H.442/Act 2)

The Legislature approved one of the Governor's economic stimulus priorities by instituting two sales tax holidays, one that already occurred on August 22, the other scheduled for March 6, 2010. The tax holiday applies to both sales tax and local option taxes on items with price tags below \$2,000. The Legislature appropriated \$10,000 to reimburse municipalities like Burlington that impose local option taxes for the resulting revenue losses. The State will also make good on the losses to the PILOT fund, which receives 30 percent of all local option tax revenues.

ENVIRONMENTAL PROTECTION AND PERMITTING

The big economic development and recovery bill (H.313/Act 54) included numerous provisions dealing with environmental protection and permitting, with a view towards promoting the state's economic recovery and facilitating the use of ARRA funds.

Stormwater (H.313/Act 54)

H.313/Act 54 extended the State's interim stormwater permit program until January 2012 in order to allow development in impaired waters prior to development of final cleanup plans. It also gave municipal stormwater projects in stormwater-impaired waters priority over other projects with respect to ARRA funds in the State environmental revolving fund. The bill further required the Agency of Natural Resources (ANR) to review and revise its rules for stormwater management practices to include alternative guidance for stormwater permitting specific to renewable energy projects, especially wind facilities.

Telecommunications and Permitting (H.313/Act 54)

The economic development bill made all types of communications facilities eligible for approval by the Public Service Board (PSB), including single facilities, without having to make a "network" proposal. Under current law, developers may apply to the PSB to permit telecommunications facilities for networks of three or more structures that are contiguous and exceed 50 feet. Facilities so approved by PSB are exempt from Act 250 and local zoning. The bill expanded PSB authority to permit any telecommunications facility or ancillary structure, regardless of height or contiguity. In other words, the bill in effect eliminates local zoning authority over telecom facilities. The PSB is, however, required to give due consideration to the recommendations of municipal legislative bodies, as well as municipal and regional commissions, and to the conditions of any existing Act 250 or local permits for communications structures. While local boards may weigh in with the PSB, it is under no legal obligation to take their advice.

The bill also established that applicants who have applied for a permit under local zoning or Act 250 and been denied may not seek approval for the same project from the PSB. Act 250 district commissions and local review boards are authorized to impose sanctions for misrepresentation of material fact, and the Environmental Court is authorized to revoke municipal land use permits for violations or misrepresentation of material fact. The PSB approval option sunsets on July 1, 2011.

Act 250 (H.313/Act 54)

Act 54 made several changes to the definition of development subject to Act 250 review. In addition to the aforementioned exemption for communications facilities subject to PSB review, it exempted certain hazardous-materials remediation directed by the Agency of Natural Resources (ANR). It also expanded an existing exemption for certain types of municipal infrastructure projects from Act 250's "substantial change" provisions. Previously, up to a ten percent expansion of existing municipal facilities like schools, water and wastewater facilities, and general government buildings was not considered a substantial change and therefore exempt from Act 250 review. Act 54 increased the exemption to 25 percent and expanded it to include county and State projects, as well as ARRA-funded road and bridge projects. This change was designed to facilitate ARRA-funded improvements to existing municipal, county and State projects, to avoid delays resulting from permit requirements. The exemption reverts to ten percent on July 1, 2011.

Environmental Ticketing (H.313/Act 54)

The economic recovery bill gave ticketing authority to ANR and the Natural Resources Board for environmental enforcement actions. Enforcement would be through the Judicial Bureau rather than the normal, more cumbersome environmental enforcement route. Appeals of Judicial Bureau decisions are to the Environmental Court. Ticketing authority applies to enforcement of minor violations, including general and individual permits.

Permit Expediting and General Permitting (H.313/Act 54)

Act 54 expedited permitting for certain types of projects in a number of ways. It required ANR, Agency of Transportation (AOT), Act 250, and local authorities to make stimulus-funded projects a priority over any other pending permit application. It set time limits for municipal review boards and District Environmental Commissions to issue decisions on projects that have received any amount of funding through ARRA. If a municipal board fails to issue a decision within 45 days after the adjournment of the hearing, a project is deemed approved. For District Environmental Commissions the limit is 90 days. This provision is repealed in July 2012.

Act 54 revives permits that have expired within the last five years if the project receives any amount of federal stimulus dollars, so long as no change is proposed to the project as approved. It also authorized ANR to expand the use of general permits beyond certain Clean Water Act projects to include classes or categories of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire state or a region of the state, and that present low risk to the environment and public health. This reduces permit-process time, establishes standard conditions, and allows for more self-certification for activities falling under a general permit. ANR may issue general permits for stationary source construction permits for air pollution control, aquatic nuisance control permits, construction permits for public water supply, and solid waste transfer station and recycling certifications. The general permit provision sunsets in July of 2014.

Composting (H.145/Act 41)

Act 41 followed up on the composting bill passed in 2008 (Act 130) and some of the recommendations of the study committee it created. Readers will recall that the 2008 bill created a two-year moratorium on the State's enforcement actions against the Intervale Compost Project and similar facilities. It also convened a study committee to review the existing regulatory requirements for composting in the state and to recommend amendments to the existing rules for composting facilities.

Act 41 adopted the definition of "compost" recommended by the study committee, among others. It allowed ANR to authorize small-scale composting facilities to simply register with the Secretary. Small-scale or farm-based composting facilities that follow accepted composting practices are not required to obtain a discharge permit, solid waste facility certification, or an air emissions permit. The act further required ANR to develop regulations defining accepted practices for the management of composting, including definitions for small-scale, medium-scale and *de minimus* composting facilities exempt from regulation. It required ANR to submit its proposed final rules for review by the legislative committees of jurisdiction by February 15, 2010.

ANR is required to reconvene the composting study committee in order to consider issues on which it could not previously reach consensus, including whether certain composting facilities or categories of composting should be exempt from Act 250. It must submit recommendations to the General Assembly by January 15, 2010.

Riparian Buffer Zones (H.323)

2009 once again saw introduction of a bill to create riparian, or waterfront, buffer zones of undisturbed land adjacent to the lakes and streams of the state. Similar to legislation introduced in the last biennium that failed to pass, the bill's intent is to make use of the natural filtration system for pollutants that these shoreline areas provide to help protect and enhance the health and quality of the state's surface waters. While supportive of the basic intent of the bill, the City followed it closely as it would affect development along the Lake Champlain shoreline and the banks of the Winooski River and Centennial and Englesby Brooks.

H.323 would establish riparian buffers of 50 feet beginning in July of 2014, severely restricting future development within these zones. Existing uses as of 2010 would be exempt, as would a number of other uses. The bill would allow municipalities to adopt their own riparian buffer bylaws in lieu of the State requirements, and to impose a buffer of less than 50 feet under certain circumstances. Though Burlington has already adopted its own by-laws, it is uncertain whether they would conform to future State regulations. The bill would also require ANR to adopt rules and enforce the buffer zone requirements.

H.323 retains language from last year's bill to address concerns over its potential impact on the ability to develop urban lake and riverfront land in Burlington and other densely settled communities. The language would allow development within the 50 foot buffer zone to accommodate development that conforms to "historic development patterns; or for redevelopment of land that has been disturbed prior to July 1, 2010, by industrial or urban development."

Since it was introduced in the first year of the biennium, the bill remains alive next year and will be taken up again.

PUBLIC SAFETY AND CORRECTIONS

Sex Offender Bill (S.13/Act 1)

[From "S.13 Fact Sheet" and "Vermont Network 2009 Legislative Wrap-up," Vermont Network Against Sexual and Domestic Violence, July 2009]

"In response to the death of Brooke Bennett in June of 2008 and the subsequent federal indictment of Michael Jacques for her kidnap, rape and murder, Vermont's Senate Judiciary Committee undertook an extensive investigation into the state's systems of response to sexual abuse. The Committee held a series of public hearings around the state and took testimony from scores of state and national experts on sex offender treatment, the legal system, victim services, and sexual violence prevention. They uncovered systemic failures, areas of concern and opportunities for improving Vermont's response to sexual violence. The extensive policy changes contained in Act 1/S.13 are designed to address some of these failures and to create a more coordinated, comprehensive approach to preventing, investigating and prosecuting sexual violence and holding perpetrators accountable."

"This law is based on the recommendations contained in the Senate Judiciary Committee's "34-Point Comprehensive Plan for Vermont's Sexual Abuse Response System"... The act contains significant changes to the laws regarding sexual violence, as well as greatly expanded funding for Special Investigation Units. For more details on this act, see the Network's [S.13 fact sheet](#). Highlights include:

- "A focus on prevention, including a change to the definition of "comprehensive health education" to require schools to provide education on sexual violence and healthy relationships; new background check requirements for teachers and school personnel as well as training requirements for school personnel and child care workers; a requirement that the Agency of Human Services (AHS) provide community outreach about sexual violence; and formal creation of the Vermont Center for Prevention and Treatment of Sexual Abuse;
- "Creates new crimes of Aggravated Sexual Assault of a Child (with a mandatory minimum prison sentence of 25 years – 13 V.S.A. § 3253a) and Sexual Exploitation of a Minor (13 V.S.A. § 3258); expands Special Investigation Units; expands collection of DNA to include some convicted misdemeanants as well as everyone charged with felonies; and expands protections for child victims who are called as witnesses in the prosecution of crimes of sexual violence;

- “Changes the way deferred sentences may be used for people convicted of crimes of sexual violence (this section is changed again in Act 58/S.125); expands presentence investigations and allows courts further access to sealed juvenile records for the purposes of sentencing and supervising offenders;
- “Expands probation conditions for sex offenders; requires greater communication between the department of corrections and the department for children and families when offenders are being released from incarceration; requires extensive reports from the department of corrections; and
- “Expands the lists of professionals required to report suspected child abuse and neglect; and urges local communities not to enact sex offender residency restrictions.”

Burlington Police Chief Mike Schirling testified in support of the bill in House Judiciary, though he argued that deferred and suspended sentences and expunged and sealed records are inappropriate in any sex offense case. The final bill met his concerns partway. The other major concern for the City was that Corrections staff caseloads for specialized sex offenders be set at appropriate ratios so as not to place a burden on local police, especially at a time when Corrections staff reductions were on the table. Act 1 established a caseload of no more than 45 sex offenders per probation and parole officer.

Sex Offender Registry (S.25/Act 58)

*[From “Vermont Network 2009 Legislative Wrap-up,”
Vermont Network Against Sexual and Domestic Violence, July 2009]*

“This law builds on the provisions contained in Act 1/S.13 and attempts to address some of the requirements of the federal Adam Walsh Act. Highlights include:

- “Explains some of the challenges of compliance with the federal Adam Walsh Act and analysis of some of the flaws in the federal law;
- “Creates a new crime of sex trafficking (13 V.S.A. § 2635a);
- “Creates a new juvenile crime called “minor electronically disseminating indecent material to another person” (13 V.S.A. § 2802b), intended to address concerns about potential child pornography charges against minors engaging in voluntary, consensual (though ill-advised) transmission of indecent photos of themselves via electronic devices; Requests that the Sexual Violence Prevention Task Force provide education to youth, adults and communities about the risks of using electronic devices to transmit indecent and inappropriate images;
- “Expands the sex offender registry to include people convicted of federal crimes, people convicted of the new crimes of aggravated sexual assault of a child, sexual exploitation of a minor, and sex trafficking, and anyone who moves to Vermont who was required to register as a sex offender in another location;
- “Expands the internet sex offender registry to include many more offenders and to allow citizens to search the internet registry by city or town; also posts addresses on the internet sex offender registry for certain higher-risk sex offenders (starting in 2010);
- “Requires probate courts to check with the sex offender registry prior to allowing legal name changes, and prohibits the court from allowing a registered sex offender to change their name unless the court finds there is a compelling reason to do so;
- “Changes the criminal statute of limitations for certain crimes of sexual violence against victims under 18: prosecutions must now be commenced by the time the victim turns 24 or within ten years from the date the crime is reported (was six years);
- “Makes miscellaneous changes related to sentence calculation, special management meals in DOC, fingerprinting, and deputy state’s attorneys; and

- “Further amends the law related to deferred sentences (revises changes made in Act 1): effective July 2, 2009, any entity subject to an expungement order at the conclusion of a deferred sentence for a felony sex offense will be allowed to retain its own records for future investigations.”

TRANSPORTATION (H. 438/Act 50)¹⁰

State Funding for Highways and Bridges

The State’s road and bridge infrastructure needs continued to overwhelm its ability to pay. Like the General Fund, Transportation Fund revenues continued to decline, prompting the Legislature to consider, but ultimately reject substantial revenue bonding for infrastructure repair. They did, however, include language in the bill establishing the framework for future bonding and conditionally authorized bonding for up to \$10 million for FY 10. In the end they relied on ARRA funds, increases in gas and diesel taxes, and a host of motor vehicle fee increases to help fund the State’s infrastructure needs. New revenues were required in part to make sure no ARRA funds were left on the table.

Town Highway Aid was funded at just under \$25 million, same as for the last several fiscal years. In FY 09 Burlington was originally scheduled to receive about \$262,000 from this fund for its street repaving program, though this was reduced by about \$10,000 as a result of a \$925,000 cut in the Budget Adjustment Act. Funds are allocated based on the total mileage of a city or town’s local streets and roads. Class 2 Paving was funded at \$5.75 million, the final FY 09 funding level after \$700,000 was cut through Budget Adjustment. Burlington receives assistance from this source on a per-project basis when we repave streets, part or all of which are state highways, like Willard, Shelburne, Main, Riverside and the Beltline.

Over the next two fiscal years Vermont will receive some \$125 million in highway and bridge money through ARRA, as well as an additional \$5.6 million in public transportation funding (see attachments for breakdown of program expenditures). \$32.7 million of this will be spent on municipal projects, with \$1.5 million designated for resurfacing Route 7/Shelburne Road in Burlington and South Burlington. Unfortunately, federal restrictions substantially limit the roadways and types of repairs that are eligible for ARRA funds. The public transportation funding, if used to purchase new, fuel efficient buses, would allow Vermont to reduce its backlog of capital bus purchases by close to 75 percent and replace more than 30 of its older buses with new, environmentally-friendly vehicles.

Champlain Parkway

No funds were earmarked for the Champlain Parkway/Southern Connector for FY 2010, pending completion of the Environmental Impact Statement for the Pine to Main Street route, which was filed in September.

Railroad Funding and “Quiet Zones”

Act 50 directed AOT to apply for a discretionary ARRA rail infrastructure grant to pay for upgrading the state’s western rail corridor. This would allow Amtrak to extend Ethan Allen Express service from Rutland, through Middlebury and into to Burlington. The act also directed the agency to prepare cost estimates and a plan to establish this service. It went so far as to authorize the purchase of rail using ARRA funds earmarked for this purpose, in the event that Transportation Fund revenues increase substantially.

¹⁰ The FY 10 appropriations chart from the League that is included in the attachments also shows funding for all individual transportation budget line items.

Last year, in an effort to save money in the Transportation Budget, the House eliminated funding for maintenance of the “quiet zones” established as part of the Champlain Flyer project several years ago. This would have affected railroad crossings in three communities: Shelburne, South Burlington and Burlington (Flynn Avenue, Sears Lane and Home Avenue). Trains are prohibited from sounding horns in the quiet zones. Crossings in these areas must be protected with automatic gates, otherwise trains would have to use their horns to warn traffic of their approach. The cost to maintain each crossing is in the \$12,000 - \$15,000 range, which would have been shifted onto the City budget.

The Senate worked out a compromise restoring the funding for FY 09 and making funding for future years subject to a negotiated agreement between the three municipalities and the State, with State funding not to exceed 50% of maintaining the quiet zones in future years. The Public Works Department believes it can provide maintenance services with existing staff for half the current cost. Over the last year, Public Works met with AOT to work out an agreement, but have been unable to conclude their discussions because of the departure of a key AOT staff person. Negotiations will resume once the position is filled.

Transportation Enhancement Grants / Bike & Pedestrian Facilities

Since the closure of the State’s own Bicycle and Pedestrian Program in 2005, the federal Transportation Enhancements Program has been the only source of funding for local bike and pedestrian projects. The year began on a sour note, with VTrans proposing a moratorium on new projects for FY 10, but ended with the Legislature directing the agency to award \$7.2 million (including \$3.8 million in federal stimulus money) over two grant rounds.

I-89 Exit 12B Proposal

A new interstate interchange at Hinesburg Road has been favored by Burlington International Airport and the City of South Burlington for many years. Airport officials make the case that it would allow more direct access to the airport via Kennedy Drive and alleviate traffic on Williston Road, which has several intersections rated at Level F. The Transportation Act directs VTrans, the Chittenden County Metropolitan Planning Organization, and other affected local jurisdictions and project partners to study the feasibility of creating a new interchange and to do so using public-private financing.

CAPITAL BILL (S. 365/Act 200)

The session began with great promise for an expanded capital bill that would parallel the federal ARRA legislation by providing an economic stimulus and job creation through State funding. In his inaugural speech, House Speaker Shap Smith called on the House “to craft and pass a \$150 million bond-based Economic Recovery package to keep Vermonters working now and in the future.” The Speaker’s proposal raised hopes among municipalities across the state that the Legislature would fund a public works program to reinvest in Vermont’s crumbling infrastructure. The League assembled an enormous list with \$657 million in “shovel ready” municipal projects from every corner of the state. Burlington alone contributed 23 projects totaling over \$150 million, including everything from redevelopment of the Moran Plant, to district heating, a green roof on the airport parking garage, runway improvements, and school building renovations, including the much-needed accessibility modifications at Edmunds.

Unfortunately, the State’s revenue picture continued to worsen as the session wore on and precluded extraordinary investments in public infrastructure. In the end, the Capital Bill included just under \$70 million in bonding. Though this was a \$15 million increase from the prior fiscal year, it was nevertheless the amount recommended by the Capital Debt Affordability Advisory Committee to ensure maintenance of the State’s excellent bond rating. ARRA funding brought the bill total up to \$109 million. The bill did end up investing \$8.6 million in a Vermont Investment Program designed to increase work opportunities for Vermont trades people and

artisans and to improve Vermont's infrastructure. This included funding for State parks, transitional housing, broadband, and local infrastructure and buildings.

VLCT's chart summarizing Capital Bill expenditures of municipal interest is included in the attachments.

School Construction

Each year, the recommended debt ceiling has made it increasingly difficult for the State to adequately fund its share of school construction aid, resulting in a large backlog of State commitments to worthy projects. This year's Capital Bill funded the capital needs of Vermont schools to the tune of \$10.3 million, only a \$287,000 increase from last year. This contrasts starkly with a laundry list of \$322 million in school construction projects identified by the Vermont Superintendents Association as of January 2009. Burlington did not have any projects in the queue this year, having only passed its most recent school bond in March.

The big economic development and recovery bill (H.313/Act 54) included several provisions designed to help facilitate additional school projects. It encouraged public schools to take advantage of new and expanded tax-credit bond programs available under ARRA and asked the Commissioner of Education to create a list of school districts that may be eligible for funding other than State aid, such as federal stimulus funds.

State Office Buildings

The Capital Bill included language authorizing the State to "...sell, lease, subdivide, or convert to condominiums the Thayer Building in Burlington." Cathedral Square Corporation has since been chosen as the successful bidder and is moving forward with plans to build senior housing on the site.

AFFORDABLE HOUSING (H.441/Act 1)

Vermont Housing & Conservation Board

VHCB is Vermont's premier funding source for assisting affordable housing with state taxpayer dollars and has helped fund virtually every single affordable housing unit developed over the last twenty years, including Northgate and hundreds of other units in Burlington. It also helps preserve the health of the state's rural and tourism economies by funding farmland preservation and the conservation of sensitive natural areas and recreational lands. Conservation funding, too, has been very important for Burlington over the years, helping to pay for the Waterfront Park and other significant conserved lands.

Housing advocates once again began the session deeply distressed over Governor Douglas' proposal to exact deep cuts from VHCB to help meet State budget shortfalls. In his initial budget, he proposed a \$9.3 million reduction, which would have represented a 70 percent cut. He also suggested eliminating VHCB's conservation funding completely. After the April revenue downgrade, the Governor's alternative budget proposed virtual elimination of the entire program.

Though legislative leadership made restoring funding for both housing and conservation a high priority, the State's deteriorating revenue picture prevented them from doing so. In the end, VHCB received a total of \$13.1 million - \$6.1 million in property transfer tax revenues, \$1 million from the capital bill, \$2 million in Recovery Act energy funds, \$3 million through the Neighborhood Stabilization Program, and \$1 million for the Home Access Program. This represents a 55% reduction in VHCB's core flexible State funding, and the federal funds used to replace much of its State funding are highly restricted. Nevertheless, the administration's efforts to eviscerate the program were stopped. Legislators also modified the VHCB board make-up to

allow legislative appointment of several board members and made sure VHCB would administer the State's share of any future moneys from the National Housing Trust Fund.

Homeless Shelters and Services

These funds are administered by the Vermont Office of Economic Opportunity and pay for basic shelter operating costs like rent, utilities and staff salaries. They also fund supportive and prevention services, emergency assistance and transitional housing. Originally slated for a four percent reduction by the Governor, this critical resource for the state's overburdened shelter system saw its base funding preserved at \$792,000. In addition, the Legislature awarded a one-time enhancement of \$250,000 through the FY 09 Budget Adjustment Act to help shelters address last winter's emergency overflow needs so that no one froze to death. Advocates estimate that they need a total of \$1 million annually from the State to adequately meet rising costs and demand for services as shelters around the state struggle to serve the needs of homeless individuals and families with children. Several Burlington programs serving the homeless and victims of domestic violence receive funding from this source.

General and Emergency Assistance (GA/EA)

There are a variety of housing and housing related support services for low-income families offered through the GA/EA Program, including Back Rent, Permanent Housing and Temporary Housing. These programs are essential tools in providing emergency housing assistance and preventing homelessness. Because of the economic downturn and resulting rise in housing instability and homelessness, General Assistance saw a huge increase in demand last year. The Legislature addressed this by increasing funding by \$1.9 million, i.e. by over 40 percent, in the FY 09 Budget Adjustment Act. For FY 2010, the Legislature replaced this one-time enhancement with ARRA Homelessness Prevention funds, which come with federal restrictions that make them ill suited for the task. It has also severely restricted eligibility for GA to make up for the loss. Advocates are deeply concerned about the impending crisis this will inevitably bring this winter.

Other Housing Related Funding

Assisted Community Care Services -- ACCS helps elders and people with psychiatric and physical disabilities live in more independent settings in assisted living and residential care homes. Providers like Burlington's Cathedral Square Corporation have never been reimbursed for the full cost of providing services. The Legislature has increased funding incrementally every year for a number of years, but even so, providers are left short. The Governor included ACCS on his list of four percent provider cuts. The Legislature was unable to restore funding fully, but found the money to reduce the Governor's cut to two percent.

Senior Supportive Housing Demonstration – Cathedral Square received a \$100,000 grant from the State to help fund the second and third years of a three-year program exploring different models for delivering services to seniors in a more effective manner, allowing them to age more safely and securely at home. The Thayer School site that Cathedral Square is developing (see Capital Bill section above) is tentatively scheduled to be one of the pilot sites for this program once it is up and running. Heineberg Senior Housing would be another.

Additional housing related programs that help providers serve the housing needs of Burlington residents were mostly slated for across the board cuts and in some instances, for complete elimination. Thanks to the Legislature's efforts they largely escaped the budget axe or suffered smaller cutbacks than originally proposed. These programs include HomeShare Vermont, Recovery Housing and the Mental Health Housing Contingency Fund, CVOEO's Mobile Home Project, and Housing and Supportive Services (the largest cut at \$24,000). Transitional housing for ex-offenders even saw a 100% increase of \$1.1 million, including a \$200,000 earmark for rental assistance.

Housing Legislation

The 2009 session saw only modest activity in terms of housing legislation. After considering their repeal, legislators preserved several important tax credits, including the Vermont Affordable Housing Tax Credit and the Charitable Housing and Mobile Home Tax Credits. Legislators also tabled bills that would have unfairly changed the way subsidized housing is assessed. The big economic recovery bill commissioned a study and report on the practice of selling property, and mobile homes in particular, on a rent-to-own basis. Rep. Kesha Ram's bill to enable tenants to cash checks for undisputed portions of their security deposits while still retaining the right to pursue money that they believe has been wrongfully withheld, passed the House but stalled in the Senate.

OTHER MUNICIPAL ISSUES

The Vermont League of Cities and Town's 2009 Legislative Wrap-Up covered numerous additional issues that were the subject of legislative action this past session. Readers should consult VLCT's report at www.vlct.org for write-ups of the following bills of general municipal interest:

- Executive Fee Bill (increases certain recording fees)
- Health Care
- Unemployment
- Worker's Compensation
- Wetlands Protections
- Notice of Status Change of a Law Enforcement Officer
- Motorized Water Vessels
- Legislative Study Committees

ATTACHMENTS

FY 10 Appropriations Act Summary Chart

(From "2009 VLCT Legislative Wrap-Up")

Municipal Funding Priorities in FY 2010 Budget (in Millions) with Addendum Bill Changes Included (June 2, 2009)					
Budget Line Item	FY09 Final	FY10 Governor's Recommend	FY10 Budget as it Became Law	FY10 Final Change from FY09 Final	FY10 Final Change from FY10 Gov Recommend
PILOT – ANR Lands	\$2.01	\$2.13	\$2.13	6.0%	0.0%
PILOT – Corrections Facilities ¹	\$0.04	\$0.04	\$0.04	0.0%	0.0%
PILOT – Montpelier ¹	\$0.18	\$0.18	\$0.18	0.0%	0.0%
PILOT – State Buildings ²	\$4.50	\$4.35	\$4.90	8.9%	12.6%
Current Use – Municipal	\$9.85	\$10.81	\$10.81	9.7%	0.0%
General Fund Transfer to Education Fund ³	\$291.13	\$274.78	\$277.88	-4.6%	1.1%
General Support of Teachers' Retirement System ^{4,5}	\$33.55	\$0.00	\$41.50	23.7%	
Municipal Planning Grants	\$0.86	\$0.41	\$0.41	-48%	0.0%
Town Bridge Grants ⁶	\$16.53	\$19.17	\$24.68	49.3%	28.7%
Town Highway Aid Program ⁷	\$24.98	\$24.98	\$24.98	0.0%	0.0%
Town Highway Aid Program – Class 1 Supplemental	\$0.13	\$0.13	\$0.13	0.0%	0.0%
Town Highway Structures ⁸	\$3.83	\$3.83	\$3.83	0.0%	0.0%
Vermont Local Roads	\$0.38	\$0.38	\$0.38	0.0%	0.0%
Town Highway Public Assistance Grants	\$0.20	\$0.20	\$0.20	0.0%	0.0%
Municipal Mitigation Grant Program	\$2.11	\$2.11	\$2.11	0.0%	0.0%
Class 2 Highway Paving and Rehabilitation	\$6.45	\$6.45	\$5.75	-10.9%	-10.9%
Town Highway Emergency	\$0.25	\$0.75	\$0.75	200%	0.0%
Total Local Highway Aid	\$54.86	\$58.00	\$62.81	14.5%	8.3%
TOTAL	\$396.12	\$350.29	\$400.25	1.0%	14.3%

1. All FY09 and FY10 figures have been shifted from being paid from the General Fund in FY08 to the PILOT for state buildings special fund. This new cost reduces the amount distributed under PILOT – State Buildings.

2. FY09 and FY10 figures are all from local options tax sharing and no state monies.

3. Required to increase by New England economic project cumulative price index for government purchases (16 V.S.A. § 4025(a)(2)). Governor proposed to reduce for this year and then to change the automatic adjustment to reflect changes in Vermont state spending. Conference committee report uses \$38 million of ARRA federal stimulus funds and totals \$18.4 million less than required by the above-cited statute.

4. Governor proposed shifting responsibility for paying for system to the Education Fund without any state assistance.

5. Despite the title, in the House version only \$33.5 million is coming from the state General Fund. The remaining \$6.8 million comes from ARRA, the federal stimulus money. Conference committee report contains \$1.275 million of Medicaid reimbursement funds that used to go into the Education Fund to reduce property taxes.

6. Includes state and federal aid only, no local match. In the House version, \$16.27 million of this is included in H.441, the appropriations bill from federal funds. The other \$3.04 million is coming from state bonded money included in H. 428. Conference committee reports include ARRA stimulus funds as well.

7. FY09 figures have been reduced by \$925,000 (15% of the January payment) from this figure.

8. In the House column, one-half of the FY10 House Appropriations figure is included in H.441, the appropriations bill from the Transportation Fund. The other half is coming from state bonded money included in H.428.

**Vermont Recovery & Reinvestment Act,
Burlington TIF Provisions
(H.313/ Act 54)**

Sec. 83. BURLINGTON TAX INCREMENT FINANCING

(a) The authority of the City of Burlington to incur indebtedness for its currently-existing tax increment financing district is hereby extended for five years beginning January 1, 2010.

(b) The City of Burlington shall submit to the joint fiscal committee at least ten days prior to its September 2009 meeting a business plan and projection of new incremental education property tax revenue growth to be financed by any indebtedness authorized under subsection (a) of this section, and a proposal for implementation of a payment to the education fund in lieu of tax increment which would approximate 25 percent of the new incremental education property tax revenue and the mechanism for payment by the City to the education fund, including payment dates.

(c) If the joint fiscal committee approves a formula for implementation of a payment to the education fund in lieu of tax increment (the increased revenue generated by the incremental grand list value), and if the City of Burlington incurs new indebtedness under subsection (a) of this section for its currently-existing tax increment financing district, then the City shall pay to the education fund the approved payment in lieu of tax increment as required under the plan approved by the joint fiscal committee.

Burlington Airport Provisions

* * * Legislative Priorities: ARRA Funds * * *

Sec. 17. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

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

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

- (1) A new aviation technical center facility.
- (2) A new customs border protection office.
- (3) The following three south-end taxiway projects:

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

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

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

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

**Miscellaneous Election Bill,
Unofficial Election Results
(S.121/Act 40)**

Sec. 2. 17 V.S.A. § 2588 is amended to read:

§ 2588. FILING RETURNS

* * *

(b) In towns that use vote tabulating machines, after the close of the polls and after all remaining absentee or transfer ballots have been fed into the machine, the presiding officer shall insert the ender card and the tabulator will print a tape of unofficial results. The presiding officer shall print at least two additional copies of the tabulator tape. The unofficial results from the tape may be publicly announced, and one copy of the printed tape may be posted in the polling place upon a placard that clearly states: "Unofficial incomplete results."

VTrans ARRA Projects

[from VTrans web site: <http://apps.vtrans.vermont.gov/stimulus/>]

	Amount	Percent of \$	Number of Projects	Percent of Projects
Total ARRA	\$130,482,217		76	
Economically Depressed				
Econ Depressed	\$63,194,843	48%	40	53%
Non Econ Depressed	\$67,287,373	52%	36	47%
	\$130,482,217	100%	76	100%
Local & State Projects				
State Projects	\$97,791,106	75%	28	37%
Municipal Projects	\$32,691,110	25%	48	63%
	\$130,482,217	100%	76	100%
Projects by Program				
Bike/Pedestrian	\$1,246,694	1%	2	3%
Bridge Maintenance	\$2,400,000	2%	1	1%
Enhancement	\$1,055,818	1%	8	11%
Interstate Bridge	\$9,301,016	7%	2	3%
Paving*	\$89,345,299	68%	28	37%
Paving (Town Grants)	\$4,972,718	4%	10	13%
Roadway	\$2,672,295	2%	2	3%
State Bridge	\$5,874,228	5%	3	4%
Town Bridge	\$13,614,149	10%	20	26%
	\$130,482,217	100%	76	100%

Capital Bill Summary Chart
(From "2009 VLCT Legislative Wrap-Up")

Agency/Department	Line Item	FY09 Final As Passed	Governor Proposed FY10	House Adopted	Senate Adopted	Final As Passed
Dept. of Buildings and General Services	Human Services and Educational Facilities Grants	\$180,000	\$180,000	\$300,000	200,000	200,000
	Recreational & Educational Grants	180,000	180,000	300,000	200,000	200,000
	Community Capacity Grants	0	0	1,000,000	0	0
Dept. of Information & Innovation	Vt. Telecommunications Authority Broadband development assistance ¹	180,000	0	5,000,000	1,000,000	1,000,000
Dept. of Taxes	Orthophotographic	100,000	0	100,000	100,000	100,000
Agency of Commerce & Community Development	Historic Preservation Grants ²	180,000	180,000	300,000	200,000	200,000
	Historic Barns & Agricultural Grants ²	180,000	180,000	300,000	200,000	200,000
	Cultural Facilities Grants ²	180,000	180,000	300,000	200,000	200,000
	Unmarked Burial Fund	25,000	0	0	0	0
Department of Education	State Aid for school construction ³	10,056,750	0	14,672,360	10,343,555	10,343,555
Agency of Natural Resources (\$11,131,000 total request ³)	Clean Water State/EPA Revolving Loan Fund Match ⁴	2,100,000	475,000	19,433,000	19,433,000	19,433,000
	Municipal pollution control projects ⁵	2,000,000	650,000	650,000	1,125,000	1,125,000
	Pownal wastewater treatment facility	1,600,000	200,000	1,060,000	140,000	140,000
	Water Supply Revolving Loan Fund ⁴	1,900,000	1,975,000	19,500,000	19,500,000	19,500,000
Clean & Clear Program Total Request \$2,250,000	Ecosystem Restoration & Protection Grants	1,120,000	1,700,000	1,500,000	1,700,000	1,500,000
	Unregulated Stormwater Management Grants	150,000	200,000	200,000	200,000	200,000
	Wastewater treatment facility phosphorus removal – Proctor	550,000	510,000	510,000	510,000	510,000
Montpelier Flood Study ⁶		100,000	142,000	142,000	142,000	142,000
Agency of Agriculture, Clean and Clear	Best Management Practices on Vermont farms and water quality buffer program	1,800,000	1,800,000	1,775,000	1,975,000	1,775,000
Dry Hydrant Program		100,000	100,000	100,000	100,000	100,000
<p>1. FY09 funds used by Vt. Telecommunications Authority to provide grants to municipalities, telecommunication infrastructure developers and service providers.</p> <p>2. Grants awarded on a 50-50 percent basis.</p> <p>3. Dept. of Education original request was \$14,628,805. \$6,983,461 from state capital funds, \$7,345,344 from ARRA funds. Includes \$300,000 for emergency school construction projects and \$43,555 for emergency shelters in schools.</p> <p>4. Grants to municipalities. Source is ARRA funds.</p> <p>5. Combined Sewer Overflows: Proctor \$160,000; Enosburg Falls \$250,000; St. Johnsbury \$240,000.</p> <p>6. Governor's recommend is second year of three-year request; cost shared equally by state and city.</p>						

City of Burlington: 2009 Key Legislative Issues

(* Highest priority items)

Education

- Education financing
 - Encourage examination of income tax proposal as per 2006 City Council resolution principles *
 - Hold harmless renters and low-income people *
 - Maintain income sensitivity for education & municipal tax liability *
 - Monitor CLA adjustment / property valuation proposals *
 - Monitor Act 185 adjustments (privacy of property tax adjustment information) *
 - Clarify fraternity tax exemption - require actual use
 - Protect Ed Fund *
- Education policy
 - Monitor impact of potential additional cost containment proposals on schools *
 - Lift cap on funding for preschoolers
 - Adjusted ADM for ELL and free and reduced lunch students *
 - Avoid cost shift to schools through adequate mental health & DCF funding
 - Monitor school calendar issue
 - Properly fund special education mandates

Appropriations

- Effect of budget cuts on City budget & services
- PILOT funding *
- After-school programs: replace "21st Century" federal funding
- State funding for after school and summer programs that don't meet current eligibility criteria
- Funding for downtown street outreach workers
- State financial support for public safety, incl. state & regional emergency response
- State funding for library
- Funding for adult ELL
- Funding for Quadricentennial

Transportation

- Funding for Champlain Parkway *
- Maintain funding and schedule for other major projects (federal earmarks, etc.)
- Regional transportation initiative / public transit funding
- Bike bridge to Winooski & ferry/bridge for causeway
- Rail issues: western corridor & rail yard relocation
- Funding for railroad quiet zones

Capital bill

- Address school capital needs *
- Monitor State office building moves
- Monitor VT State Hospital relocation

Environmental protection and permitting

- Storm water permitting
- Lake Champlain clean-up
- Monitor implementation of Act 43, Total Maximum Daily Load (TMDL) / phosphorous discharge levels *

- Climate change & global warming
- Waterfront buffer legislation
- Composting regulation & standards
- Eliminate State law PUD requirement for inclusionary zoning

Energy & Telecommunications

- Clean energy assessment districts *
- Enhance energy efficiency programs
- Electric affordability program
- Reduction of fuel tax on wood
- Exempt proprietary telecom info from public records law

Health and welfare

- Health care reform (effect on municipalities & schools)
- Truth and consequences of Global Commitment

Local government

- Charter changes *
- Allow notification of preliminary election results *
- Complexity of property tax administration
- Consideration of Police Department cost recovery
- Home rule
- Same day voter registration
- Amend criminal records law to allow municipal access for vendors & licensees
- Authorization for local control commissions to impose administrative fines for liquor license violations

Public safety and corrections

- Follow sex offender legislation
- Funding for Community Justice Center & Offender Re-entry programs *
- Monitor Justice Reinvestment Initiative
- Enhance Department of Corrections supervision
- Expand authority/enforcement options for civil ticketing

Affordable housing

- Full funding for VT Housing & Conservation Board (50% of property transfer tax)
- Homeless shelters & services funding through VT OEO
- Monitor General Assistance / Emergency Assistance Program reform
- Supportive housing funding
- Enabling legislation for municipalities to enforce fair housing laws (funding and penalties)

Economic development and job creation

- TIF technical amendments
- Support increased Downtown Program incentives
- Location of State jobs in Burlington
- Workforce training
- Continue moving towards livable wage
- Monitor telecommunications issues
- Predatory lending: regulate tax refund & pay check lending