

2010  
Burlington  
Legislative Review



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Legislative Liaisons

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## EXECUTIVE SUMMARY

As with the last several legislative sessions, this year's was once again overshadowed by a large looming State budget deficit and focused almost exclusively on the tremendous challenge of balancing the budget in the face of major revenue shortfalls resulting from the severe economic downturn of the last several years. The need to cut State spending stood in dynamic tension to the increased demand for State services stemming from the economic distress faced by ever greater numbers of low and moderate income Vermonters.

The overwhelming fiscal focus of the session again gave rise to a discussion about the fundamental role of State government and how it might be restructured to deliver essential services to Vermonters in a more efficient and cost-effective way. This discussion produced the two "Challenges for Change" bills, whose passage was a virtual foregone conclusion, having been embraced early on by both the Douglas Administration and legislative leadership as part of the solution to the state's fiscal conundrum. Aspects of these bills were considered by virtually every committee in the State House, though in the end the second bill, which attached more specific cost-cutting measures to the broad goals and outcomes identified in the first, was largely negotiated and written during the waning days and hours of the session.

As in 2009, the State relied heavily on federal stimulus funding through the American Recovery and Reinvestment Act (ARRA) to avoid deeper cuts in services. In spite of concerted efforts by advocates and isolated voices in the State House, legislative leadership made it clear from the outset that increasing revenues to make up for budget shortfalls was off the table, especially in an election year, and that the State's "rainy day" funds would only be tapped under the direst of circumstances. Equally clear was that the Legislature was unlikely to write a budget that would draw a gubernatorial veto, as it would be extremely difficult to muster the votes for an override for a second year in a row.

In spite of the overwhelming fiscal focus of the session, 337 House bills were introduced and 152 in the Senate. Of these, 68 House and 42 Senate bills became law. Because this was the second year of a legislative biennium, all bills that did not pass died and must be reintroduced next year. Legislative activity since the Legislature adjourned has been quite high again this year. With the Government Accountability Committee and several other special committees and working groups meeting on a monthly basis during the summer and fall, the work of our lawmakers now continues throughout the year -- even in an election year, when activity usually subsides between sessions.

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 [2010 Legislative Wrap-Up](#). 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, the same rates as 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 \$1.2820, up from \$1.2394 last year. The non-homestead rate translated into a local rate of \$1.5390, up from last year's rate of \$1.5334. The maximum percentage of income that an income-sensitized household pays for education taxes remained at 1.80%. Despite efforts by the Douglas Administration to lower it, the maximum annual household income to qualify for full income sensitivity remained at \$90,000. The Legislature made several other, relatively modest changes to income sensitivity.

**Appropriations** – 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 the

low-income and vulnerable. The legislative session began with a General Fund shortfall of \$267 million, the lion's share of which was made up by federal stimulus funds, Challenges for Change savings, Human Services cuts, redirected revenues, retirement and labor savings. The Legislature avoided many of the unpopular cuts the Governor had proposed, saving numerous key programs benefitting vulnerable and low-income Vermonters. When the new Legislature convenes in January, it will face its fourth year of recession-impacted budgeting, having made up a cumulative General Fund budget shortfall of \$753 million over the last three fiscal years. The estimated FY 2012 gap is \$112 million.

**Payments in Lieu of Taxes** – For FY 2011, the overall PILOT budget for general State buildings is \$5.65 million, up from \$4.9 million for FY 2010. Burlington was scheduled to receive \$793,058, an \$87,645 increase over last year. Until three 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. The Legislature lowered the administrative fee the Tax Department charges municipalities that levy local option taxes, as well as towns receiving PILOT payments.

**Challenges for Change** -- The two Challenges for Change bills grew out of the recommendations of a Minnesota consulting group hired by the Legislature's Government Accountability Committee to study efficiency in state government. The basic premise of the consultant's report – and of the entire Challenges process – was that Vermont could spend less and still deliver services that were as good as, or better than, what existed before. The goal was to create outcome-driven changes in service and performance, and to implement these with reduced state funding. The first bill was designed broadly to implement the concepts laid out by the consultant's report. Overall, it projected \$38 million in General Fund savings for FY 2011 and \$72 million for FY 2012, and proposed investments designed to deliver those savings. Challenges 2 created the changes in Vermont law needed to implement Challenges 1 and identified more specific cost-cutting measures. Challenges 2 did not quite meet the \$38 million savings target identified in Challenges 1, falling approximately \$8 million short. As of mid-October, approximately \$3.1 million in savings remained to be identified.

**Corrections** -- The Legislature spent considerable time and effort addressing the challenges posed by an out-of-control Corrections budget. It addressed Corrections issues in both Challenges for Change bills, as well as in S.292/Act 157, the "Corrections Bill," and in the Appropriations Act. The Department of Corrections alone is expected to come up with net General Fund savings of \$7 million. The State plans to invest \$6.35 million in communities and services to achieve these savings. The basic goal is to decrease the number of people coming into the corrections system at the front end, while lowering the number of people who return to prison at the back end, either through re-offense or technical violations of probation or parole. The plan is also to release non-violent offenders who have served their minimum times, especially those who are still incarcerated only because they have no prospects for housing upon release. The challenge will be to meet these goals while also ensuring public safety and providing effective consequences for criminal behavior. Challenges sought to reduce the number of offenders incarcerated to 2,000 or less by July 1, 2012 and to 1,800 or less by July 1, 2014. There were 2,119 inmates incarcerated in early December, down from 2,237 in April.

**Airport Issues** – Working in conjunction with CEDO, the Burlington Technical Center, Vermont Technical College, and the City of South Burlington, BTV officials sought and received State financial assistance for the development of a new Aviation Technical Training Center at the airport. The Economic Development Bill included \$150,000 to complete project planning, design and permitting so it can go out to bid in the spring. The FY 2012 Capital Bill included another \$150,000 for the same purpose, for a total State contribution of \$300,000. The airport also successfully sought an additional \$229,000 in transportation funding to make up the historic 3% State match for

almost \$15 million in federal funds for the South End Taxiway Projects. The State had said it could provide no more than the prior fiscal year's funding level, leaving BTV \$229,000 short.

**Burlington Telecom** -- There was active interest among legislative leadership, the Senate committee of jurisdiction and legislators generally in the difficulties surrounding Burlington Telecom. At the invitation of the Senate Economic Development, Housing and General Affairs Committee, City Attorney Ken Schatz provided committee members with an overview of BT's challenges. Ken and the Mayor also provided updates at Burlington delegation meetings. There were several high level meetings between legislative leadership, members of the City Council, the Mayor and administration officials. To be clear, these were largely informational and exploratory meetings initiated by legislative leaders. The City made no requests for legislative remedies to help with BT's difficulties during the last session.

**Energy Issues** – Much of the year's debate was focused on Vermont Yankee, but little actual legislative action took place. In addition the Legislature modified the boundaries of what Vermont considers to be renewable energy to include power from Hydro-Quebec in Vermont's renewable energy mix. This action helped pave the way for new HQ contracts for Vermont's utilities. BED worked successfully with the Burlington delegation to seek reconsideration of the state fee formula that is applied to fuel consumed by the McNeil generating plant. This will save McNeil an estimated \$26,000 in annual operating costs. The 2009 energy bill established so-called "standard offers," or "feed-in tariffs," that reward small renewable electric energy projects with generous prices for their electric product in order to spur their development further. The program was capped at 50 megawatts total and received applications for four times that amount last year. Through this year's energy bill, the project development process was simplified and made easier for small local projects to participate. BED was able to get a provision added to that will help municipal utilities operate on a level playing field with investor-owned utilities in developing renewable energy resources.

**Charter Changes** – City voters approved two charter changes on town meeting day this year. Sponsored by the entire Burlington delegation, the charter changes were combined into one bill that moved smoothly through both chambers. The two components were (1) the repeal of Instant Run-Off Voting (IRV), returning Burlington to the old system of electing a mayor by at least a 40% majority vote, and (2) the clarification of the mayoral appointment process, whereby the mayor will invite at least two commissioners to participate in interviews for department head appointments and the full applicable commission will participate in annual evaluations and make a formal recommendation to the mayor concerning reappointments.

**Electronic Criminal Record Checks** -- The City successfully sought an amendment to the criminal conviction record check statute that would allow local governmental bodies that require background checks for licenses and permits to pass on the \$30 criminal conviction record fee to applicants. For the City, this includes liquor licensing, taxi licensing, vendor/peddler and entertainment permits including within the Church Street Marketplace. Previously, the City asked applicants to provide their own criminal conviction records, which they could obtain for free from the Vermont Criminal Information Center in Waterbury. This delayed processing time and was the source of numerous complaints by applicants.

**Affordable Housing** – In his budget request, Governor Douglas proposed a 55% percent cut to the Vermont Housing and Conservation Board, the State's major capital funding source for affordable housing. To bring VHCB up to sustainable funding levels, advocates successfully sought \$5 million from the State's Capital Bill and \$6 million from the property transfer tax, for an overall FY 11 appropriation of just over \$11 million. The Legislature addressed the emergency housing needs of the increasing number of homeless and precariously housed Vermonters with \$100,000 in supplemental funding for Homeless Shelters and Services, increasing the overall appropriation to \$892,000. The Legislature supplemented the State's General Assistance Program

with \$300,000 in General Fund dollars and \$1.7 million in federal stimulus dollars from HUD's Homelessness Prevention and Rapid Re-Housing Program, bringing emergency assistance up to \$6 million total. Most other housing programs were either spared the budget axe entirely or saw relatively small cuts. The 2010 session saw modest activity in terms of housing legislation, passing bills regulating mobile home rent-to-own situations and enabling tenants to cash checks for undisputed portions of their security deposits, while retaining the right to pursue money that they believe has been wrongfully withheld. Legislators preserved several important tax credits, including the Vermont Affordable Housing Tax Credit and the Charitable Housing and Mobile Home Tax Credits.

## **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.783/Act 160)

Of all the impacts that annual legislative action has on municipalities, setting statewide property tax rates for education and providing funding for schools is probably the largest. This year's Miscellaneous Tax Bill set these tax rates and made a number of changes to income sensitivity. H.783/Act 160 set the statewide homestead education tax rate at \$0.86 and the non-homestead rate at \$1.35, both the same as last year.<sup>1</sup>

Both the statewide homestead and non-homestead tax rates have remained the same for the last several years, after a steady decline for most of the past decade.<sup>2</sup> Escalating property values throughout much of the decade enabled these steady reductions. As property values leveled off over the last several years due to the recession, so have revenues flowing into the Education Fund, requiring tax rates to remain level as well. Unlike many states, however, Vermont has not yet seen a substantial decline in its real estate values: the state's Education Grand List grew by 6.9% in FY 2010 and 2.2% in FY 11. Its value is expected to drop for the first time in FY 12 -- by 0.9%.

Meanwhile, School Boards were able to reduce overall school spending for FY 11 by \$22 million below the Tax Department's projections. This also helped allow the State to keep the tax rates the same as last year.

The second largest revenue source for the Ed Fund is the annual contribution from the General Fund, which is set by statutory formula and should have been just under \$300,000 this year. The Legislature was able to replace part of this contribution with \$38.6 million in federal "ARRA" stimulus funds.<sup>3</sup> It also underfunded the transfer from the General to the Ed Fund by \$24 million, about the same as last year. In addition, \$7 million of school-based Medicaid reimbursement money will not be transferred from the General Fund to the Education Fund for the third consecutive year, while \$3 million will be paid out of the Education Fund to partially support the Community High School of Vermont, the corrections system school. The total amount transferred was \$240 million, same as in FY 10. While ARRA funds helped reduce the State's huge budget gap this year, these dollars will not be available again for FY 12. This loss is a substantial part of the anticipated \$112 million FY 12 budget deficit.

Setting education tax rates for next year will be complicated by several factors, including the availability of \$19 million in federal aid, \$23 million in voluntary school spending reduction targets through Challenges for Change, and the restoration of up to \$60 million to the General Fund transfer to the Education Fund. Tax Commissioner Ellen Tofferi has said that next year's education tax rate could be 85 or 86 cents depending on how well school boards are able to meet the Challenges for Change reductions, and whether or not the federal aid is given to schools to help meet savings targets. Governor-Elect Shumlin has recommended keeping the base tax rate at 86 cents for homestead property and \$1.35 for non-residential property, given the uncertainty of achieving the reductions set forth in Challenges. He favors using the \$19 million in federal aid to give school boards another year to come up with the targeted spending reductions, though he has held open the possibility of using the \$19 million over two years.

**Burlington Tax Rates** -- This year's equalized statewide homestead education tax rate of \$0.86 and the non-homestead rate of \$1.35 translate into local Burlington rates of \$1.2820 and \$1.5390

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<sup>1</sup> These rates are set annually based on a variety of factors, including the expected value of the State's Education Grand List, anticipated statewide school spending, and contributions to the Education Fund from other sources, the largest being the State's General Fund.

<sup>2</sup> The original equalized statewide education tax rates set under Act 68 in 2003 were \$1.10 for homesteads and \$1.59 for non-homestead property.

<sup>3</sup> ARRA = American Recovery and Revitalization Act of 2009.

respectively. The local rates are a function of Burlington's Common Level of Appraisal (CLA), set at 87.72% by the Tax Department, and the school budget approved by voters last March.<sup>4</sup> The Miscellaneous Tax Bill also set the maximum percentage of income that an income-sensitized household pays for education taxes at 1.80%, the same as last year as well.<sup>5</sup> When adjusted for fiscal 2010 school spending, this translates into a local maximum education tax payment of 2.354% of annual income. Last year's H.12/Act 60 froze the base education payment at \$8,544 for both fiscal 2010 and 2011.

Despite efforts by the Douglas Administration to decrease it, the maximum annual household income to qualify for full income sensitivity remained at \$90,000. For people over that income limit and who therefore qualify only for partial income sensitivity, the homestead (or "housesite") value on which they receive income sensitivity remained capped at \$200,000. 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. This year's Miscellaneous Tax Bill removed the option of basing the rebate on the tenant's pro rata share of actual taxes paid as part of rent.

Please note that the preceding discussion refers 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:

<b>Tax Rate Multi-Year Comparison of Homestead Education Tax Rates<sup>6</sup></b>	<b>Act 68 FY 2008</b>	<b>Act 68 FY 2009</b>	<b>Act 68 FY2010</b>	<b>Act 68 FY2011</b>
Base equalized statewide homestead education tax	\$0.87	\$0.87	\$0.86	\$0.86
Budgeted Burlington education expenditures, total	\$41,574,566	\$45,724,107	\$49,903,088	\$51,932,746
Burlington education spending per equalized pupil	\$8,962	\$9,777	\$10,841	\$11,173.08
Statewide base education spending per equalized pupil	\$7,736	\$8,210	\$8,544	\$8,544
Burlington tax rate adjustment for local spending above statewide base	115.851%	119.086%	126.88%	130.77%
Common Level of Appraisal (CLA)	98.65%	93.38%	88.04%	87.72%
Burlington local homestead rate (State rate x local spending adjustment ÷ CLA)	1.0217	1.1095	1.2394	\$1.2820
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	2.085%	2.144%	2.284%	2.354%
Maximum household income eligibility limit for full income sensitivity	\$90,000	\$90,000	\$90,000	\$90,000
Cap on housesite value for partial income sensitivity	\$200,000	\$200,000	\$200,000	\$200,000
<b>Non-Homestead Education Tax Rates</b>				
Statewide non-homestead education tax	\$1.36	\$1.36	\$1.35	\$1.35
Burlington local non-homestead rate (State rate ÷ CLA)	1.3786	1.4564	\$1.5334	\$1.5390

<sup>4</sup> To arrive at local homestead rate, the statewide rate must be adjusted for both the City's Common Level of Appraisal (CLA) and its local spending percentage above the statewide base education spending per equalized pupil. The non-homestead rate needs to be adjusted only for CLA.

<sup>5</sup> 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.

<sup>6</sup> Adapted from information at <http://www.state.vt.us/tax/pdf.word.excel/pvr/txrpdfs/Burlington.pdf> and <http://bsdweb.bsdt.org/Board/BoardBudget.php>.

**Income Sensitivity Changes (H.783/Act 160)**

In addition to changing the Renter's Rebate, the Legislature made several changes that affect income sensitivity for homeowners:

- The value assigned to interest and dividends when calculating household income was increased by counting interest and dividends greater than \$10,000.00 twice.
- Housesite value that can receive income sensitivity was capped at \$500,000, i.e. no adjustment is available for equalized housesite value over \$500,000.00, and education property tax is due at the equalized local homestead rate on equalized value above that amount.
- The \$10 per acre payment for homesteads with more than two acres, not to exceed 5 acres or a \$50 maximum benefit, was repealed.
- Household income will no longer be reduced by most of the adjustments to "total income" that are enumerated on Federal Form 1040, except certain business expenses of reservists, one-half of self-employment tax paid, alimony paid and deductions for tuition and fees; current law allows all the adjustments between total income and adjusted gross income to reduce household income.

**Other Miscellaneous Tax Law Changes**

The requirement of filing a homestead declaration annually is eliminated. Once filed, the declaration remains in effect until the home is sold or otherwise transferred, or when it ceases to qualify as a homestead. The form will only need to be filed when someone acquires a homestead or owns a property that is made a homestead. Deadline for filing new declarations is the following April 15.

Beginning in 2011, a property owner who owns more than one residential rental unit is required to provide a landlord certificate to each person who rented a homestead during the preceding calendar year regardless of whether the tenant requested a certificate or waived the right to receive a certificate. The penalty for knowingly failing to furnish a certificate is increased from \$100 to \$200. Likewise, the minimum penalty for reporting rent in excess of the actual amount paid is increased to \$200.

**Voluntary District Mergers (H.66/Act 153)**

Originally titled "An act relating to including secondary students with disabilities in senior year activities and ceremonies," the bill's original purpose was to require that high school students with disabilities be permitted to participate in graduation ceremonies with their peers even if they will remain enrolled for the purpose of receiving additional services. Those students will not be eligible to participate in graduation if they have not met graduation requirements for reasons unrelated to their disability.

Late in the session, however, the bill became a vehicle for other education goals. Numerous proposals had circulated to reduce the number of Vermont's school districts. The Legislature was loathe to adopt measures that would have forced mergers. Instead, through H.66/Act 153, it created a voluntary school district merger incentive program. The bill provided temporary financial incentives to school districts that choose to voluntarily merge according to certain conditions. The merger process would occur using existing union school district formation law, and a merged district would be known as a Regional Education District. Effective July 1, 2010, incentives for voluntary school district mergers included a decrease in the education property tax rate in the first four years after the merger. The rate decrease is \$0.08 in year 1, \$0.06 in year 2, \$0.04 in year 3, and \$0.02 in year 4.

H.66 included a number of other provisions, including measures that reconfigured duties for supervisory unions and superintendents, and a new requirement that all school districts and supervisory unions adopt class size policies by January.

### **Pre-kindergarten ADM Caps (H.789/Act 156)**

One of the School Department's high priorities, lifting the caps on pre-K enrollment, saw limited success this year. Language was included in the FY 11 Appropriations Act that exempts school districts with schools that are making insufficient progress in improving student performance from the current-law limits on the number of pre-kindergarten children that a district can count in its average daily membership (ADM). The ADM limits for pre-K that were instituted two years ago prevented Burlington from increasing its state-funded pre-K enrollment as the district had already reached maximum capacity under those caps. This severely restricted the district's ability to serve its pre-K population, which has a high percentage of poverty level and non-English speaking children. The Education Commissioner determines whether school districts qualify based on whether schools are making Adequate Yearly Progress under the No Child Left Behind law.

## **APPROPRIATIONS**

(H.789/Act 156)<sup>7</sup>

### **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. The legislative session began with a General Fund shortfall of \$267 million. This budget shortfall was made up as follows:

Federal stimulus funds (ARRA)	113,290,000
New State revenue (mostly prior year's fund balance carried forward)	6,730,000
Additional federal revenue	8,480,000
Challenges for Change	37,880,000
Revenue redirected to General Fund from other State sources	36,440,000
Judiciary, Natural Resources & other savings	7,340,000
Human Services and Medicaid reductions	38,930,000
Retirement savings from teachers & state employees	16,970,000
Labor savings through new contract	9,270,000
Additional new spending priorities	(8,030,000)
<b>Total budget gap</b>	<b>267,300,000</b>

The Governor had proposed a number of unpopular moves to help close the budget gap, including paying for a portion of teacher's retirement from the Ed Fund, greater cuts to teacher and state employee retirement benefits, tax cuts, and \$15 million more in Human Services cuts. Examples of Human Services cuts, originally proposed by the Governor that the Legislature restored or reduced:

- Senior Companion grant
- HASS Housing and Supportive Services grants
- Foster Grandparent grant
- Children's personal care services
- Neighbor to Neighbor program

<sup>7</sup> The League's table showing FY 2010 appropriations of general interest to municipalities, including transportation funding, is included in the attachments.

- Funding for long term care Ombudsman
- Flexible family funding and targeted case management
- Attendant services program
- Home modification grants and the care giver registry
- Funding for clinics for the uninsured and health centers
- Support for Area Health Education Center loans
- Adds funding for family services, recovery centers
- Adds funding for hospitals
- Reduces Governor's proposed Catamount deductible increase from \$1,200 to \$500
- Does not reduce the dental cap or increase Medicaid premiums

For a further description of the Legislature's final budget construct, including a complete list of the cuts the Legislature did make from Human Services, as well those it avoided or reduced, see [Conference Committee Summary Documents](#). Though the Legislature avoided many painful cuts to programs serving vulnerable Vermonters, it should be noted that the \$38 million in savings anticipated through Challenges for Change include almost \$24 million in additional Human Services cuts, some of which are further described below.

When the new Legislature convenes in January, it will face its fourth year of recession-impacted budgeting. Over the last three fiscal years (FY 09–11), the Legislature has made up a cumulative General Fund budget shortfall of \$753 million. Here's how the gap was closed:

ARRA funds	\$401.1 million
Budget reductions and adjustments	\$190.2 million
New revenue & compliance	\$30.2 million
Reserve funds and redirected funds	\$61.6 million
Rescission plans (cuts & redirects)	\$71.2 million
State filled positions reduced by (April 2008 to July 2010)	661 positions

The estimated FY 2012 gap facing the next Legislature is \$112 million – that's assuming projected Challenges for Change savings of \$72 million are actually obtained.<sup>8</sup>

Other than State education funding, 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. PILOT payments help support the municipal police, fire, highway, and other public services from which State facilities benefit. For FY 2011, the overall PILOT

<sup>8</sup> See Joint Fiscal Office's analysis, [General Fund Budget Gaps, FY 09-11](#).

budget for general State buildings<sup>9</sup> is \$5.65 million, up \$750,000 from the \$4.9 million budgeted in FY 2010. Burlington was scheduled to receive \$793,058, an \$87,645 increase over last year.

Until three years ago, PILOT was funded through a combination of local option tax revenues and General Fund moneys. As more towns have adopted local sales and rooms and meals taxes, the State's revenue from local option taxes has increased steadily, allowing it to completely eliminate General Fund contributions to PILOT while still increasing the overall fund.

Even though the PILOT fund has increased over the last several years, the State's reimbursement to municipalities for FY 2010 is only about 78% of what it should be. Full PILOT funding for FY 2011 would have been about \$7.2 million, which would have yielded \$1,010,990 for the City. Funding is 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 the Miscellaneous Tax Bill (H.783/Act 160) contained a provision that reduced the administrative fee the Tax Department charges municipalities that levy local option taxes, as well as towns that receive PILOT payments. The Tax Department has been charging more than it costs to process local option taxes on behalf of the towns. The fee was reduced from \$10.80 per business tax return to \$9.52. Actual cost is \$8.52 per return. This increased local option and PILOT revenues to the towns by \$66,000 overall. In the future, the Legislature will set the administrative fee, not the Tax Department. It will review the fee every third year.

### **Community Justice Center & Corrections Budget**

The Legislature's focus on saving money in the Corrections budget placed a major emphasis on expanding the alternatives to the traditional criminal justice system to decrease the number of people entering the system at the front end, and to enhance community services designed to assist community reintegration to reduce recidivism at the back end. As part of the second Challenges for Change bill (see below), the General Assembly appropriated \$650,000 for grants to community justice centers, as well as for similar restorative justice programs in counties that do not have a community justice center, to reduce the number of people entering the criminal justice system and to help with offender re-entry. The Corrections Department issued an RFP last summer, out of which Burlington's CJC was awarded \$80,000 and was sub-granted an additional \$30,000. Its base State funding was level-funded at \$163,000 last year.

The other important issue for the City in the Corrections budget was transitional housing and funding for other community reintegration services. Transitional housing is critical to the success of offenders re-entering the community in order to reduce recidivism rates and Corrections spending. Several Burlington organizations receive funding from this line item, including the Burlington Housing Authority and Northern Lights. Funded at about \$1.2 million for the last several years, the transitional housing budget doubled last year to \$2.5. This appropriation grew by another \$1.3 million to \$3.8 million this year as a result of Challenges for Change. These funds will be reinvested in transitional housing and other community services designed to enhance the success of offenders re-entering the community. With 150 or more inmates in prison who could otherwise be released but for the availability of housing on the outside, these are important investments for the State.

### **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

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<sup>9</sup> 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. Burlington receives payments from the first of these funds.

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 2011. 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 has been hard hit by funding cuts over the last several years. The budget originally approved by the Legislature two years ago (FY 09) was for \$4,302,105 overall, with \$3,011,473 for regional planning and \$860,421 for municipalities. The final FY 11 budget, which included a 5% cut through Challenges for Change, was for \$3,276,956, with \$2,500,426 going to regional planning and \$388,265 for municipal grants. These figures represent reductions of 24%, 17% and 55% respectively over the last two years. Last year municipal planning went down to only \$240,000 – a 72% cut that almost killed the program.

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 to make up for budget shortfalls. Based on the July update of the official State revenue forecast, the statutory funding level for planning in FY 11 should have been \$4.4 million. Burlington has made extensive use of municipal planning grant funds over the years, including for the Comprehensive Development Ordinance, Municipal Development Plan, and Open Space Plan. It is the only reliable external funding source the Planning Department has for regular planning projects.

### **CHALLENGES FOR CHANGE**

(S.286/Act 68 & H.792/Act 146)

The two Challenges for Change bills grew out of the recommendations of a Minnesota consulting group hired by the Legislature’s Government Accountability Committee to study efficiency in state government. The basic premise of the consultant’s report – and of the entire Challenges process – was that Vermont could spend less and still deliver services that were as good as, or better than, what existed before. The goal was to create outcome-driven changes in service and performance, and to implement these with reduced state funding.

The first bill was designed broadly to implement the concepts laid out by the consultant’s report. It identified eight general areas of government subject to the Challenges process. The ones most likely to have an impact on the City are Education, Human Services, and Economic Development. Challenges 1 outlined a series of desired outcomes for each of these areas, including subcategories within Human Services: Corrections, Mental Health, Aging and Disabilities, and Children and Families. Overall, it projected \$38 million in General Fund savings for FY 2011 and \$72 million for FY 2012, and proposed investments designed to deliver those savings. Almost half of the projected FY 2011 savings, \$18.6 million, was allocated to the Agency of Human Services. The bill also sought to relieve \$11 million in property tax pressure in fiscal year 2011 and, in FY 2012, reduce property taxes by \$26 million from fiscal year 2010 levels. The savings projected in Challenges 1 were incorporated into the FY 2011 budget from the outset, making Challenges almost a foregone conclusion from the start. Failing to meet these savings would have meant finding savings elsewhere in the budget, raising revenues or tapping the rainy day fund.

Challenges 2 was the next, more concrete step in redesigning how to provide government services. It created the changes in Vermont law needed to implement the conceptual proposals in Challenges 1 and associated more specific cost-cutting measures with that bill’s broader goals and outcomes. Though passed on one of the last days of the session, certain provisions

in Challenges 2 were amended through the Appropriations Act, which was passed later. Challenges 2 did not meet the \$38 million savings target identified in Challenges 1, falling approximately \$8 million short at \$30.4 million. As of mid-October, approximately \$3.1 million in savings remained to be identified. Savings identified through Challenges should not, however, be confused with actual savings. They are estimated savings that have been allocated to different budget line items. More work is needed to turn these allocations into sustainable and ongoing savings. The administration is required to submit quarterly progress reports on its implementation of Challenges. The Government Accountability Committee has met monthly since the end of the session to monitor progress.

### The Corrections Challenge

The Legislature spent considerable time and effort addressing the challenges posed by an out-of-control Corrections budget. It addressed Corrections issues in both Challenges 1 and 2, as well as in S.292/Act 157, the "Corrections Bill" (see below), and in the Appropriations Act. The first three function as companion bills and must be read together and in conjunction with the Appropriations Act. The Department of Corrections alone is expected to come up with net General Fund savings of \$7 million. The State plans to invest \$6.35 million in communities and services to achieve these savings. The outcomes identified for the Corrections Challenge are:

- The number of people returned to prison for technical violation of probation and parole, while ensuring public safety, shall decrease.
- The number of people coming into the corrections system shall decrease.
- The number of nonviolent offenders diverted from prison into the community while ensuring public safety and providing effective consequences for criminal behavior shall increase.
- Recidivism shall decrease.
- A unified crime prevention and justice system shall be established.
- Revenues realized within the corrections system from programs designed to develop skills of offenders shall increase.
- Short-term lodgings in department of corrections facilities shall decrease.

Overall, the bill seeks to reduce the number of offenders incarcerated to 2,000 or less by July 1, 2012 and to 1,800 or less by July 1, 2014. Progress towards these goals has already been made: there were 2,119 inmates incarcerated in early December, down from 2,237 in April. Of these, 208 (9.8%) hail from Burlington. There were an additional 8,900 people living in Vermont communities under some form of DOC supervision, down from 9,563 in April. Of these, 726 (8.2%) live in Burlington.

To accomplish the identified goals, Challenges 2:<sup>10</sup>

- Limits the use of arrest warrants for failure to pay fines. New procedures are established for fines, penalties, surcharges, court costs, or other assessments imposed as part of a sentence for a criminal conviction that remain unpaid for 75 days or longer. Such matters may be referred to a collection agency or the court may initiate civil contempt proceedings. Civil contempt could culminate in a term of imprisonment on furlough to participate in a program that provides reparation to the community in the form of supervised work activities. A person ineligible for that could serve a sentence in a correctional facility. Persons unable to pay a fine might have their assessments minus surcharges waived or be required to attend restorative justice programs.
- Establishes a home detention program for pretrial detainees. The home detention program restricts a defendant to a pre-approved residence continuously, except for

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<sup>10</sup> Summary adapted from Vermont League of Cities and Towns' [2010 Session Wrap-up](#).

authorized absences. Restrictions are enforced by “appropriate means of surveillance” and electronic monitoring.

- Establishes a probation term limit for nonviolent felonies. Terms of probation for non-violent felonies shall not exceed four years or the statutory maximum term of imprisonment for the offense, whichever is less, unless the court finds that a longer term serves the interests of justice.
- Expands eligibility for the adult court diversion program to assist people charged with a first or second misdemeanor or first felony. The court diversion programs, the Vermont Department of States Attorneys and Sheriffs, and the Vermont Network Against Domestic and Sexual Violence (local law enforcement or municipalities are not named) shall develop referral criteria to identify persons who have elements of underlying domestic or sexual violence or stalking.
- Permits earlier reintegration furlough for nonviolent offenders. Any offender sentenced to incarceration may be furloughed to the community up to 180 days prior to completion of the minimum sentence at the Department of Corrections (DOC) commissioner’s discretion, except that an offender sentenced to a minimum term of less than 365 days shall not be eligible for furlough until he or she serves at least half the minimum term.
- Establishes graduated sanctions for technical violations of parole. Probationers shall not be re-incarcerated for technical violations of probation unless they failed to pay restitution or committed a new crime, except in specified instances. In addition to the options available to a court for determining a sentence, the court may refer an offender to a reparative board, which may accept or reject the case.
- \$6,350,500 in investments in communities and services are included in the FY 2011 DOC budget. \$3,186,000 is allocated for investments in the Appropriations Act, and \$3,164,500 is allocated in Challenges 2. These investments are intended to decrease overall costs in the corrections budget by reducing the levels of incarceration and recidivism from the current three-year rate of 53 percent to 40 percent. Some of the identified appropriations are:
  - \$1,324,000 for grants for transitional beds for offenders re-entering the community;
  - \$80,000 for prison treatment programs;
  - \$650,000 for grants to community justice centers and similar programs, to prevent people from entering the criminal justice system and to help with offender re-entry;
  - \$200,000 to the judiciary to increase the capacity of community service providers; and
  - \$910,500 to purchase electronic monitoring equipment and additional field services to supervise offenders released to probation, parole, furlough, home confinement, and home incarceration.
- Legislators were concerned about DOC possibly wanting to close the Windsor facility to meet the Challenges cost reduction goals. The Appropriations Act outlined the final compromise, which allows DOC to close or substantially reduce services at a correctional facility or field office between January 31, 2011, and May 1, 2011, provided that the administration provides its proposal to House and Senate committees of jurisdiction 60 days in advance.
- Expansion of referrals to community reparative boards. Courts may refer to a Community Justice Center (CJC) an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor not prohibited for referral to a CJC. Such referral does not require the court to place the offender on probation. The CJC is not required to accept the case, in which case the offender returns to court for further

sentencing. If the offender fails to complete the CJC program to the board's satisfaction, he/she also returns to court for further sentencing.

- DOC cooperation with communities. The bill directs DOC to work with communities in which a large number of individuals are under its custody, including those living in the community and those who are its incarcerated residents. To help the community reduce the number of people entering into custody, giving priority to projects located in the communities that have the highest percentage of people under DOC custody per capita. As of early December, the top 5 communities were Winooski, Richford, St. Albans City, Barre City and Bennington (in descending order). Burlington was fourteenth.

Burlington Police Chief Mike Schirling came to the State House numerous times to express concerns that the Corrections Challenge not compromise community safety and overwhelm community resources needed to help re-integrate ex-offenders. He met with the Senate President, Speaker of the House and testified in several key committees.

One positive outcome from Mike's engagement was the inclusion of \$100,000 in the Appropriations Act to fund the **Rapid Arraignment & Intervention Model** (RAIM), developed jointly as a pilot program by the Burlington Police Department and the Chittenden County State's Attorney's Office. RAIM tests the concept of "swift, sure (not severe) intervention punishment for non-violent low level offenders." By streamlining police and prosecutors' paperwork, arraigning low level offenders within 72 hours and, when appropriate, diverting them into the alternative justice system, RAIM can create better outcomes and save costs. Rapid arraignment avoids the likelihood of further offenses occurring during the typically lengthy time (generally eight weeks) between offense and arraignment, when an offender is left to his/her own devices with no immediate consequences and the root causes of their criminal behavior left unaddressed. For those not diverted to alternative justice, short jail sentences (1-30 days) would be used in place of extensive and often costlier probation.

### **The Mental Health Challenge**

Challenges called for specific reductions in the appropriations to the Community Mental Health Centers, also known as the Designated Agencies (DA): 2% for mental health and 1% for developmental services. The original cuts called for by the Governor were 5%, or \$13.6 million. In the end, Challenges cut \$1.3 for mental health and \$1.5 million for developmental services. The legislation mandated that the DAs "shall minimize service reductions" when making these cuts. In fact, AHS is supposed to achieve all of its savings under Challenges "...without reducing government benefits, limiting benefit eligibility, or reducing personnel unless reduction is a direct consequence of achieving the required outcomes or specifically provided for under the Challenges legislation..."

Challenges outlined numerous proposals with regard to individuals with disabilities, mental health needs, or substance abuse issues that have the potential for savings, including:

- Evaluating the public safety risk of individuals with developmental disabilities who pose a risk to public safety and have not been assessed in two years;
- Based on those evaluations, developing protocols for evaluating the appropriateness of less restrictive residential placements;
- Redesigning service delivery to individuals with developmental disabilities who pose a risk to public safety;
- Reducing the length of inpatient psychiatric hospitalization;
- Analyzing new service models for clients with developmental disabilities whose services are high-cost and implement any cost-effective new service models;
- Improving employment outcomes for clients of the designated agencies; and

- Reviewing consumers' individualized service plans.

Challenges also authorized AHS to issue two RFPs designed to save money through creative solutions for providing services to people with multiple challenges. One RFP was to the DAs to serve individuals with serious functional impairments who are at risk of involvement or are involved with law enforcement, the criminal justice system, or Corrections with a goal of reducing the involvement with law enforcement and incarceration.

A second RFP for \$2 million overall was to provide for structural change in the method of service delivery by integrating services in the local community for AHS clients with complicated social and medical issues. Proposals were to include one or more of the following populations: (1) individuals with mental health conditions or disabilities who are at risk of involvement with the police and Corrections; (2) families with multiple social needs, with the goal of improved employment and housing outcomes, reduced involvement with the Division of Family Services, and improved health; (3) women involved, or at risk of becoming involved, with Corrections; (4) individuals at risk of hospitalization for a psychiatric need; and (5) families which include children with disabilities, including mental health conditions.

The City's concern with cuts to the Designated Agencies and some of the cost-saving proposals is that, as the Howard Center's ability to provide services is reduced, additional burdens will be placed on the City itself and on other area service providers like Burlington Housing Authority, the Committee on Temporary Shelter, CVOEO and the housing non-profits. Chief Schirling made a strong case that cuts to the state's mental health system result in a cost-shift onto law enforcement and the courts. He spoke in several committees about the impact cuts would have on the Burlington Police Department.

### **The Education Challenge**

Though the original Challenges proposals recommended education spending reductions for FY 11, the General Assembly recognized the work of school boards to control spending growth in FY 08 through FY 11, including the aforementioned \$22 million in FY 11 reductions. For education, Challenges thus focused on achieving savings in FY 12. It set a target of reducing education spending by \$23 million from FY 11 to FY 12, a 2% reduction, while at the same time achieving the identified education outcomes. \$17 million of this amount would be in Ed Fund savings, \$6 million in General Fund savings. To meet the overall targeted FY 12 savings, the Commissioner of Education was required to establish recommended reduction targets for each school district in the state. In setting those targets, the Commissioner was to consider the following factors:

- Demonstrated fiscal restraint;
- Per-pupil administrative costs;
- Student-to-staff ratios;
- The percentages of students from economically deprived backgrounds or for whom English is not the first language or both; and
- Other unique circumstances that affect education spending.

All districts were to notify the Commissioner by December 15 whether or not they would be able to meet their targeted savings. Recent media reports indicate that, in the aggregate, only about 20% of the statewide target can be met.

**Burlington** was one of the districts that indicated it would not be able to meet its target, which the Commissioner had set at \$1.2 million. The real size of this cut is \$3 million because of projected increases in fixed costs for FY 12, like contractual salary increases and health care benefits. Burlington is also one of the few districts in the state that is actually experiencing increases in enrollment. In spite of our multiple challenges -- high percentage of low-income students, English language learners and capital improvement needs, for example -- we are one of the lowest

spending districts in Chittenden County. The School Board's Ad-Hoc Committee found that the zero-based budget for Burlington is approximately 80% of the existing budget, meaning that only 20% of the budget is truly discretionary. This 20% funds many key programs that allow Burlington schools to keep pace with the challenges of the global marketplace for which we are preparing our children: Advanced Placement classes, music, drama, foreign languages, physical education and athletics, to name a few.

Both Governor-Elect Shumlin and Education Commissioner Vilaseca have indicated their support for giving the schools the \$19 million in federal aid coming to Vermont to prevent teacher lay-offs. This would help meet over 80% of the \$23 million savings target in Challenges. However, just like Burlington's target more than doubles when taking into account the unavoidable increase in fixed costs, the real size of the statewide savings is actually \$50 million, putting additional pressure on school districts to make painful cuts for next year.

### **The Economic Development Challenge**

The Economic Development Challenge is to improve economic development results while spending less in fiscal years 2011 and 2012 on programs identified in the Unified Economic Development Budget (UEDB). The following regional entities receive funding through the UEDB:

- 12 regional development corporations (RDCs);
- 11 regional planning commissions (RPCs);
- 14 regional state employment offices;
- Five regional micro-business development programs (MBDPs);
- Eight regionally deployed small business development center (SBDC) councilors; and
- Four statewide employer outreach programs for employee training.

Original proposals for this Challenge included wholesale mergers of regional entities and outright elimination of some of the programs. Negotiations among key legislators, administration officials and stakeholders were protracted and especially intense during the last two weeks of the session as some of the entities literally fought for their continued existence. In the end, Challenges made across-the-board 5% cuts to all entities and programs,<sup>11</sup> without actually eliminating any one of them. This amounted to \$965,600 in net reductions and includes cuts to the Agency of Commerce and Community Development (ACCD). These reductions come on top of considerable cuts to many of these entities and programs over the last several years, as well as to ACCD.<sup>12</sup> Though it does not eliminate any existing entities, Challenges does, however, contemplate "a comprehensive redesign of the regional services delivery system" and instituted numerous measures towards that end that are designed to generate additional savings in future years.

Challenges provided for continued funding for every existing regional planning commission and regional development corporation from July 1, 2010, through January 31, 2011, at 95 percent of their FY 10 funding levels. Beginning February 1, 2011, the State will implement performance-based contracting for regional economic development and planning services. Previously, funding for the RPCs and RDCs came in the form of grants.

Proposals for the provision of economic development services are to be submitted in response to an RFP from the Secretary of Commerce. Performance contracts may be awarded to RDCs, RPCs, or both, in the case of a joint proposal. Eligibility criteria for awarding contracts, many of which remain similar to those established for eligibility for the former grants, include:

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<sup>11</sup> Not to exceed 2.5% of any combined regional planning and regional economic development entity's funding for regional planning services.

<sup>12</sup> See p.15 for cuts to the Municipal and Regional Planning Fund.

- Serving an economic region generally consistent with one or more of the state's regional planning commission regions;
- Ability and willingness to provide planning and resource development services to local communities and to assist them in evaluating economic conditions and prepare for economic growth and stability;
- Ability to gather economic and demographic information concerning the area served;
- Letters of support from the legislative bodies of the affected municipalities;
- Capability and willingness to assist existing business and industry, to encourage the development and growth of small business, and to attract industry and commerce;
- Being the best qualified applicant service provider from the region to accomplish and promote economic development;
- Demonstrated need for the funding;
- Presentation of an operating budget that includes adequate matching funds;
- Willingness to involve the public in its policy-making process by offering membership to representatives of all municipalities in the region, which shall elect the directors of the governing board; and
- Willingness to coordinate its activities with the planning functions of any RPC located in the same geographic area.

Disbursement of funding for planning services will be predicated on meeting performance outcomes and measures. Performance contracts negotiated<sup>13</sup> with the Commerce Secretary are to address how the RPC, or RPC and RDC applying jointly, will improve outcomes and achieve savings compared with the current regional service delivery system, which may include:

- A proposal without change in the makeup or change of the area served;
- A joint proposal to provide different services under one contract with one or more regional service providers;
- Co-location with other local, regional, or state service providers;
- Merger with one or more regional service providers;
- Consolidation of administrative functions and additional operational efficiencies within the region; or
- Such other cost-saving mechanisms as may be available.

Interesting to note, Challenges increases the optional powers and duties of RPCs to include several that are typically the responsibility of the RDCs:

- Assisting communities in evaluating economic conditions and prepare for economic growth and stability;
- Gathering economic and demographic information concerning the area served; and
- Assisting existing business and industry, encouraging the development and growth of small business, and attracting industry and commerce.

Challenges also changes RPC review of municipal master plans from every five to every eight years. Regional plans now remain in effect for eight years, not five.

Key for the RPCs and municipalities was that Challenges left intact the Municipal and Regional Planning Fund, together with its statutory funding formulas.<sup>14</sup> Though these have not been followed in recent years, they remain in statute. Disbursements to municipalities shall be awarded annually on or before December 31.

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<sup>13</sup> RPCs negotiate performance contracts while RDCs apply in response to an RFP.

<sup>14</sup> 20% for Municipal Planning Grants, 70% for the RPCs and 10% for the VT Center for Geographic Information.

Challenges creates an eight-member oversight panel for regional economic development and planning services. The Commerce Secretary is to consult with the oversight panel in the development of RFPs for both regional economic development and planning services and in the review of proposals. The oversight panel retains final approval authority over the Secretary's award of contracts for economic development services, though not, apparently, for planning services. It also appears that both RDCs and RPCs, either separately or jointly, can submit RFPs to provide economic services, while only RPCs, or RPCS jointly with RDCs, can negotiate performance contracts to provide planning services. The language in the bill is somewhat unclear on these latter two provisions.

The oversight panel is also charged with working with the Commerce Secretary to develop outcomes and performance measures for ACCD itself, and to identify the functions appropriate to the Agency and how they relate to regional development and planning services. The oversight panel shall study and identify a process for developing a comprehensive statewide economic development plan, with a report due to legislative committees of jurisdiction by January 15, 2011.

By August 1, 2010, ACCD shall develop region-specific measures to evaluate economic growth, wage and benefit levels, job creation, and job retention in each economic development region of the state. RPCs and RDCs shall provide information to the Agency to complete the work required under this section.

Finally, Challenges directs the boards of directors of the Chittenden County Metropolitan Planning Organization (MPO) and the Chittenden County Regional Planning Commission (CCRPC) to collaboratively develop a plan for action steps and a timeline for the merger of the organizations.

## **PUBLIC SAFETY AND CORRECTIONS**

### **Corrections (S.292/Act 157)**

Act 157 must be read in conjunction with the second Challenges for Change bill (H.792/Act 146). Together these Acts seek to realize long term savings in the escalating Corrections budget while enhancing public safety and increasing the chances of successful offender re-entry. Act 157 specifically relates to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees. It serves as a companion bill to the Corrections Challenge and is designed to help accomplish its outcomes and savings. The bill:

1. Clarifies the Legislature's intention that "term probation," i.e., probation with a finite, as opposed to an indefinite term, be the standard for misdemeanors and nonviolent felonies. The exception in law that allows a court to deviate from this standard in the interest of justice should be used judiciously and sparingly. Similarly, the General Assembly intends administrative probation to be the standard for qualifying offenses for which probation is ordered and that, here too, court deviation from this standard should be used only sparingly. Currently some offenders are sentenced to indefinite terms of probation. These measures will reduce the length of time offenders spend under the supervision of the Corrections Department.
2. Grants the right to bail to nonviolent misdemeanor and nonviolent felony probationers who violate conditions that do not constitute new crimes. This measure will reduce the rate of incarceration for violations of the conditions of release by nonviolent offenders.
3. Requires the department of corrections to provide prescribed medication to an offender who is admitted to a correctional facility pending an evaluation by a department physician.

4. Discharges all nonviolent misdemeanor and nonviolent felony probationers who have less than six months remaining and who are not receiving services designed to reduce the risk of recidivism.
5. Releases all persons incarcerated for nonviolent misdemeanor and nonviolent felonies who:
  - Have served at least their minimum sentence;
  - Have not been released because of a lack of housing; and
  - Are not receiving mandatory, court-ordered services or programming designed to ensure successful reintegration into the community.
6. Includes attempts in the list of offenses that qualify a registered sex offender for posting on the Internet and exempts sex offenders with developmental disabilities from the requirement that their address be posted on the Internet, provided they are under 24-hour supervision and treatment in a secure residential facility.
7. Repeals the audit of the state's sexual abuse response system.
8. Directs the court administrator, the executive director of the department of state's attorneys and sheriffs, the defender general, and the commissioner of the department of corrections to work cooperatively to achieve a 25-percent reduction in the average daily detainee population by January 1, 2011, and to create an efficient plan to coordinate scheduling of court hearings and transportation of persons in the custody of the commissioner of corrections by March 15, 2011.
9. Allows courts to place inmates on home confinement furlough. Not to exceed 180 days.

The bill also includes a provision for ex-offenders released into the community on probation, parole or furlough that requires Corrections to notify local and state law enforcement officers of the name, address, conditions imposed by the court, parole board, or commissioner; and the reason for placing the person in the community. This addition is very important for Burlington and other communities with a high number of people under DOC's supervision, especially given how many people will be released into the community under Challenges and Act 157.

### **Community Safety and Corrections Task Force (H.790/Act 161)**

The Capital Bill created a Community Safety and Corrections Task Force to consider:

- The best ways to provide correctional services within the correctional system and within the community;
- The need for more bed capacity within the correctional system;
- Ways to reduce the need for incarcerative beds through use of alternative sentencing and provision of community services to reduce crime; and
- Inventories of overnight and residential facilities both in the corrections system and in the community for persons incapacitated due to overuse of alcohol or drugs.

The task force is supposed to deliver an interim report to the Legislature on its progress by January 15, 2011, with its final report due November 15, 2011.

### **ECONOMIC DEVELOPMENT**

(S.288/Act 78)

This year's Economic Development Bill once again included a number of expenditures and policy measures designed to help the State move towards recovery from the recession. Expenditures ranged from \$2.85 million for rural broadband, to \$1 million for VEDA's Vermont Jobs Fund and \$950,000 for the Vermont Employment Training Program.

### **Burlington International Airport**

The Economic Development Bill also benefited the Burlington International Airport. It recognized 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.

Working in conjunction with CEDO, the Burlington Technical Center, Vermont Technical College, and the City of South Burlington, BTV officials sought and received State financial assistance for the development of a new Aviation Technical Training Center at the airport. The Economic Development Bill included \$150,000 to complete project planning, design and permitting so it can go out to bid in the spring. The FY 2012 Capital Bill included another \$150,000 for the same purpose, for a total State contribution of \$300,000.

This new facility will house the Aviation Technology Program, and the new Vermont Flight Academy. Together, they will offer college level courses and training leading to FAA certification for up to 100 students each year. The current program is too small to develop the workforce needed to for the aviation industry, which has a \$2 billion impact on Vermont and is located throughout the state. BTV's intention is to foster a program that serves not only the needs of its business park, but large, aviation-related employers all over the state and beyond.

The project is in the permitting phase, with a development team in place, a building site secured, and initial design complete. Expansion of the program into a new building is the linchpin to the development of the newly expanded business park at the airport. This expansion is expected to create 350 direct and 500 indirect jobs in the region and has already seen many millions of dollars in public and private investment, including \$6 million in federal, state and local funds for site preparation. The airport is a proven catalyst for regional and statewide economic activity, with an estimated statewide economic impact of over a half billion dollars annually. As Vermont looks forward to economic recovery it is a crucial time to ensure that this project moves forward.

Various project partners, including Brian Searles and Bob McEwing from the airport and Nick Warner from CEDO, came to the State House numerous times during the session to make the airport's case before various legislative committees, including Senate Economic Development and Senate Institutions, both of which also took the time for a site visit and were very supportive. Though Senate committees took the lead, House Institutions and Commerce Committee members ended up playing key roles in securing the necessary funding.

The other major priority for BTV was to secure adequate State matching funds for a component of its ambitious Airport Improvement Program, the South End Taxiway Projects. The airport has a phased program for development of the south end for new cargo and general aviation-related facilities that is expected to bring in close to \$40 million in federal funds over the next several years and help create hundreds of good-paying jobs. Due to shortfalls in the Transportation Fund, the Agency of Transportation had indicated that it would only be able to level fund the State dollars allocated to BTV and not provide the State's historical 3% match, leaving BTV \$229,000 short to draw down \$4.8 million of the \$14.9 million in federal funds budgeted for the current fiscal year. Both the House and Senate Transportation Committees were extremely supportive, though ultimately it was the Senate committee that found a way to include these funds in its bill. Brian Searles came to the State House several times on this issue as well.

### **Burlington Telecom**

There was active interest among legislative leaders, the Senate committee of jurisdiction and legislators generally in the difficulties surrounding Burlington Telecom. At the invitation of the Senate Economic Development, Housing and General Affairs Committee, City Attorney Ken Schatz provided committee members with an overview of BT's challenges. Ken and the Mayor

also provided updates at Burlington delegation meetings. There were several high level meetings between legislative leadership, members of the City Council, the Mayor and administration officials. To be clear, these were largely informational and exploratory meetings initiated by legislative leaders. The City made no requests for legislative remedies to help with BT's difficulties during the last session.

### **Tax Increment Financing**

This year was the first in quite a while that TIF did not consume large amounts of the City's time and energy. The Legislature approved most of the specific changes the City had sought during the 2009 session, which allowed Moran and other waterfront projects to move forward. While the League, the City and several other municipalities had a number of general changes left over from last year that they would like to have seen the Legislature act on, there was no appetite to revisit TIF this year. The Miscellaneous Tax Bill did contain a technical amendment which provided that the fair market value of TIF property, not the original taxable value, be included in the equalization study that determines the common level of appraisal.

### **Downtown Tax Credits**

This year's economic development bill increased the cap on downtown tax credits by another \$100,000, from \$1.7 million to \$1.8 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. The Miscellaneous Tax Bill (H.783/Act 160) also increased the downtown sales tax reallocation, also administered by the Downtown Development Board, by an additional \$600,000. Burlington has made extensive use of these tax credits to assist its downtown and waterfront development.

### **Restaurant Bathroom Requirements (H.635)**

The City and members of the Burlington delegation worked with the owners of August First Bakery to change rest room requirements for small restaurants with seating capacity of up to 50 people. Having received all local permits for 45-50 customers, completed all necessary renovations and opened for business, this popular new restaurant ran afoul of a Vermont Health Department rule requiring at least two restrooms for restaurants with a seating capacity of more than 25 people. The International Plumbing Code recommends a ratio of one toilet per 75 seats, and was, in fact, amended in the State Plumbing Code to conform to the more restrictive Health Department rule. Unable to accommodate an additional rest room, the business owners were forced to regularly turn away customers, especially during lunch. This threatened the significant investment they had made in their start-up business, which the City's CEDO Office describes as "a real catalyst for further retail/restaurant development" in the lower Main Street commercial district.

H.635 was introduced in an effort to remedy this unfortunate situation by lowering the requirement to one rest room per 50 seats. The House General Committee heard testimony from August First owners Phil Merrick and Jodi Whalen and CEDO Economic Development Specialist Jon Adams-Kollitz, but unfortunately the issue came to the Legislature's attention too late in the session for it to act over the objections of the Health Department. Fortunately the issue has been resolved for August First, at least for the time being, by securing access to a rest room next door when needed. This issue may, nonetheless, come back next year. The Health Department committed to seek input from the Vermont Chamber, individual restaurants and other stakeholders on the current rule in time for the next session.

**ENERGY<sup>15</sup>**

(H.759/Act 134; H.781/Act 159)

Much of the year's debate was focused on Vermont Yankee, but little actual legislative action took place; the vote in the Senate not to renew its license happened all in one week. Since BED disengaged entirely from the nuclear plant in 2002, it was not directly impacted by this outcome. In addition the legislature modified the boundaries of what Vermont considers to be renewable energy to include power from Hydro-Quebec in Vermont's renewable energy mix. This action helped pave the way for new HQ contracts for Vermont's utilities.

BED worked successfully with the Burlington delegation to seek reconsideration of the state fee formula that is applied to fuel consumed by the McNeil generating plant. Though the plant features the most "state of the art" air emissions control available anywhere, it has historically been assessed a fee as if those controls were not in place. The new formula that was adopted into statute takes these controls into account when setting the fee rate for biomass plants. The "fee bill" (H.759/Act 134), which annually sets a myriad of state fees and charges, reduced the charge for emissions from burning wood from \$0.103 per ton burned to \$0.025 per ton, for wood burned with an electrostatic precipitator and other reduction technologies. This will save McNeil an estimated \$26,000 in annual operating costs.

The 2009 energy bill (H.446/Act 45) established so-called "standard offers" or "feed-in tariffs" that 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 received applications for four times that amount last year. Through this year's energy bill (H.781/Act 159), the project development process was simplified and made easier for small local projects to participate. BED was also able to get a provision added to the standard offer program that will help municipal utilities operate on a level playing field with investor-owned utilities in developing renewable energy resources, passing along benefits to local renewable energy developers in the process.

BED's Tom Buckley followed all energy related legislation closely, providing expert testimony on BED's behalf in several committees.

**LOCAL GOVERNMENT****Burlington Charter Changes (H. 773/ACT M17)**

City voters approved two charter changes on town meeting day this year. Sponsored by the entire Burlington delegation, the charter changes were combined into one bill that moved smoothly through both chambers. It was introduced and passed by the House before the month of March had ended. The Senate acted on the bill within another two weeks, and it was signed into law by the Governor before the end of April, which must be a record for a Burlington charter change. The two components were:

1. Repeal of IRV – The City charter was amended to eliminate instant run-off voting (IRV) for mayor and to decrease the percentage of votes needed to elect a mayor from more than a 50% majority to at least 40% of the votes. This returns Burlington to the old system of voting for mayor that was in place prior to IRV.
2. Clarification of mayoral appointment process – The City charter was amended to eliminate conflicting language within the charter and to clarify the role of commissions in the mayoral process of making department head appointments, evaluations and reappointments. The mayor will invite at least two commissioners, chosen by the

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<sup>15</sup> Energy update prepared by Tom Buckley of BED.

commission chair, to participate in interviews for appointments. The full applicable commission will participate in annual evaluations and make a formal recommendation to the mayor concerning reappointments.

The bill's smooth progress through both chambers was due largely to its support from the entire Burlington/Winooski delegation, including those who had supported IRV prior to its repeal by the voters, as well as the efforts of the House and Senate Government Operations Committees. City Attorney Ken Schatz testified on the City's behalf.

#### **Electronic Criminal Record Checks (S.161/Act 108)**

The City successfully sought an amendment to the criminal conviction record check statute that would allow local governmental bodies that require background checks for licenses and permits to pass on the criminal record fee to the applicants. For the City, this includes liquor licensing, taxi licensing, vendor/peddler and entertainment permits including within the Church Street Marketplace. Previously, the City asked applicants to provide their own criminal conviction records, which they could obtain for free from the Vermont Criminal Information Center (VCIC) in Waterbury. This delayed processing time and was the source of numerous complaints by applicants.

The City chose not to avail itself of direct electronic access to those records because it would have cost \$30 for each record check, and existing law prevented the City from recouping this cost from the applicant. Under the new exemption for municipalities, the City can directly access criminal conviction records through VCIC's online system and pass the \$30 cost on to the applicant, saving the applicant a trip to Waterbury, as well as shortening application processing time – without burdening Burlington taxpayers. City Attorney Ken Schatz and Assistant Attorney Nikki Fuller testified in both Judiciary Committees.

#### **Property Transfer Tax (H.783/Act 160)**

The Miscellaneous Tax bill changed how property transfer taxes are handled. Beginning January 1, 2011, the transfer tax is payable to the Commissioner of Taxes instead of to the city or town clerk of the municipality in which the property is located. The tax is due upon transfer rather than at the time of recording. The return may now be filed electronically.

#### **Municipal Lien on Uninhabitable Property (H.783/Act 160)**

The Miscellaneous Tax Bill also allowed a municipality to place a lien on an uninhabitable property in order to recoup expenses associated with keeping the property safe. In order to take advantage of this new power, a municipality has to adopt standards for determining whether a building is habitable and provide notice to the affected property owner before incurring expenses. The municipality must also have an appeals process in place.

### **ENVIRONMENTAL PROTECTION AND PERMITTING**

#### **Riparian Buffer Zones/River Corridors (H.323; H.763/Act 110)**

H.323, the Riparian Buffer Zone bill, would have created 50-foot riparian, or waterfront, buffer zones of undisturbed land adjacent to the lakes and streams of the state. Similar to legislation introduced in the prior biennium that failed to pass, the bill's intent was 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 included language to address concerns over its potential impact on the ability to develop urban lake and riverfront land in Burlington and other densely settled communities.

H.323 again failed to garner broad support and eventually morphed into H.763/Act 110, the River Corridors bill. Act 110 amends multiple provisions of state law regarding river corridor management planning, water quality, agricultural water quality, and stream alteration permits. Its purpose is to

“...encourage and promote buffers adjacent to lakes, ponds, reservoirs, rivers, and streams of the state, encourage and promote protected river corridors adjacent to rivers and streams of the state, and authorize municipal shoreland and river corridor protection zoning bylaws for the efficient use, conservation, development, and protection of the state’s water resources.”

To achieve these goals, the bill requires the Agency of Natural Resources (ANR) to establish river corridor management and shoreland protection programs, a component of which will involve ANR providing municipalities with maps delineating river corridors in order to encourage municipal adoption of river corridor or buffer bylaws. The act also requires the State to offer financial incentives for municipalities to adopt river corridor, shoreland, or buffer bylaws and for ANR to report to the Legislature by February 1, 2011, on the extent to which such financial incentives have been established.

As broad enabling legislation for municipalities, the main components of Act 110 did not end up affecting Burlington much as the City has already adopted its own riparian buffer zoning bylaws. Nonetheless, it should be reviewed closely from a technical standpoint to make sure our existing bylaws don’t conflict with any provisions in the new law.

There are two other important features to note. First, the act contains provisions which could affect some of the City’s practices for maintenance and improvements to certain streets and bridges. The act requires the Agency of Transportation (AOT) to work with ANR and municipalities to revise AOT’s town road and bridge standards in order to incorporate practical, cost-effective best management practices for the construction and maintenance of existing and future town and state highways. The best management practices must be designed to address activities having the potential to cause pollutants to enter groundwater and the waters of the state. The act provides incentives for municipalities to adopt road and bridge standards and submit annual certifications of compliance by (1) reducing the local match under the highway structures program from 20 to 10 percent, and (2) reducing the local match under the highway roadway program from 30 to 20 percent.

Second, the bill amends the “Stream Alteration” statute. Any activity in any “watercourse” (newly defined in the act), regardless of its drainage area, would require an ANR permit. Current law requires a permit for a watercourse only if the drainage area is more than ten miles at the location of the proposed change, alteration, or modification. The act authorizes ANR to issue general permits for stream alteration permits. The agency is to report to the Legislature about its proposed general permit program by January 15, 2011. The new permitting process would likely affect any future alteration/remediation efforts for Centennial and Englesby Brooks, two of the City’s streams that are compromised by urban runoff.

## **TRANSPORTATION (H. 784/Act 123)**

### **State Funding for Highways and Bridges**

The State’s Transportation Fund did not suffer from the same difficulties as the General Fund this year, thanks in no small part to another year of ARRA federal stimulus funding and a new transportation bonding program established in 2009. The FY 11 T-bill spends \$595 million to help meet the large backlog in the State’s road and bridge infrastructure needs, including \$80 million in ARRA funds and \$13 million in bonding.

Town Highway Aid was funded at just under \$25 million, same as for the last several fiscal years. Burlington has been receiving about \$260,000 from this fund annually for its street repaving program. Funds are allocated based on the total mileage of a city or town's local streets and roads. Class 2 Paving was funded at \$7.25 million, a \$1.5 million increase from last year. 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. The southern half of Winooski Avenue was repaved this past year, up to Main Street; next spring it will be repaved the rest of the way north to Riverside Avenue. Willard Street is also scheduled for next year.

Total ARRA transportation funding for Vermont over a two year period will be \$137.5 million, of which \$109 million is going for State and \$28 million for municipal projects. This includes \$5.7 million for public transportation, \$1.3 million for bike and pedestrian improvements, and \$11.8 million for town bridges (see attachments for breakdown of ARRA expenditures). \$1.5 million has been used to resurface Route 7/Shelburne Road in Burlington and South Burlington. \$2.9 has gone to Chittenden County Transit Authority (CCTA) to purchase new, environmentally-friendly vehicles.

Vermont submitted three grant requests under the competitive ARRA rail program, and was successful regarding two of them, receiving a total of \$50.5 million. Vermont received \$50 million for track and bridge upgrades along track used by Amtrak's Vermonter, which will result in an estimated 30-minute travel time savings for passengers between St Albans and Springfield, Massachusetts. Massachusetts and Connecticut also receive stimulus money for their plans to improve track speeds along this line. Once all three states complete improvements, it is estimated that a total of about 80 minutes will be shaved off the time from St. Albans to New York. Track and Bridge improvements began during Vermont's 2010 construction season. The project is anticipated to take two years to complete. Vermont also received \$500,000 to conduct a rail planning study regarding how passenger train service can be established south of Rutland, running through Manchester and Bennington, with connections to the Capital City District of New York.

### **Champlain Parkway**

The issuance of the "Record of Decision" by the Federal Highway Administration early in the year signaled the end of the Environmental Impact Statement phase of the project and set the stage for final design and permitting. As a result, the City only needed Preliminary Engineering (PE) funding from the State this year. This year's Transportation Bill included approximately \$700,000 for the City to work on final design and permitting in preparation for filing its Act 250 permits, a sufficient amount to keep the project moving forward as currently scheduled. It is as yet uncertain whether the project will require right-of-way or construction funding during FY 12.

### **I-89 Exit 12B Proposal**

Last year's Transportation Act directed AOT, the Chittenden County Metropolitan Planning Organization, and other affected local jurisdictions and project partners to study the feasibility of creating a new interchange on Interstate 89 at VT 116 and to do so using public-private financing. This new interstate interchange at Hinesburg Road has been favored by Burlington International Airport and the City of South Burlington for many years, as it would allow more direct access to the airport via Kennedy Drive and alleviate traffic on Williston Road. The Chittenden Metropolitan Planning Organization collaborated with the airport, South Burlington and two private developers in presenting a report to the Legislature's Transportation Committees that looked at different exit roadway alignment and financing options. Total project cost is estimated at \$33.4 - \$47.5 million, not including right-of-way acquisition. A 10% - 20% local/state share would amount to \$3.3 - \$9.5 million. The most promising potential revenue sources identified include a special assessment tax district, TIF, development impact fees, and parking fees at BTV. The Legislature took no further action this year. Meanwhile, the CCMPO and its partners have forged ahead, conducting a number of public outreach sessions during the fall.

### Transportation Enhancement Grants / Pedestrian & Bike Facilities

This year's budget allocated \$8.9 million for Pedestrian and Bike Facilities and \$3.4 million for Transportation Enhancement Grants. There are twelve eligible activities for Enhancement Grants, including pedestrian and bicycle infrastructure and safety programs, scenic and historic highway programs, landscaping and scenic beautification, historic preservation, and environmental mitigation.

### CAPITAL BILL (H.790/Act 161)

The State's annual Capital Bill appropriated a total of \$76,180,032. Of this amount, \$71,825,000 is funded through the issuance of new long-term general obligation bonds. This is the amount established by a special committee that annually recommends a figure for the State's debt ceiling. Much of the bill appropriates funds to construct, renovate or otherwise repair State buildings (\$26.8 million). With the construction industry severely depressed because of the recession, many of the Capital Bill's investments in public infrastructure were made with economic stimulus and job creation in mind. Items affecting Burlington and municipalities in general include:

Burlington Airport – Aviation Tech Center	150,000
Burlington - 32 Cherry Street	500,000
Burlington - 108 Cherry Street	500,000
Combined Sewer Overflow Projects (ARRA funds)	
Burlington - Gazo Ave.	100,000
Burlington - Manhattan Drive	200,000
K-12 & Technical Center School Construction Projects	7,000,000
Vermont Housing and Conservation Board	5,000,000
Building communities grants.	1,105,000
Municipal Grants for Water Supply, Pollution Abatement & Sewer Separation	2,375,400
Drinking Water Supply - Drinking Water State Revolving Fund	2,175,660
Clean and Clear Program / Lake Champlain Clean-Up	3,575,000

Each year the recommended debt ceiling and other pressures on the Capital Bill have 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. As a result, except for emergency and approved school consolidation projects, the State has had in place a moratorium for State aid for new school construction for a number of years. Each year the Legislature has chipped away at the existing outstanding obligation of \$28 million in school construction aid that is owed to school districts for projects approved prior to the moratorium. This year's Capital Bill funded overall school construction to the tune of \$7 million, with \$6.4 million of that going to State aid for past school projects. Governor Douglas had proposed no funding for this item, suggesting instead that it should be funded out of the Education Fund, which would have necessitated a higher property tax rate. The Capital Bill continues to encourage school consolidation by extending a sunset on increased aid for school consolidation projects for one year.

### AFFORDABLE HOUSING (H. 789/Act 156)

#### 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 budget request, Governor Douglas proposed a 55% percent cut to the Vermont Housing and Conservation Board. Legislative leadership made restoring funding for both housing and conservation a high priority. To bring VHCB up to sustainable funding levels, advocates successfully sought \$5 million in funding from the State's Capital Bill, VHCB's funding source throughout much of the 1990's. Added to a \$6 million appropriation from the property transfer tax, the overall FY 11 appropriation was just over \$11 million.

### **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. The Legislature addressed the emergency housing needs of the increasing number of homeless and precariously housed Vermonters with \$100,000 in supplemental funding for Homeless Shelters and Services, increasing the overall appropriation to \$892,000. 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, including the Committee on Temporary Shelter (COTS), CVOEO, Spectrum, and Women Helping Battered Women.

### **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 over the last several years. The Legislature addressed this by supplementing program funding with \$300,000 in General Fund dollars and, for the second year in a row, using \$1.7 million in federal stimulus dollars from HUD's Homelessness Prevention and Rapid Re-Housing Program (HPRP) to help meet the increased demand. This brought emergency assistance up to about \$6 million total. Unfortunately HPRP funds come with federal restrictions that do not allow them to be used for all the same types of assistance as GA and EA. The Department for Children and Families, which administers the program, has also restricted eligibility. Advocates are deeply concerned about how to meet the emergency needs of folks who are not eligible this winter. HPRP funds run out at the end of the current fiscal year, so the Legislature will need to find a way to replace them in order to avoid a serious crisis next winter.

### **Other Housing Related Funding**

Housing and Supportive Services – HASS provides essential services to elders and individuals with disabilities living in subsidized housing to improve residents' ability to age in place and enhance their quality of life. Last year HASS funds assisted just under 1,200 seniors at 23 sites around the state to live more independently, potentially avoiding higher cost institutional care. Both Cathedral Square and Burlington Housing Authority rely on these funds to help serve their residents. The Governor proposed complete elimination of this key program's annual funding of about \$350,000, which the Legislature was able to restore.

Home Access Program – Administered by the Vermont Center for Independent Living, HAP helps people with disabilities make accessibility modifications to their homes, allowing them to live more independently and avoid the higher expense of living in a nursing home, which costs

the state approximately \$60,000 per year. The Governor's budget proposed elimination of \$100,000 in long-standing funding from the Department of Disabilities, Aging and Independent Living. The Legislature fully restored the proposed cut.

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, thus saving the State money in avoided higher cost care. Providers like Burlington's Cathedral Square Corporation have never been reimbursed for the full cost of providing services. The Legislature increased funding incrementally every year for a number of years, but even so, providers have been left short. ACCS was cut two years ago and now its reimbursement rate to providers lags even further behind.

Additional housing related programs that help providers serve the housing needs of Burlington residents were spared the budget axe. These programs include HomeShare Vermont, CVOEO's Mobile Home Project, Recovery Housing and the Mental Health Housing Contingency Fund. As mentioned above, Transitional Housing for ex-offenders even saw a 50% increase of \$1.3 million through Challenges for Change.

### **Housing Legislation**

The 2010 session saw 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. The Legislature passed a bill enabling tenants to cash checks for undisputed portions of their security deposits while retaining the right to pursue money that they believe has been wrongfully withheld. It also passed a bill incorporating the recommendations of the Mobile Home Rent-to-Own summer study committee for regulating rent-to-own situations. A bill codifying in law basic minimum rental housing guidelines drawn from several existing codes and requiring listers to identify properties with two or more units on the grand list passed the House but got stuck in the Senate.

### **OTHER MUNICIPAL ISSUES**

The Vermont League of Cities and Town's 2010 Legislative Wrap-Up covered numerous additional issues that were the subject of legislative action this past session. Readers should consult VLCT's report at <http://www.vlct.org/advocacy/2010sessionwrap-up/> for write-ups of the following bills of general municipal interest:

- Health Care
- State Fees Affecting Municipalities
- Growth Centers
- Judicial Restructuring
- The Regulatory Challenge: Permit Reform & Publication of Proposed Rules
- Municipal Audit Reporting Requirements
- Primary Election Date Change
- Town Meeting Option
- Emergency Medical Services
- Overweight Commercial Vehicle Operation on the Interstate System
- Chittenden County Transportation Authority
- Reserved Parking for People with Disabilities
- Private Road Maintenance Agreement Study

## ATTACHMENTS

## FY 11 Appropriations Act Summary Chart

(From "2010 VLCT Legislative Wrap-Up")

Municipal Funding Priorities in FY 2011 Budget (in Millions), Final Approved							
Budget Line Item	FY10 Budget as it Became Law	FY11 Governor's Recommend	FY11 House Passed	FY11 Senate Passed	FY11 Final	FY11 Final \$ Change from FY10	FY11 Final \$ Change from Governor's Recommend
PILOT – ANR Lands	\$2.13	\$2.13	\$2.13	\$2.13	\$2.13	\$0.00	\$0.00
PILOT – Corrections Facilities <sup>1</sup>	\$0.04	\$0.04	\$0.04	\$0.04	\$0.04	\$0.00	\$0.00
PILOT – Montpelier <sup>1</sup>	\$0.18	\$0.18	\$0.18	\$0.18	\$0.18	\$0.00	\$0.00
PILOT – State Buildings <sup>2</sup>	\$4.90	\$5.50	\$5.65	\$5.65	\$5.65	\$0.75	\$0.15
Current Use – Municipal	\$10.81	\$11.70	\$11.70	\$11.70	\$11.70	\$0.89	\$0.00
Homeowner Rebate	\$13.73	\$16.74	\$17.20	\$16.32	\$16.72	\$2.99	(\$0.02)
Renter Rebate	\$2.54	\$4.08	\$2.50	\$2.50	\$2.50	(\$0.04)	(\$1.58)
General Fund Transfer to Education Fund <sup>3</sup>	\$279.40	\$279.40	\$275.68	\$273.38	\$276.40	(\$3.00)	(\$3.00)
General Fund Support of Teachers' Retirement System <sup>4</sup>	\$41.50	\$31.30	\$48.23	\$48.23	\$46.91	\$5.41	\$15.61
Municipal Planning Grants	\$0.41	\$0.41	\$0.41	\$0.41	\$0.41	\$0.00	\$0.00
Town Bridge Grants <sup>5</sup>	\$24.68	\$18.32	\$18.32	\$18.32	\$18.32	(\$6.35)	\$0.00
Town Hwy Aid Program	\$24.98	\$24.98	\$24.98	\$24.98	\$24.98	\$0.00	\$0.00
Town Highway Aid Program – Class 1 Supplemental	\$0.13	\$0.13	\$0.13	\$0.13	\$0.13	\$0.00	\$0.00
Town Hwy Structures	\$3.83	\$5.83	\$5.83	\$5.83	\$5.83	\$2.00	\$0.00
Vt. Local Roads	\$0.38	\$0.38	\$0.38	\$0.39	\$0.39	\$0.02	\$0.02
Town Highway Public Assistance Grants	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.00	\$0.00
Municipal Mitigation Grant Program	\$2.11	\$2.11	\$2.11	\$2.11	\$2.11	\$0.00	\$0.00
Class 2 Highway Paving and Rehabilitation	\$5.75	\$7.25	\$7.25	\$7.25	\$7.25	\$1.50	\$0.00
Town Hwy Emergency	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75	\$0.00	\$0.00
Total Local Hwy Aid	\$62.81	\$59.95	\$59.95	\$59.97	\$59.97	(\$2.84)	\$0.02
<b>TOTAL</b>	<b>\$418.45</b>	<b>\$411.44</b>	<b>\$423.68</b>	<b>\$420.51</b>	<b>\$422.62</b>	<b>\$4.16</b>	<b>\$11.18</b>

1. These line items were 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. FY11 figures are all from local options tax sharing and no state monies.

3. Required by statute to increase by New England economic project cumulative price index for government purchases (16 V.S.A. § 4025(a)(2)). Last year, the legislature reduced this with "Notwithstanding" language. FY11 figure includes \$38.6 million of ARRA federal stimulus funds in place of General Fund support and still totals \$18.4 million less that required by the above-cited statute. FY11 budget continues to carry shift responsibility for state's Correction Department education program and a Human Services Agency's early education initiative to be paid for out of the Education Fund. FY11 figure is further reduced by the \$6 million reduction authorized by the "Challenges for Change" legislation and is increased by an additional \$3 million made available from a contingent transfer that is paid back to the General Fund in FY12.

4. The FY11 final appropriation assumes the teacher retirement changes reflected in H.764 as passed.

5. Includes state and federal aid only – no local match.

### ARRA Transportation Projects

[from AOT's [Transportation Stimulus and Economic Recovery](#) webpage]

	Amount	Percent of \$	Number of Projects	Percent of Projects
<b>Economically Depressed</b>				
Econ Depressed	62,974,369	46%	32	44%
Non Econ Depressed	74,506,305	54%	41	56%
	137,480,674	100%	73	100%
<b>Local &amp; State Projects</b>				
State Projects	109,296,791	79%	30	41%
Municipal Projects	28,183,883	21%	43	59%
	137,480,674	100%	73	100%
<b>Projects by Program</b>				
Aviation	6,008,809	4%	1	1%
Bike/Pedestrian	1,313,233	1%	2	3%
Enhancement	870,411	1%	7	10%
Interstate Bridge	3,219,035	2%	2	3%
Paving*	83,394,057	61%	27	37%
Paving (Town Grants)	4,700,822	3%	10	14%
Public Transit	5,680,572	4%	2	3%
Roadway	16,743,457	12%	3	4%
State Bridge	3,722,068	3%	2	3%
Town Bridge	11,828,210	9%	17	23%
<b>TOTAL</b>	<b>137,480,674</b>	<b>100%</b>	<b>73</b>	<b>100%</b>

\* Paving includes seven Class-1 TH projects -- 9,471,207

## City of Burlington: 2010 Key Legislative Issues

(\* Highest priority items)

### Education

- Education financing
  - Maintain equity in education funding \*
  - Protect Ed Fund \*
  - Hold harmless renters and low-income people from prospective property tax reform proposals \*
  - Maintain income sensitivity for education & municipal tax liability \*
  - Monitor CLA adjustment, property valuation & tax exemption proposals \*
  - Monitor Act 185 adjustments (privacy of property tax adjustment information)
  - Clarify fraternity tax exemption - require actual use
- 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
  - Properly fund special education mandates

### Appropriations

- Effect of budget cuts on City budget & services, especially Corrections & Mental Health \*
- PILOT funding \*
- Maintain funding for downtown street outreach workers
- Oppose further cuts to municipal planning grants
- After-school programs: replace "21st Century" federal funding
- State funding for after school and summer programs that don't meet current eligibility criteria
- State financial support for public safety, incl. state & regional emergency response
- Funding for adult ELL

### Transportation

- Funding for Champlain Parkway \*
- State match for airport ARRA projects \*
- Funding for waterfront transportation projects
- Public transit & downtown transit center funding
- Rail issues: western corridor & rail yard relocation
- Monitor railroad quiet zones issue
- Bike bridge to Winooski & ferry/bridge for causeway

### Capital bill

- Address school capital needs \*
- Aviation tech center funding
- Monitor state office building moves
- Monitor VT State Hospital relocation

### Environmental protection and permitting

- Monitor permit reform proposals
- Monitor storm water permitting

- Monitor Lake Champlain clean-up & implementation of Act 43, Total Maximum Daily Load (TMDL) / phosphorous discharge levels
- Monitor waterfront buffer legislation
- Monitor composting regulation & standards
- Eliminate State law PUD requirement for inclusionary zoning

### Energy & Telecommunications

- Monitor the progress of biomass energy legislation
- Follow resolutions to support in-state renewable generation
- Reduction of fuel tax on wood
- Monitor telecommunications issues

### Health and welfare

- Health care reform (effect on municipalities & schools)

### Local government

- Charter changes \*
- Complexity of property tax administration
- Amend criminal records fee law to allow municipalities to recoup cost from vendors & licensees \*
- Home rule
- Same day voter registration
- Authorization for local control commissions to impose administrative fines for liquor license violations

### Public safety and corrections

- 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

- Level funding for VT Housing & Conservation Board
- Increase emergency funding for homeless shelters & services
- Increase safety net funding through General Assistance & monitor program reform
- Maintain level funding for housing related programs and tax credits
- Create statewide rental housing code enforcement system
- Maintain Vermont's housing delivery system
- Enabling legislation for municipalities to enforce fair housing laws (funding and penalties)

### Economic development and job creation

- Support TIF amendments
- Support increased Downtown Program incentives
- Location of state jobs in Burlington
- Workforce training
- Continue moving towards livable wage
- Predatory lending: regulate rent-a-center lending