

# VERMONT LEAGUE OF CITIES AND TOWNS

## LEGISLATIVE WRAP-UP



**2007**

**VERMONT LEAGUE  
OF CITIES & TOWNS**   
*Serving and Strengthening Vermont Local Governments*

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## INTRODUCTION

Welcome to summer and to the season of no legislature! (Actually, *less* legislature.) Read your VLCT *Legislative Wrap-Up* in the hammock and enjoy the fact that we won't bother you about legislative policy issues for at least two or three weeks. Then, it will be time to start thinking about priorities that municipal officials would like to see enacted in 2008 and to develop the 2008 Municipal Legislative Policy.

The 2007 legislative session started slowly as new legislators found their way around the State House and veteran legislators familiarized themselves with new priorities and committee assignments. But once things got rolling, the legislature was as wild and woolly as in any other year. Municipal governments and governance were front and center again on issues ranging from transportation to education finance, from workers' compensation and land use planning to elections, and handling of dogs and domestic pets. Local officials came closer to realizing the enactment of some longstanding priorities than ever before – most notably authority to enact local option taxes – although in the end, the achievement rang hollow.

The last frenetic week of the session saw action on multiple municipal priorities, including transportation capital funding, all other capital funding, tax increment financing districts, instant runoff voting, local option taxes, on-site wastewater, potable water, groundwater, establishment of riparian buffers and municipal authority to regulate siting of broadband or wireless telecommunications infrastructure. Some of those initiatives passed, despite the end-of-session wrangling between House and Senate layered upon differences between a Republican administration and a Democrat controlled legislature. Sometimes, the end isn't pretty. You should be aware that those measures that did not pass may be taken up in 2008 either via bills introduced in 2007 or that will be newly introduced in 2008. It's not actually over till it's over, and this biennium is not over until the closing of the legislative session in spring 2008.

As a result, it seems there are hundreds of summer study committees that have been assigned specific topics to study, with the aim of bringing back recommendations for action in January 2008. This *Legislative Wrap-Up* lists those that are relevant to municipal issues or which call for a member representing municipal interests.

The *Wrap-Up* describes those bills that passed and acts signed by the Governor that affect municipalities. Legislation is organized under the headings of our policy committees, as are relevant sections of the Omnibus Appropriations Act, H.537. The VLCT staff member responsible for each bill is noted under the bill's heading. If an Act number has been assigned, that is noted as well. As of this writing, most bills do not yet have Act numbers. To check on Act numbers or to obtain copies of bills, go to the legislative website, [www.leg.state.vt.us](http://www.leg.state.vt.us), or call the Legislative Council at 802-828-2231. Please note that the standard effective date for legislation is July 1, unless otherwise established in the bill and noted in the *Wrap-Up*.

Do you have issues with legislation that was passed or topics that were ignored? We need to hear about it! Please let us know what priorities VLCT should address in the 2008 session, which is just six months away. Be sure to read your draft Municipal Policy when it arrives in late summer and propose your changes then in preparation for the VLCT Town Fair and Annual Meeting on October 11 at the Champlain Valley Fairgrounds!

Finally, our heartfelt thanks to all local officials who let us know their positions on issues during the session, who informed us about the legislative impacts of proposals, who contacted legislators to urge their support or defeat of legislation as it was unfolding and to all who traveled to the State House to make their points in person. Our successes under the gold dome are due to your unflagging involvement. Particular thanks to the amazing folks who made it to Local Government Day during the Valentine's Day blizzard! You deserve extra time in the hammock.

Karen B. Horn, Director  
Public Policy & Advocacy  
May 31, 2007

## **MUNICIPAL FINANCE**

### **Appropriations Bill, Generally (H.537)** **VLCT Staff Contact: Trevor Lashua**

As is often the case, the appropriations bill (H.537) was one of the last bills on the legislature's table as the session drew to a close. Both bodies finally settled on a conference committee report on the very last day.

The table on page 4 shows a breakdown of funding for a number of areas of municipal interest, comparing and contrasting the numbers to FY07 and to the various stages of their legislative evolution. As the table illustrates, even with one-time dollars, funding for state Payments in Lieu of Taxes (PILOT) is down slightly (\$200,000) from FY07 levels. Last year, the state disbursed to towns excess funds it had collected from retailers. Those funds are not available this year.

Not showing up in the table, and embedded deep within a line item for the Department of Housing and Community Affairs (DHCA), is \$200,000 to continue the ancient roads grant program established last year. That figure is actually from the budget adjustment act (H.302), which was vetoed by the Governor before the whole budget adjustment was eventually added into the appropriations bill as an amendment for FY08. Another \$75,000 for the ancient roads grant program is included in the waterfall section of the budget. That section is essentially a listing of contingent spending – programs or line items that will receive a specified amount should actual revenue exceed projections.

Important to note here is the extensive use of unanticipated “one-time” funds made available due to an estimated General Fund revenue surplus of \$29 million. One-time funding is used throughout the FY08 budget to boost funding for some programs, provide a modicum of property tax relief and temporarily plug funding holes in other areas, due to continued underperformance of other revenue sources. Since the funding source is unanticipated, it probably won't be available for use in the next fiscal year. This scenario may result in reverted or reduced funding for a number of programs that are utilized by the towns and cities of Vermont.

Areas such as education funding and finance, groundwater mapping and transportation that are included in the table are covered in greater detail in their relevant sections of this *Wrap-Up*.

The appropriations bill calls for numerous studies and creates a number of working groups, which are covered in more detail in other sections of the *Wrap-Up*.

**Municipal Funding Priorities in the FY 2008 Budget (in Millions)**

<b>Budget Line Item</b>	<b>FY07 Final</b>	<b>FY08 Governor's Recommended</b>	<b>FY08 House Approved</b>	<b>FY08 Senate Appropriations Committee</b>	<b>FY08 Approved</b>	<b>FY08 Approved from FY07 Final</b>
PILOT – ANR Lands	\$1.57	\$1.57	\$1.57	\$1.57	\$1.57	0.0%
PILOT – Corrections Facilities	\$0.04	\$0.04	\$0.04	\$0.04	\$0.04	0.0%
PILOT – Montpelier	\$0.18	\$0.18	\$0.18	\$0.18	\$0.18	0.0%
PILOT – State Buildings <sup>1,2</sup>	\$3.70	\$3.10	\$3.35	\$3.45	\$3.50	-5.4%
Current Use – Municipal	\$8.11	\$8.86	\$8.86	\$8.86	\$8.86	9.2%
General Fund Transfer to Education Fund <sup>3,4</sup>	\$268.72	\$277.21	\$280.20	\$280.20	\$293.86	9.4%
General Fund Appropriation for Teacher Retirement System <sup>5</sup>	\$29.45	\$32.55	\$32.55	\$32.55	\$39.55	34.3%
Groundwater Mapping <sup>6</sup>	\$0.00	\$0.00	\$0.00	\$0.34	\$0.34	#DIV/0!
Municipal and Regional Grants <sup>7</sup>	\$3.71	N/A	N/A	N/A	\$3.87	4.5%
Town Bridge Grants <sup>8</sup>	\$25.57	\$22.26	\$22.51	\$22.26	\$22.39	-12.4%
Town Highway Aid Program	\$24.98	\$24.98	\$26.19	\$24.98	\$24.98	0.0%
Town Highway Aid Program – Class 1 Supplemental	\$0.13	\$0.13	\$0.13	\$0.13	\$0.13	0.0%
Town Highway Structures	\$3.49	\$3.49	\$3.49	\$3.49	\$3.49	0.0%
Vermont Local Roads	\$0.38	\$0.38	\$0.38	\$0.38	\$0.38	0.0%
Town Highway Emergency	\$3.49	\$1.19	\$0.50	\$0.75	\$0.75	-78.5%
Town Highway Public Assistance Grants	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	0.0%
Municipal Mitigation Grant Program	\$2.00	\$2.11	\$2.11	\$2.11	\$2.11	5.6%
Class 2 Highway Paving and Rehabilitation <sup>9</sup>	\$5.75	\$4.75	\$5.75	\$5.75	\$6.75	17.4%
Total Local Highway Aid	\$65.99	\$59.49	\$61.26	\$60.05	\$61.19	-7.3%
<b>TOTAL</b>	<b>\$381.48</b>	<b>\$383.01</b>	<b>\$388.02</b>	<b>\$387.25</b>	<b>\$412.97</b>	<b>8.3%</b>

**Key**

1. FY07 contains \$2.5 million from local option taxes, \$600,000 from state General Fund revenues; an additional \$400,000 from a Tax Department vendor fund and an extra \$200,000 included in the budget adjustment act (H.302) that was vetoed by the Governor. The Governor's FY07 Budget Adjustment and FY08 Budget recommended eliminating \$600,000 General Fund contribution and replacing it with additional revenue from local option tax towns.
2. \$50,000 was added in the FY08 "big bill" from FY07 to supplement FY08 payments to towns.
3. Required by Act 68 to increase by the same proportion that total state General Fund spending is increased.
4. FY08 contains an additional \$7.06 million in one-time General Fund revenue to make up for the transfer shortfall for FY07, along with \$6.6 million in one-time General Fund revenue. The \$13.66 million all comes from the General Fund waterfall/surplus.
5. Includes \$7 million in one-time FY07 funds reserved and applied to FY08.
- 6 This is a new program, established by the passage of S.92 this year.
7. The total includes both the municipal and regional planning grants. In FY07, \$0.82 million was allocated for municipal grants, and \$2.88 million for regional grants. In FY08, those figures increase to \$0.86 million for municipal grants and \$3.01 million for regional grants. The boxes filled in with N/A will be completed eventually.
8. Includes state and federal aid only, no local match.
9. Includes \$1 million in one-time money appropriated from the \$29 million General Fund surplus/waterfall.

## **Local Option Taxes and Tax Increment Financing (S.195, S.191)**

**VLCT Staff Contact: Karen Horn**

This year, the paths of both local option taxes and tax increment financing district (TIF) corrections were convoluted. The two were placed together in one bill during the final days of the session. While their fates were linked, they originated in separate bills introduced in the Senate. S.195 was introduced to extend authority to enact local option taxes to all municipalities, and S.191 would have provided technical amendments to TIF legislation so as to make it workable for municipalities around the state.

The local tax options bill that was introduced would enable all municipalities to adopt a 1% local option tax on sales, meals and alcoholic beverages, and/or rooms. As is the case now for those municipalities eligible to enact local option taxes, 70% of revenues would be paid on a quarterly basis to the collecting municipality. After that, the first \$2.5 million of remaining revenue would be deposited into the payment in lieu of taxes (PILOT) fund. Any revenue remaining thereafter would be deposited 50% to PILOT and 50% to the Agency of Transportation for state aid to town highways, which funds would be in addition to (and not instead of) transportation appropriations. S.195 on its own was not voted out of the Senate this year.

A TIF is a geographic area designated by a municipality for redevelopment within which newly generated property tax revenues are used to retire debt that is incurred to fund infrastructure improvements in the district. A municipality may establish a TIF pursuant to provisions of Title 24 chapter 53, subchapter 5. That statute allows municipalities to establish TIF district boundaries to provide revenues for district improvements that would encourage development or redevelopment, provide for employment opportunities, improve or broaden the tax base, or enhance the general economy of the municipality, region or state. Infrastructure to support that development would be paid for by indebtedness that is repaid from municipal property tax revenues and, after passage of legislation last session, from the increment of new education property tax revenue that is created as a result of the new development or redevelopment in the district. The entire TIF is to be approved by the Vermont Economic Progress Council. (VEPC).

S.191, as passed the Senate, would clarify that a TIF's purpose is to provide revenues for public improvements that not only are wholly within the district but also may be physically outside yet serving the district and their related costs. Upgrades or expansions that are due to TIF development would be eligible for funding from TIF financing, based upon an analysis of "proportionality" – that is, assessing how much of the project would actually serve the TIF development. A municipality with a VEPC-approved TIF may incur indebtedness for improvements within five years of the TIF designation, and for a total of 20 years, and the education tax increment may be retained to repay indebtedness for the same period. If a municipality used a financing instrument other than "least cost financing" or bonds, VEPC would have to assure its viability and reasonableness. Municipal voters would need to vote to authorize the legislative body to borrow against the education fund increment. As part of an annual report to VEPC, a municipality with a TIF would need to include actual investment, financing activity, escrow status and related cost accounting. The state auditor of accounts would have to review and audit all active TIFs every three years.

The TIF bill, S.191, was passed by the Senate and sent to the House Ways & Means Committee, which did not take up the bill. Both the local option tax and the TIF language were added to H.521, the miscellaneous tax bill, when that legislation was taken up in the Senate Finance Committee. That

set the scene for a contentious committee of conference to reconcile the House- and Senate-passed versions of the bill. H.521 also contained some adjustments to property tax law and to the grand list valuation of affordable rental housing, which are described in a separate article on page 10, “Cash Payment of Property Tax Adjustments for 2007.”

After a battle royale in the last hectic days of the session, the TIF and local option tax options were dropped from H.521. That bill passed, but not before House conferees offered their own version of extending local option tax authority to all municipalities. So, for the first time in the many years since local option taxes were discussed, both the House and Senate seemed willing to expand eligibility for enacting local option taxes statewide.

Although local option taxes died, H.521 did not spell the end for TIF legislation. S.93, miscellaneous changes to education statutes, was the last bill to pass before the gavel fell ending the session. Legislators added key language for towns seeking to implement TIFs. Section 24 of the bill established that, in the event of a reappraisal of 20% or more of all parcels in the municipality, properties within the district that are reappraised rather than parcels town-wide would form the basis of increased property values within the district. This section of H.521 takes effect retroactively, as of July 1, 2006.

The TIF discussion is not over. S.195 is still in the House Ways & Means Committee, ready to be taken up in the calmer, more deliberate atmosphere of the beginning of a legislative session. Municipal officials who are interested in the possibility of a TIF in their community should contact Karen Horn ([khorn@vlct.org](mailto:khorn@vlct.org)) for inclusion in a summer working group on the subject.

### **Capital Bill (H.405)** **VLCT Staff Contact: Karen Horn**

H.405 is the comprehensive capital bill to provide funding for Vermont’s capital needs and many of its subdivisions, including cities, towns and villages. (Transportation capital funding is addressed in a separate bill, H.527. See article on page 15.) Clearly the biggest challenge for the Institutions Committee was how to dole out \$49.2 million in bonded funds when requests were initially \$155 million and school construction aid alone represented a need of approximately \$90 million (projects for which funding has been approved). No school district in the state is proposing to build or seek funding for construction of a new school, yet the needs are great. The Institutions Committees felt strongly that commitments already made to school construction aid (replacement, addition or repair to utilities, environmental quality issues, roofs, mechanical equipment) should be honored, but that the system had to change going forward. In fact, this school construction aid issue stalled an agreement on a final bill between the House and Senate for several tense days at the end of the session. Other issues that emerged in the context of H.405 were how to handle requests from assistant judges for assistance with repairs to county court houses, how to address funding for repair of failed on-site wastewater systems and how to fund correctional facilities.

For the first time, state agencies and the Vermont Housing Finance Agency, in addition to municipalities, are eligible to apply to the Vermont Environmental Protection Agency control fund and Vermont pollution control revolving loan fund for up to \$500,000. That money would be used to administer loans to households with income equal to or less than 200% of the state average median household income to repair or replace failed wastewater systems and failed water supplies.

In the sections on school construction aid, the appropriated \$9,567,598 is allocated to specific projects. Beyond that, the bill established that awards for school construction aid would be 30% of the approved cost of the project, unless the project is a consolidation of two or more school buildings and it serves students in a more cost-effective and educationally appropriate manner as compared to individually constructed projects, in which case the state will fund 50% of the approved cost. A moratorium is established. No applications for school construction aid will be accepted unless bonds were voted for support of the project before March 7, 2007. Exceptions are first priority projects (emergency projects in excess of \$50,000 which address threats to health and safety of students or employees from unanticipated circumstances or events), projects that are necessary to ensure the health and safety of students and employees and school consolidation projects. During the moratorium, the Joint Fiscal Office and legislative council are directed to analyze the details of the school construction aid system.

The capital bill also contains a study on county court house construction projects. Last year's capital bill contained a study on county court house needs. (See article on study committees on page 28.)

<b>CAPITAL BILL</b>					
<b>Agency/Department</b>	<b>Line Item</b>	<b>Governor Proposed FY 08</b>	<b>House Passed 3/01/07</b>	<b>Senate Passed 4/20/07</b>	<b>As Passed by Legislature</b>
Agency of Human Services	Corrections work camp site acquisition and design	\$400,000	\$100,000	\$100,000	\$100,000
Buildings and General Services	Recreational and Educational grants	\$200,000 <sup>1</sup>	\$200,000	\$200,000	\$200,000
	Human Services grants	\$200,000 <sup>1</sup>	\$200,000	\$200,000	\$200,000
Department of Taxes	Vermont Mapping Program, digital ortho-photography	\$100,000	\$100,000	\$100,000	\$100,000
Commerce and Comm. Development, Bldg. Communities Grants	Barn grants made on a 50/50 matching basis up to \$10,000	\$150,000	\$150,000	\$200,000	\$180,000
	Historic Preservation grants on a 50/50 matching basis	\$150,000	\$150,000	\$200,000	\$180,000
	Cultural facilities grants	\$200,000	\$200,000	\$200,000	\$200,000
	Broadband communications development	\$200,000	\$200,000	\$200,000	\$200,000
Dept. of Education	School Construction Aid at 30% (original FY07 request was \$12,223,837) <sup>2</sup>	\$7,630,000	\$9,420,765	\$9,082,738	\$9,567,598
ANR (\$10,310,000 total request <sup>3</sup> )	Water Pollution grants and Water Supply	\$3,950,000 <sup>3</sup>	\$3,950,000	\$3,950,000	\$1,700,000
		\$1,900,000 <sup>4</sup>	\$1,900,000	\$1,900,000	\$1,900,000
Clean & Clear Program		\$1,900,000	\$2,000,000	\$2,100,000	\$2,050,000
	State-owned dam maintenance and reconstruction	\$300,000	\$300,000	\$300,000	\$300,000
Agency of Agriculture, Clean and Clear	Agriculture non-point source pollution reduction	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000
Dry Hydrant Program	Dry Hydrant Program	\$100,000	\$100,000	\$100,000	\$100,000
<p>1 Programs in Agency of Commerce and Community Development this year.                  2 As passed bill includes specific dollar amounts for emergency projects, extending lives of buildings, biomass, final school construction, energy performance contracts. An additional \$2,000,000 is appropriated from FY 2007 general fund balance. The capital bill also includes \$1,000,000 for regional technical centers.                  3 Water Pollution Control                  4 Drinking Water Supply</p>					

## **EDUCATION FINANCE**

### **General Fund Support of Education Fund (H.537)**

**VLCT Staff Contact: Steven Jeffrey**

The appropriations bill (H.537) includes \$280.2 million in General Fund transfer to the Education Fund. This is one of the myriad amounts one could argue meets the requirements under existing law that the General Fund transfer to the Education Fund has to match the growth in General Fund spending from year to year. Additionally, the H.537 “waterfall section” includes an additional \$7.064 million from previous General Fund underfundings and an additional \$6.6 million one-time transfer from the General Fund surplus to further lower education property tax rates. (See H.526 article above.)

The appropriations bill also includes new language that clarifies that the amount to be transferred from the General Fund to the Education Fund has to increase annually by the amount that the New England Economic Project (NEEP) cumulative price index increases annually, plus one-tenth of one-percent. This is a figure that measures the costs of goods and services purchased by state and local governments and is sort of a government Consumer Price Index.

### **Education Quality and Cost Control (H.526)**

**VLCT Staff Contact: Steven Jeffrey**

One of the last bills passed by the legislature before adjournment was supposed to have been one of the hallmark accomplishments of the 2007 legislative session. Instead, history will likely regard H.526 as yet another tinkering with Act 60, something that has been almost an annual event for the past ten years.

Under the income sensitivity provisions of the education funding law, instead of paying directly based on the value of a taxpayer’s property or a percentage of his or her income, the taxpayer is first assessed a tax liability based on the property value assigned by the town and then provided (up to now) a “prebate” and or “rebate” check lowering that tax liability to a percentage of income. This year, that credit will be applied directly on the property tax bill, so you get a property tax bill that is actually adjusted to be an income tax bill. H.526 caps the amounts that the property tax bill can be reduced at \$8,000, down from \$10,000. This means that several hundred Vermonters will have a school tax bill that is based neither on their property value nor their income.

Through the miracle of a “one-time” state General Fund surplus for the fiscal year ending this June 30<sup>th</sup>, the state education property base tax rates are lowered to \$1.36 for non-residential and \$.87 for homestead. This is down from \$1.44 and \$.95 last year. They result in an 8.4% reduction for homesteads and a 5.9% reduction in the non-residential. Meanwhile, the state estimates the grand list increased by 12.5%, due mostly to an appreciation in value along with new construction. This additional reduction of two cents is beyond that already approved in Act 17 that had already dropped the rates to \$1.38 and \$.89 earlier in the session. The additional revenue comes from an additional transfer of \$6.6 million from the General Fund surplus in addition to the repayment of the \$7.064 million from previous underpayments of transfers to the Education Fund. (See following article.)

The “cost control” portion of the bill requires a divided school budget question for town meeting for some districts. If a district’s spending per equalized pupil in the preceding year is in excess of statewide average spending per pupil *and* the school board asks for spending per pupil above the Maximum Inflation Amount (New England Economic Project [NEEP] Cumulative Price Index annual change plus one percent), then the board shall present the budget as follows:

**“School Budget Question #1:** *Shall the voters of the \_\_\_\_\_ School District approve a total budget in the amount of [\$\_\_\_\_\_], which includes the Maximum Inflation Amount of education spending?*

**“School Budget Question #2:** *If Question #1 is approved, shall the voters of the \_\_\_\_\_ School District also approve additional education spending of [\$\_\_\_\_\_]?”*

In determining the spending per pupil, the school board can use the higher of the preceding or current year equalized pupil count. This divided question applies only to school budget years 2010 through 2014.

The bill changes the weighting for secondary students from 1.25 to 1.13 when determining equalized pupil counts. This is a result of Act 130’s passage three years ago. Act 130 will change the way that budgets, expenses and tax rate implications are apportioned between union and unified school districts and town school districts. It does not affect the way towns bill for school taxes.

The bill is replete with studies, reviews, explorations, evaluations, analyses and reports, all purportedly to root out the causes and cures for Vermont’s high school spending issues, many of which have been studied before. Issues and areas to be reviewed include:

- Special education
- High spending districts
- State Department of Education
- Human Service functions performed by schools
- Maximizing Medicaid funds for use by schools
- Mandates
- Financial management systems of school districts
- Insights on school district governance reform
- School construction funding
- Rolling reappraisals (three to five years) – includes making recommendations regarding mandatory lister, appraiser and board of civil authority training.

For more detail on the studies, analyses and reports called for in H.526, please turn to page 28.

In addition to implementing all the changes in school tax billing included in last year’s Act 185, H.526 requires all towns to include a notice to taxpayers in this year’s tax bill – *“Each homestead property tax bill shall include a copy of the two page document attached to the May 11, 2007 memorandum from the speaker of the house to the commissioner of taxes, which shall be updated annually for each town by the commissioner of taxes.”* A copy of the expected notice is attached to the end of the *Wrap-Up*. We do not know how, from whom or when towns will be receiving them to distribute to their taxpayers.

The existing excess spending penalty threshold will now exclude spending in excess of \$50,000 for individual special education students. This will make it easier for districts to avoid spending above 125% of the average per-pupil costs, at which point that extra spending causes a doubling of the tax consequences. It will also reduce the penalty those high spending districts will have to pay, as the amount spent over the 125% will be less. The state will also reimburse 100% of special education costs for “state-placed” students.

The bill reiterates that “integrated special education services” (known also as “mainstreaming”) are “an essential responsibility of the educational system that benefits all students and contribute to the good of the state.”

The bill requires that union negotiations with teachers and other unionized school district employees must be conducted at the supervisory union level (for those districts without their own superintendent). “However, final ratification of any agreement on behalf of a school board shall remain the sole responsibility of the [individual] school board.”

### **Act 185 Implementation Changes (H.537)**

**VLCT Staff Contact: Steven Jeffrey**

This is the year of Act 185 implementation, though some new twists have been added in H.537, the appropriations bill. On July 1<sup>st</sup>, towns will receive about \$135 million and will be electronically notified of who to credit on property tax bills and how much. Towns will be able to deposit and invest that money until “[I]n a manner consistent with section 426 of Title 16, the municipality shall transfer to its school district or districts or shall return to the state all education funds received by the municipality from the state under section 6066a of Title 32 within 20 days of the first date upon which taxes become due and payable or 20 days after notification by the commissioner of education, whichever is later. The commissioner shall notify the town of the amounts due to the school district and the state.”

As we informed you during the session, H.537 also changes things after this year. Next year, towns will receive the electronic notification of who to credit and how much on the property tax bills, but will receive no money from the state. The state will make all of the net payments required directly to school districts. Towns will be able to retain 0.225% of all net education property taxes collected up from the current .125%. VLCT will spend some time between sessions getting more information from the Tax and Education Departments on just how this will work for towns, how they can balance their books and how they can be sure they are collecting the right amount of taxes due from the right people.

### **Cash Payment of Property Tax Adjustments for 2007 Real Estate Closings (H.521)**

**VLCT Staff Contact: Steven Jeffrey**

Apparently, the new income sensitivity-adjusted property tax bills being sent this year have caused quite a stir among people trying to sell and buy homes, realtors, bankers and lawyers. Who gets to benefit from the reduced tax – the seller on whose income from the previous year the reduction or credit was based, or the buyer who will be living in that home for at least a portion of the school fiscal year for which the tax is assessed? Those above-named interests first proposed that town clerks and treasurers pro-rate the reductions and send checks to various parties, perhaps even in

time for the closing. VLCT and the Vermont Municipal Clerks and Treasurers Association strongly objected, and then sat down with the real estate interests and the Tax Department to develop some system that could really work. All that could be managed is the following:

For 2007 only, notwithstanding any other provision of law, for a residence transferred after March 31 and before June 21, 2007, if the transferor notifies the commissioner of Taxes of the transfer in writing, no later than 4:30 p.m. on June 20, 2007, and includes with the notice a copy of the property transfer tax return and proof of payment of the property transfer tax, the transferor's Social Security number, the property's school parcel account number and any additional information which the commissioner may request, the commissioner shall not notify the municipality of a property tax adjustment amount for the property, and the commissioner shall pay the property tax adjustment amount to the transferor by July 15, 2007.

This will not result in any additional work for treasurers, but the problem won't go away next year, so we will have to remain vigilant.

### **Education Property Tax Exemptions (H.521)** **VLCT Staff Contact: Steven Jeffrey**

When Act 60 was approved in 1997, one of the transition questions was: What should be done with property tax exemptions not mandated by law but approved by the voters pursuant to a number of statutory sections? The decision was to "grandfather" voted exemptions affecting the education property tax grand list by reducing the municipality's education property tax liability for the duration of exemption without extension or renewal, and for a maximum of ten years. A municipality's property tax liability was reduced by any difference between the amount of the education property taxes collected on the subject property and the amount of education property taxes that would have been collected on such property if its fair market value were taxed at the equalized nonresidential rate for the tax year.

We are now at the end of that ten-year period. Last December, the Division of Property Valuation and Review notified selectboards and listers that the end was near and that all voted exemptions still in effect must now either be subject to the state property tax or the town would have to vote to continue its exemptions. The latter results in an additional tax on the rest of a town's grand list to make up the difference to the state.

In H.521 passed this year, property tax exemptions authorized under the provisions of 32 V.S.A. § 3843 before July 1, 1997 and still in effect on June 30, 2007 shall be deemed to be exemptions affecting the education property tax grand list through June 30, 2008. This extends for another year the exemption granted to voted exemptions which had not expired due to limitations set in their authorizing statute before now. The 2008 legislature may choose to take up this issue again.

**Definition of Income Subject to  
Education Income Sensitivity Computation (H.274)  
VLCT Staff Contact: Steven Jeffrey**

This bill would exempt state payments for the provision of adult foster care from the definition of income for purposes of determining education taxes for income-sensitized individuals.

As these payments will be deemed not to be income, these caregivers' income is reduced, meaning that they pay less in education taxes, which in turn means that everyone's property taxes will go up to make up the difference. It also means that property taxpayers are subsidizing human service providers and the state Agency of Human Services' (AHS) budget. Apparently, the legislature believes that these providers are not being paid enough by AHS and are trying to compensate for it through this means rather than increasing payments directly. VLCT testified in opposition to the bill and requested that the Governor veto such an exclusion; still, he allowed it to become law without his signature. Although it is a complex and emotionally-charged issue, it is nonetheless another attempt to shift more costs onto the property tax and is a new use of the state Education Fund.

The "household income" definition on which the income sensitized education tax rate is based is the broadest in state law. This is the income on which households pay 1.8% adjusted by local school spending per pupil in lieu of property taxes on the housesite. It not only starts with "federal adjusted gross income" on which federal and state income taxes are based, but it adds in all sorts of otherwise tax-exempt income. These add-ins include alimony, support money, cash public assistance and relief, allowances received by dependents of servicemen and women, Social Security payments, workers' compensation and many others. All of this is subject to the education income tax.

Last year, the legislature exempted the first \$6,500 of such payments and instructed the commissioner of Disabilities, Aging and Independent Living to study the issue and report back. His recommendations were to make permanent the exclusion of the first \$6,500 in payments from household income. VLCT does not support even this limited exemption. There are numerous "home share" arrangements and their numbers are growing. Caregivers either bring people into their homes or move into the homes of people needing assistance. Some have already been granted exemption from the education tax; others have not. As the population that AHS serves continues to grow (particularly as we age) and more non-institutional living arrangements are promoted, more and more of these exemptions will be proposed. Instead of providing enough remuneration for such arrangements through the AHS General Fund budget, there will be growing pressure to reduce those payments and instead shift the benefits to "tax expenditures" supported by the Education Fund and property taxpayers.

VLCT remains committed to finding ways to counter rising property taxes. Shifting AHS service provider compensation from its budget to the Education Fund is exactly the shift to higher property taxes we oppose. If it is not stopped here, we will face growing pressure to expand this practice, forcing property taxes higher.

This is obviously a difficult issue. Everyone wants to support the efforts of these caregivers. They do invaluable service to their dependents and the state. However, the question is, if the state wants to adequately compensate them, should it be coming at the expense of our schools and property taxes?

## **MUNICIPAL AND INTERGOVERNMENTAL ADMINISTRATION**

### **Charter Amendments (various bills) and Home Rule** **VLCT Staff Contact: Karen Horn**

In a welcome departure from recent practice, the House and Senate Government Operations Committees acted quickly on municipal charter amendments this year, and made only minimal changes to them – the sorts of changes that clarify purpose. The legislature passed 13 charter amendments: Stowe (H.23), St. Albans City (H.19), South Burlington (H.47 and H.48), Newbury Village (H.51), Barre City (H. 72), Burlington (H.81), Bradford (H.128), North Troy Village (H.131), Brattleboro (H.156), Williston (H.169), Montpelier (H.528), and Vergennes (H.542). As far as VLCT staff know, no charter amendment proposal was left hanging on either of the two committees' walls this year.

On the other hand, no action was taken on S.98, a bill to streamline the legislative approval of municipal charters in instances in which no concerns are raised. That bill, which has been introduced in each of the past several years, remains in the Senate Government Operations Committee. Likewise no action – not even the hint of a hearing – was taken on the constitutional amendment to provide Vermont cities, town and villages with home rule, the authority to take action locally unless such action is prohibited by statute. Constitutional Amendment PR.3 is “on the wall” of the Senate Government Operations Committee. See “Local Democracy In Vermont,” an article in *Weekly Legislative Report No. 8*, for an overview of the ongoing deplorable status of local governments in Vermont.

### **Rescission (H. 78)** **VLCT Staff Contact: Karen Horn**

H.78 was sent to the Governor and enacted without his signature on May 18. The new law would provide that at a duly warned meeting, the voters of a municipality could take action to require that petitions for reconsideration or rescission (i.e., repeal of a previously taken vote) be signed by any percentage of registered voters between 5% and 20%. If the municipality took no action, current law would remain in effect in that town. (Current law stipulates that 5% of registered voters would be required to sign petitions to require a new town meeting for reconsideration.) Several municipal charters already specify percentages that differ from the general statute, and those requirements remain in effect. Enabling all municipalities to change this percentage extends an option that quite a few municipalities with governance charters have already enacted.

H.78 also establishes that a vote in favor of reconsideration or rescission shall take effect if the number of majority votes exceeds two-thirds of the number of votes cast for the prevailing side at the original meeting. The original vote must be held either via paper or Australian ballot so that a number of votes can be ascertained. A municipality may vote to either decrease or increase the two-thirds requirement. This section of the bill will take effect July 1, 2008.

Passage of H.78 establishes that the first time the citizens of a town, city or village go to vote on a question on the ballot, their vote will count. If there is a petition for reconsideration or rescission, the petitioners will have a significant hurdle to overcome in order to overturn the original vote.

## **Elections Housekeeping (S.116)**

**VLCT Staff Contact: Trevor Lashua**

S.116 – better known as the “elections housekeeping bill” – contains numerous changes to the way elections are conducted.

Most of the changes are relatively minor, such as allowing town clerks to open sealed ballot bags in limited circumstances (if, say, there’s a tear in the ballot bag), or the requirement that clerks enter voter participation data into the statewide voter checklist within 60 days of an election. Two other small changes are a move to standardize the printing of ballots (to look substantially like the ballots used in towns with optical scan tabulators), and a provision that allows a candidate who tied with another candidate for office to withdraw his or her name and avoid a runoff election.

Other changes that were not considered by all involved to be “small” or “minor” and were debated and discussed in detail include:

- Allowing two election workers from different political parties to transfer markings from a ballot that cannot be read by an optical scan tabulator to a ballot that can.
- Allowing the clerk in towns or cities where the voter checklist exceeds 5,000 registered voters to open the outside envelopes of absentee ballots (leaving the ballot in the sealed inner envelope) when returned to the clerk’s office within the 30 days prior to an election. The ballots still will not be counted until election day.
- Enabling a voter who requested and was sent an absentee ballot but did not return it to vote at the polls on election day without having the absentee ballot in hand to turn in. To do so, the voter simply has to fill out a sworn affidavit stating that he or she has not already voted. Previously, voters who were sent absentee ballots and failed to fill them out and return them could only vote at the polls if they had the absentee ballot with them to return to election officials.

## **Instant Runoff Voting (S.108)**

**VLCT Staff Contact: Trevor Lashua**

S.108, which would implement instant runoff voting (IRV) in 2008 for the U.S. House and Senate races, did not pass the legislature. It did, however, make it through the Senate, and now awaits the House Appropriations Committee when it returns in January.

The Senate first narrowly passed the bill. Then it appeared to stall in the House. The House Government Operations Committee passed it out of committee in the waning days of the session. Because the bill will require funding for implementation and voter education, it has been referred to the House Appropriations Committee.

IRV is an election method in which voters rank candidates in order of preference. If a candidate receives a majority (50% of all votes cast, plus one vote) of the votes cast on election night, he or she is declared the winner. If no candidate receives that mathematical majority, the election heads to another “round,” where second choice votes from ballots in which the voter’s first choice is no longer mathematically viable are apportioned to the remaining candidates. The tabulations continue in that manner until one of the candidates achieves the necessary mathematical majority.

Burlington now uses IRV to determine the winner of its mayoral elections. It is not used to determine the winner in any other state for federal elections. If IRV is implemented next year (which is far from certain), it will only be used to determine the winner in a single race – Vermont's lone seat in the U.S. House of Representatives. The next U.S. Senate race will not occur until 2010.

## **TRANSPORTATION**

### **Transportation (H.527)** **VLCT Staff Contact: Trevor Lashua**

An extra \$1 million of one-time General Fund surplus revenue for the Class 2 Paving program was the sweetener in what was a somewhat sour funding outcome for the town highway programs in the fiscal year 2008 transportation bill.

The one-time money boosts funding for Class 2 Paving from \$5.75 million to \$6.75 million. This followed moves by the House and Senate to ensure that the program's funding level at least stayed consistent with the current fiscal year after the Governor proposed trimming \$1 million from it.

Beyond the increase for Class 2 Paving, funding for the other town highway programs – as well as for a few other areas of municipal interest and utility – was frozen at FY07 levels or, in some cases, decreased.

Town Highway State Aid remained at the level it has been at for the past three fiscal years (\$24.98 million), despite efforts by the House to boost that figure by \$1.2 million. Town Highway Structures remained at \$3.49 million – a funding level it has been at since FY02. Class 1 Supplemental Aid, a funding program that has increased by only \$5,000 in the past decade, remained at \$0.13 million.

Town Highway Bridge funding fell by more than \$3 million, primarily because of a drop-off in federal dollars available to the program. Town Highway Bridge is the only state transportation program for local infrastructure that is eligible for federal funding, and often the amount appropriated it for it rises and falls based on the availability of that funding from the federal government. The other four programs are all dependent upon state and local funding.

Funding for the Enhancement Grant program was sliced by one-third (it dropped from \$4.3 million to \$2.9 million), while the Bike and Pedestrian Facilities program took an 8% hit of its own (dropping from \$6.5 million to \$6 million). During testimony on the Bike and Pedestrian Facilities program, it was announced that no new projects would be taken on in the next few fiscal years, a move that could signal the phase-out of this program.

The local programs weren't the only areas of the state's transportation budget to take hits or remain at FY07's funding levels, as the overall transportation budget dropped \$15 million, from more than \$436 million in FY07 to \$421 million for FY08.

The reason for Vermont's continued transportation funding difficulties is not new. The major revenue sources for the Transportation Fund (gas and diesel taxes, purchase and use tax, and motor

vehicle fees) continue to atrophy, repeatedly falling short of projections. Through April, Transportation Fund revenue is off by \$3.1 million for the current fiscal year ending on June 30<sup>th</sup>.

The Transportation Fund's revenue problems are further compounded by the continued existence of a sizeable transfer to the General Fund, used primarily to fund public safety efforts at the state level (with the lion's share – more than \$30 million – going to the Vermont State Police). The more than \$35 million transfer, formerly formally known as JTOC (the Joint Transportation Oversight Committee), has been slowly but steadily declining since it peaked at around \$46 million in FY02.

Recognizing that the state could not continue to underinvest in its transportation infrastructure, the House called for a study to examine the future of transportation funding in Vermont. The study was removed in the Senate, and never made its way back in to either H.527 or H.537 (the state's FY08 budget).

The one-time funding increase for Class 2 town highways as well as boosts in funding for some other state transportation line items come from an unexpected General Fund surplus in the neighborhood of \$29 million. The legislature tapped into \$8 million of the surplus in an attempt to temporarily stem the Transportation Fund's revenue shortfall, as well as provide some small measure of property tax relief through an increase in local program funding (the \$1 million added to Class 2 Paving). The \$8 million was split four ways, with the first \$3 million used to cover the FY07 shortfall, the following \$3.5 to cover the projected FY08 shortfall, and the remaining \$1.5 million split between Class 2 Paving and public transit.

The House-passed version of the transportation bill also included a new dedicated town program fund for Class 2 Paving, Town Highway State Aid, Town Highway Structures, and Class 1 Supplemental Aid. The fund would have been built upon the revenue from eight cents of the existing gas tax and nine cents of the existing diesel tax. That move would have resulted in nearly \$36 million for the four programs in FY08, with modest annual increases (between 1% and 2%) projected in the years to follow. The town fund would have translated into an additional \$1.2 million for Town Highway Aid, along with restoring the \$1 million the Governor proposed cutting from Class 2 Paving. The Senate chose not to explore the dedicated town fund when H.527 came to them, and the town fund was eventually left out of the final version approved by both chambers.

Funding for local programs or other areas is not the only transportation-related discussion to occur when the House and Senate craft the transportation bill. As is the case every year, the bill contains a handful of policy matters that affect municipalities.

Language inserted during the 2006 legislative session setting aside \$200,000 of the Enhancement Grant program funding for salt/sand sheds (with a maximum grant award of \$50,000) survived again this year, after the Senate had removed it from its version of H.527. The provision was reinserted during the conference committee process.

The Agency of Transportation proposed a change to current law that is in the bill as passed that will allow municipalities to apply funding they receive through two grant programs (Class 2 Paving and Town Highway Structures) to federally earmarked projects in order to meet local funding match requirements. The bill also sets into statute the ongoing practice of allowing municipalities to use donations of land, services (staff resources), or materials in order to make the local match for federally earmarked projects.

The transportation bill includes a change to statute (24 V.S.A. § 1759a) that allows cities and towns to bond for up to 30 years (current law only allows for 20 year bonds) for “improvements on public highways” that have a “useful life” spanning at least the length of the bond. The highway project must either be a bridge reconstruction project or a road reconstruction project that includes a bridge component.

## **PUBLIC SAFETY**

### **Public Safety**

**VLCT Staff Contact: Trevor Lashua**

**State Law Enforcement Study.** Included in the appropriations bill, H.537, is the creation of a state law enforcement study committee charged with looking at ways to enhance and improve the provision of state law enforcement services in Vermont. The study does not directly include an examination of the role of municipal police departments or constables, other than a section that asks the committee to “consider” a demonstration/pilot program in as many as three communities where a combination of local law enforcement and the county sheriffs take over the workload currently handled by the state police. This study could be a precursor to a larger discussion on the provision of law enforcement services in Vermont.

**Public Inebriate Program Study.** Also included in the appropriations bill, this study examines the relevancy and effectiveness of Vermont’s public inebriate statutes. The committee is directed to look at statutory changes, programming and resources in an attempt to address an issue that cuts across a number of public policy areas, such as public health, corrections and law enforcement.

**Non-compliant high-risk sex offenders.** Changes were also made to the registry requirements for offenders whose names appear on the state’s sex offender registry. Contained within H.148 is a section that creates the expanded registry requirements for offenders released from incarceration who can be classified as non-compliant, high-risk sex offenders.

The expanded requirements will cover sex offenders currently incarcerated due to convictions for lewd and lascivious conduct with a child, sexual assault, aggravated sexual assault, any attempt to commit one of those crimes, or an offender convicted of a similar offense somewhere else who has not complied with the Department of Corrections’ (DOC) directives on sex offender treatment. The registry requirements – which are much more stringent than anything in existence previously – include deadlines for the offender to notify DOC of changes in employment and address, annual digital photographs of the offender and information about any vehicle the offender may drive, and others. Failure to comply can result in a sentence of up to five years and a fine as high as \$50,000.

**Innocence Protection.** S.6 is a bill that deals largely with establishing a process for persons who feel they were wrongly convicted to appeal that conviction with the hope that previously collected DNA evidence will exonerate them. A section at the end of the bill establishes an Eyewitness Identifications and Custodial Interrogation Recording Study Committee to examine current practice with regards to eyewitness identifications and police interviews and also to make recommendations

for “best practices” (including the use of audio and video equipment in the interrogation process). The Vermont Chiefs of Police Association will appoint one member of the committee.

**Collection of fines, Municipal Ticket Repayment Revolving Fund, assault on EMS personnel, animal cruelty.** H.313 began with the primary aim of increasing the collection rate of fines, surcharges or other payments levied in connection with a Judicial Bureau decision. One method authorized in the bill is the use of outside debt collection services. As is noted in the title of this section, H.313 contained other areas of interest to municipalities.

The first is the creation of a Municipal Ticket Repayment Revolving Fund. The fund is established to provide communities with a loan of up to \$100,000 in order to cover the repayment of funds owed to another community (where the violation actually occurred) but paid erroneously by the Judicial Bureau to the first community. The fund covers payments made by the Judicial Bureau between June 30, 2004 and June 30, 2007. This was set up in response to actual events in a number of town-city scenarios in which one entity was sent funds that were actually owed to the other.

The second change adds emergency medical personnel to the section of Title 13 (13 V.S.A. § 1028), which makes the penalties for assaulting emergency medical services personnel the same as those for assaulting law enforcement officers or firefighters while they are engaged in the performance of their duties.

Tacked on to the end of H.313 are certain animal cruelty violations that come under the Judicial Bureau’s jurisdiction. Those violations include the inhumane tying or tethering of an animal, depriving an animal of food, water, shelter and medical attention, and illegally dyeing or otherwise coloring fowl for the purpose of sale, trade or exhibition. The penalties for a first offense are a fine of up to \$2,000 and one year in jail, while second or subsequent offenses carry penalties of up to two years in jail and a fine of up to \$5,000. This new provision allows towns to enforce state statute directly without adopting local ordinances.

Any fines, forfeitures or penalties which the Judicial Bureau imposes for the violations listed above that result from the actions of local law enforcement will be paid to the municipality in which the violation occurred (minus a \$12.50 administrative fee).

All of these changes take effect on July 1, 2007.

### **Corrections, Generally** **VLCT Staff Contact: Trevor Lashua**

Of the large and complicated questions regarding corrections posed during the 2007 legislative session, probably the largest and most complicated was: what *is* the future of corrections in Vermont?

The questions came as lawmakers faced yet another year in which an increase in funding for corrections was necessary, incarceration rates continued to rise (despite stagnating or dropping crime rates), and recidivism rates stayed relatively high, along with a host of other issues – such as how best to handle mental health and substance abuse issues and community supervision of released offenders.

The questions first surfaced during a handful of joint sessions of the House Institutions and House Judiciary committees. Discussions during those sessions tried to focus on corrections in its entirety, with legislators talking about linkages among the various moving parts of the correctional system: housing, services and programs (job training, drug/alcohol counseling and so on), prevention, reparative and restorative justice, community supervision and incarceration.

The questions continued as legislators, members of the administration and state government, and other interested parties (including VLCT) attended a session conducted by a consultant from the Council of State Governments' Justice Center, who was also called to Vermont to discuss the future of the state's correctional system.

In the end, a study and a "plan" were commissioned; assuring that the conversation would continue through the summer and fall. The "plan" is found in the corrections section of the appropriations bill (H.537). The legislature charged the Department of Corrections (DOC) to come up with a plan to address the rapidly and consistently escalating costs of corrections by considering a number of options, including:

- Closing the Dale facility in Waterbury. The women's-only facility costs the state nearly \$70,000 per offender annually to operate.
- Renovating the correctional facility in South Burlington and turning it into a women's-only facility. The facility currently is host to more than 150 male offenders and is also heavily utilized as a detention center.
- Using one or more correctional facilities as detention centers.
- Examining contracts with out-of-state providers of correctional services (incarceration). Currently, more than 550 Vermont offenders are serving time in out-of-state facilities.
- Looking at facilities that could be closed or expanded.
- Developing a state facility dedicated to substance abuse treatment.

The goal of the plan, as stated in the legislation, is to reduce the cost of incarceration by \$4 million. The language in the appropriations bill calls for at least half of that \$4 million reduction in incarceration costs to be used for re-entry services. Re-entry options to be examined include "community-based alternatives" (restorative probation, court diversion, community justice centers and "street checker" programs) for non-violent offenders, electronic monitoring (\$100,000 for electronic monitoring of released offenders is also included in the waterfall section of the FY08 budget), and re-examining how mental health and substance abuse services and treatment are provided in communities.

Those efforts are parallel to a "justice reinvestment initiative" authorized in the appropriations bill just after the plan outlined above. The initiative includes the formation of the justice reinvestment working group (which includes legislators and representatives of state government and the judiciary) to work with the Council of State Government's Justice Center on issues such as: why the inmate population is increasing, why spending on corrections is increasing, why recidivism rates are so high, and what are the options for decreasing spending while ensuring public safety.

Except for police chiefs, neither the plan nor the initiative lists local government as a participant. Nonetheless, VLCT will follow both discussions. Municipal officials throughout the state need to participate in both efforts.

The appropriations bill includes \$129,000 for re-entry programs redirected from other areas, a \$103,000 grant for Dismas House to continue with its transitional housing efforts and additional funding (both state and federal) for community justice centers.

The state is also still searching for another community interested in hosting a work camp, and \$100,000 was set aside in the capital bill for site acquisition and design. Vermont's sole work camp is located in St. Johnsbury.

## **ENVIRONMENT AND QUALITY OF LIFE**

### **Energy Coordinators (S. 32, Act 1)**

**VLCT Staff Contact: Karen Horn**

When the legislature wants to move on an issue, things can happen quickly! The House Government Operations Committee took up S.32, which the Senate passed on January 19, as soon as it reached them. Committee members heard from the lead sponsor and, after discussion, passed the bill out of committee. S.32 was the first bill of the session the Governor signed into law, which he did on Local Government Day in the Legislature, February 14<sup>th</sup>. S.32 provides authority for local legislative bodies to appoint energy coordinators for a term they determine to be appropriate, whether or not the town voters have taken action to authorize the appointment. With this enabling legislation in place, local officials may find a volunteer interested in energy issues to keep local climate change action a priority.

### **Potable Water Supply and On-Site Wastewater (H.296, Act 32)**

**VLCT Staff Contact: Karen Horn**

H.296 makes amendments to the statute passed five years ago that created Chapter 64 of Title 10, the Potable Water Supply and Wastewater System Permit statute. New provisions enacted in H.296 simplify the definitions of "failed supply" (water) and "failed wastewater systems."

A failed supply is one that exceeds standards for certain total coliform, nitrates, nitrites, arsenic or uranium. It is also failed if the secretary of the Agency of Natural Resources (ANR) determines it is contaminated or is of "insufficient supply." An on-site wastewater system is failed if wastewater is exposed to the air (unless so designed) or if the secretary determines it's failed and that information has been posted on the ANR website or a site visit has been made. Who makes the site visit is not specified.

Exemptions from the requirement to obtain a permit are redefined in H.296, again to simplify the process. All structures, campgrounds and associated potable water supplies and wastewater systems that were substantially completed before January 1, 2007 and all improved and unimproved lots in existence on that date are exempt, unless and until some event triggers the need for a permit (such as system failure or construction of bedroom additions that expand a single family residence horizontally).

As a transitional provision until the new wastewater and potable water supply rules take effect, no permit will be required to design and install a replacement potable water supply that serves a single

family residence on its own lot if the work conforms to the Water Supply Rules and a form regarding the replacement well is filed in the land records.

The law clarifies that a municipality may adopt bylaws that prohibit initiation of construction pursuant to a zoning permit unless a wastewater and potable water supply permit has been issued.

A significant dispute arose in the legislature about whether the prohibition on constructing wastewater systems on slopes of more than 20% should be relaxed so that systems could be built on slopes up to 30%. Proponents of the change maintained that municipalities should address steep slope building restrictions in their zoning bylaws. Those arguing to maintain the status quo were concerned, among other issues, that local and state regulations should work in concert to reinforce restrictions on building on steep slopes away from the “compact development surrounded by rural countryside” that is the preferred settlement pattern in Vermont statute. The discussion came to a draw. As a result, the Department of Housing and Community Affairs is required to produce a report. The report is to include (1) a summary of ANR requirements to map groundwater resources and implement performance-based wastewater systems, and (2) requirements for the Agency of Commerce and Community Development (ACCD) to provide technical assistance and funding to towns to revise their bylaws in light of wastewater and potable water supply statutory changes. ACCD must also report on its work with VLCT and ANR to develop a groundwater protection ordinance.

### **Broadband and Telecommunications (H.248)** **VLCT Staff Contact: Karen Horn**

The telecommunications bill, which passed on the last day of the session, establishes a new Telecommunications Authority with a board of directors to direct its operations. One member of the 11-person board of directors is appointed by the VLCT board. At the behest of private providers, the appointee may not be a resident of a municipality that owns or operates a communications plant or services authorized under the new 24 V.S.A. chapter 54, entitled Communications Plant and Service. (More about that below.) The authority will hire an executive director to administer its affairs.

The authority is directed to inventory available services and areas in which services are not available, to identify types of services needed and coordinate with private and public sector partners, including municipalities, to assure the build-out of a high speed network for all of Vermont. The authority may bond, aggregate and broker access at reduced prices, own, acquire, sell, trade and lease equipment, facilities and other infrastructure that may be accessed and used by multiple services providers, the state and local governments, including fiber optic cables, towers, shelters, easements, rights of way and wireless spectrum of frequencies. Annual oversight and activities reports shall be provided to the legislature and the governor.

Property owned by the authority is tax-exempt, but is included in the state Payment in Lieu of Taxes (PILOT) Program as “state-owned property.”

The Department of Public Safety is authorized to work with telecommunications providers to develop a pilot project that identifies costs, obstacles and effectiveness of a satellite-enabled public safety communications system serving public safety providers in Vermont, northwestern New Hampshire and Quebec.

H.248 establishes a new 24 V.S.A. chapter 54, which gives broad authority to all municipalities to acquire, own, operate, improve and extend, sell and lease communications plants within or without a municipality's limits. Communications plants are defined as any and all parts of any communications system owned by the municipality, "whether using wires, cables, fiber optics, wireless, other technologies, or a combination thereof, and used for the purpose of transporting or storing information, in whatever forms, directions, and media, together with any improvements thereto ... and all other facilities, equipment, and appurtenances necessary or appropriate to such system." The municipal authorization language was adapted from the Village of Morrisville Charter. A municipality entering this business will need to obtain a certificate of public good from the Public Service Board (PSB) or work with an entity that has a certificate of public good. The caveat – which assures a level playing field with private communications service providers – is that a municipality's operation is supported solely by revenues derived from the operation of the communications plant, except for any portion used solely for municipal purposes (generally, at this time, public safety purposes).

Several municipalities around the state are already investigating partnering with the City of Burlington's Burlington Telecom. This authorization will prove tremendously helpful in enabling municipalities to provide service to their residents even if they are in remote and rural areas.

The final sections of H.248 make revisions to regulatory authority in Vermont. Under the bill, Act 250 jurisdiction will apply to communication or broadcast support structures extending 20 feet or more above the highest point of an attached existing structure or 50 or more feet above the ground.

At the municipal level and responding to relentless lobbying by the administration, H.248 severely constrains existing municipal authority to regulate telecommunications facilities via bylaw or ordinance. Outside of antennae on historic landmarks and structures, antennae with an aggregate area of not more than eight square feet on the largest face and which are on masts that extend not more than 12 feet above the specific roof area to which they are attached are exempt from municipal regulation. Municipal bylaws shall provide for "permitted use" classification of minor facilities used for telecommunications. The definition of "minor facility or minor telecommunications facility" is left to the municipality enacting the bylaw. Municipal telecommunications ordinances must define a *de minimis* (i.e., the smallest amount) impact and provide for the local regulatory authority to determine if a proposed facility is *de minimis*. If it is, the local authority (zoning administrator or Development Review Board) shall issue a permit.

An applicant with three or more facilities in three years may go to the PSB for a certificate of public good instead of seeking land use permits from Act 250 and local zoning. The PSB must find that the proposed facilities in the aggregate will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, with due consideration having been given to relevant criteria of Act 250 and statutes pertaining to the Water Resources Panel assessment of impacts on outstanding resources waters of the state. The application must also conform to the regional plan and "substantial deference" must be given to the recommendations of the regional and municipal planning commissions, the municipal legislative bodies and the plan of any affected municipality. Written notice of an application must be sent to all host municipalities as well as other interested agencies and the regional commission. Unless an application raises a significant issue, the final determination shall be issued within 90 days. The PSB's ability to consider such applications is scheduled to sunset July 1, 2010. Municipal officials who recently went through the VELCO transmission line permit process before the PSB are especially skeptical of PSB efforts to truly address municipal concerns.

The bill also establishes a study committee on broadband and mobile telecommunications facilities to review the state's municipal, regional and state-level regulatory and planning processes involved in making telecommunications services available to all the citizens of the state. The committee – which consists of representatives of regional commissions the Department of Public Service, the Natural Resources Board, municipalities, broadband businesses – shall develop recommendations that allow the expeditious deployment of telecommunications services in a manner acceptable to the communities of the state. Recommendations are due to the legislature by January 15, 2008.

### **Stormwater (H.154)** **VLCT Staff Contact: Karen Horn**

The legislature passed H.154, the stormwater bill, in the last days of the session. It seemed that every time we turned around in the conference committee, another piece was attached to this bill that had not been in either Senate or House versions. If anyone had the misconception that he or she would be allowed to implement stormwater management programs without interference or upheaval for a few years, he or she was wrong.

In impaired watersheds, the secretary of the Agency of Natural Resources (ANR) may issue permits for stormwater discharges if they are:

- individual permits in stormwater impaired waters for which no total maximum daily load (TMDL) has been issued;
- a watershed improvement permit;
- a general or individual permit that implements a TMDL or water quality remediation plan; or
- a statewide general permit for new discharges that the secretary deems necessary to assure attainment of the Vermont Water Quality Standards.

ANR must submit a TMDL to the federal Environmental Protection Agency (EPA) for approval that applies to each watershed in the state. The Lake Champlain Watershed TMDL, which addresses Vermont, New York and Quebec, was the first submitted and approved in 2002. It defines the maximum allowable phosphorus load (input) to the lake, allocates the allowable load among the various discharges and addresses point and nonpoint sources. TMDLs also include implementation plans.

Under the provisions of the bill, the ANR secretary may issue a watershed improvement permit in a stormwater-impaired watershed if it provides reasonable assurance of compliance with the Vermont Water Quality Standards in five years. H.154 extends from September 30, 2007 to January 15, 2010 the deadline to issue general or individual permits before an EPA-approved TMDL is in place and protection to property owners seeking to transfer property in impaired watersheds where the EPA has not yet approved TMDLs.

The ANR secretary shall reopen the Lake Champlain TMDL in order to adopt a new hydrologic base year to reflect the average phosphorus load discharged to Lake Champlain between 1993 and 2004. Testimony from ANR staff indicated that the base years used in the current TMDL establish high average phosphorus discharges because they were particularly wet years. Upon reopening the TMDL, the secretary shall also: allocate point source and non-point source load reductions on a subwatershed basis; ensure that the total annual phosphorus discharged by all wastewater treatment facilities in the aggregate does not exceed the total phosphorus load discharged to Lake Champlain

by all wastewater treatment facilities in the aggregate in 2006 and adjust aggregate total phosphorus load allocations to Lake Champlain accordingly; and amend pollutant load allocations within the TMDL to reduce point and non-point source load allocations in order to reasonably assure that the TMDL meets the Vermont Water Quality Standards. Although the bill requires that the new TMDL be submitted to EPA for approval, the EPA requires none of this is.

The requirement to reopen the Lake Champlain TMDL takes effect July 1, 2008. Therefore, if people are satisfied that the current TMDL is working, the “reopener” section of H.154 could be deleted from law before it takes effect. The new TMDL also identifies and targets critical source areas for non-point source pollution in each subwatershed.

H.154 also requires the secretary to propose draft rules to implement an anti-degradation policy in water quality standards of the state by January 15, 2008. Final proposed rules are to be filed by July 1, 2008.

In addition to the annual report to the legislature on ANR progress in establishing watershed improvement permits, TMDLs and water quality remediation plans for the stormwater impaired waters of the state, the Agency must make new biannual reports to the legislature on establishing and implementing the TMDL for Lake Champlain and stormwater impaired watersheds. (See article on Legislative Study Committees, page 28.)

## **Energy and Climate Change (H.520)**

**VLCT Staff Contact: Karen Horn**

It is supposed to reach 90 degrees today, a new record for the day. Ergo, it’s an appropriate time to write up H.520, the energy and climate change bill. The Governor has promised to veto H.520 because of its increased tax on Entergy, the nuclear power plant in Vernon. If he does, look for the legislature to return to Montpelier on July 11 to try to overturn the veto.

There is much more in H.520 than just a tax on Entergy. That tax, which would take effect July 1, 2008, would increase the tax on electric generation plants with a generating capacity of 200,000 or more to \$0.00225/kilowatt hour (kWh) in FY 2009, to \$0.0023 in FY 2010, and to \$0.003 in FY 2011 and thereafter. This is the same rate (applied to a significantly higher amount of generation capacity) that H.520 proposes for wind energy facilities.

H.520’s stated goal is to produce 25% of energy consumed within the state through the use of renewable energy sources, particularly from Vermont’s farms and forests, by the year 2025. The commissioner of the Department of Public Service (DPS) is to develop a plan to achieve that goal and present it to the legislature by January 15, 2008, and then deliver subsequent updates every three years. DPS is also to present an updated comprehensive energy plan by January 15, 2008 that includes the “25 by 25” goal expressed in the bill. Beyond these goals, H.520 is an omnibus climate change/energy bill. Many of its provisions could affect local governments in one way or another.

The bill would expand the definition of farming in Act 250 to include on-site storage, preparation, production and sale of fuel or power from agricultural products of wastes principally produced on the farm, which would have the effect of exempting those activities from Act 250.

Commercial building construction projects seeking local building permits or construction plan approval from the commissioner of Public Safety would have to be designed and constructed in substantial compliance with *2005 Vermont Guidelines for Energy Efficient Commercial Construction* and its amendments.

The bill requires several studies or investigations, which are listed in the Legislative Study Commission section of the *Wrap-Up* on page 28.

The PSB would also be directed to include strategies for reducing pollution, including greenhouse gasses in its 20-year energy plan. The bill would direct PSB to work with the energy efficiency utility to develop 20-year projections for efficiency programs and to incorporate them into the state electrical energy plan. Once a final plan is in effect, current law requires that proposals for investment or financing of generation or transmission facilities be measured against the adopted plan. If a proposal entailed an excessive generation of greenhouse gasses, the PSB may authorize the action only if it finds there is compelling reason to do so.

H.520 would expand the universe of users who could “net meter” to group systems, including municipalities that own various buildings. Net metering means measuring the difference between electricity supplied to a customer and electricity fed back to the system by a customer from a system of no more than 150 kilowatts of capacity in any one billing cycle. In the case of a farm and in certain other situations, the generation may be no more than 250 kilowatts capacity.

The bill would provide an expedited process before the PSB for temporary siting of meteorological stations to record wind speed, wind direction and atmospheric conditions (to evaluate the suitability of a site for wind towers).

Electric utilities would need to implement a renewable energy pricing program for its customers or offer the option of making a voluntary contribution to the Vermont Clean Energy Development Fund by July 1, 2008. The bill also expands the Sustainably Priced Energy Enterprise Development Program (SPEED), which encourages the generation of new renewable energy.

Wind industry representatives asked in the House for a predictable way to pay their property taxes. The House agreed to a per-kilowatt hour (kWh) rate of \$0.00525 of electrical energy produced by the certified facility, as determined by DPS for the six months ending April 30 and the six months ending October 31 each year – but in no case shall the tax imposed be less than an amount equal to 15% of the installed capacity of the facility multiplied by the rate per kWh imposed by this subsection. Until a facility is certified, it shall be subject to taxation under section 5402 of this title. In the Senate, the industry asked not for tax stabilization but rather for a tax break. As passed in the end, the per-kWh tax would apply to new wind generation facilities with a capacity of at least 5 megawatts. The tax would be \$0.00225 in fiscal year 2009, \$0.0025 in FY10 and \$0.003 in FY11 and thereafter.

H.520 includes a pilot project for small hydroelectric facilities seeking to get through the permit process. The potential projects are to have not more than 2MW of generating capacity, shall have the support of their host communities and shall not include the construction of a new dam. It also addresses the recently adopted ANR rule pertaining to outdoor wood boiler furnaces. The language is intended to clarify the intent of those rules, but does not change the rule or statute in any respect.

A new non-electric energy efficiency fund would be established to support delivery of energy efficiency services to Vermont heating and process fuel consumers of oil, kerosene, propane, coal and wood and to carry out cost-effective efficiency measures and reductions in greenhouse gas emissions from sectors other than the regulated electricity and natural gas use sectors. Currently, Efficiency Vermont, the efficiency utility with which many local officials are familiar, may address energy conservation only as it applies to use of electricity and natural gas. Final responsibility for establishing the new proposed utility would rest with the general assembly, rather than the executive branch of government. An entity paying at least \$5,000 as an energy efficiency charge could apply to the PSB to self-administer energy efficiency programs. The non-electric energy efficiency fund would take effect March 31, 2008.

Under Act 250, the land use panel measures all projects against ten environmental criteria before it issues a permit. Criterion 9F requires that a permit will be granted when it is demonstrated that, “in addition to all other applicable criteria, the planning and design of the subdivision or development reflect the principles of energy conservation and incorporate the best available technology for efficient use or recovery of energy.” Under this criterion, the panel would need to assure that the proposal is in concert with the evolution of land use design and planning concepts that occur in response to global climate change, as well as the potential for solar orientation of buildings and increases in fuel prices that shorten lifecycle payback periods for energy efficiency measures.

Government regulations, practices and private contracts that restrict use of solar collectors, clotheslines or other energy saving devices, or that impede non-motorized transportation on state and town highways, would be discouraged.

### **Permit Fees (H.294)**

**VLCT Staff Contact: Karen Horn**

The executive fee bill is passed each year to authorize agencies to increase or alter the fees they collect for applications for permits, public documents, licenses and almost everything else for which the state can charge a fee. H.294, this year’s fee bill, contains reductions by half of the fees currently payable to the Agency of Natural Resources for connections to municipal wastewater or potable water systems. Developers pay these fees to connect a project to a municipal system in addition to local fees they pay for the municipality to do the work of reviewing and acting upon those permit applications for connections.

The Senate Finance Committee added an exemption from stormwater fees for any municipality that agrees to become an applicant or co-applicant for an orphan stormwater system through the orphan stormwater program. Local officials had sought this exemption in a number of committees throughout the session in recognition of the commitment a municipality makes for long-term maintenance when it agrees to apply for orphan stormwater funds with or on behalf of a subdivision with an expired permit. This exemption is retained in the bill as it finally passed.

Town clerk fees were increased in H.294. Fees for vital records payable to municipal clerks will be equal to those received by the commissioners of Health or Buildings and General Services. For the recording or filing of any document that is a public record in the town clerk’s office or a certified copy thereof, the fee is \$8.00. These changes take effect on July 1, 2007.

## **Mosquito Control (S.37, Act 34)**

**VLCT Staff Contact: Karen Horn**

S.37 is a bill to establish a grant program to control mosquitoes. A municipality that has formed a “mosquito control district” may apply to the secretary of Agriculture, Food and Markets for a grant to control mosquitoes. The grant is for 75% of the project cost and may be used to apply larvicide. The remaining 25% may be in-kind services, including adulticide application or the purchase of capital equipment for mosquito control activities that the applicant district provides. The program requires that the mosquito control district provide proof of insurance and that it apply larvicide in accordance with approved treatment methods. The secretary must also propose a statewide policy for mosquito control and abatement and report to the legislature by January 2008. (S.37 takes effect upon passage.)

## **HEALTH CARE**

### **Firefighter Cancer Presumed to be Workers’ Compensation Expense (S.194)**

**VLCT Staff Contact: Steven Jeffrey**

The bill requires cities, towns, villages and private non-profit fire departments to pay workers’ compensation for cancers diagnosed during active firefighters’ careers and for ten years following. The cancers covered in the bill represent approximately 43% of the incidences of all cancers that males develop over their lifetime as a workers’ compensation claim, “unless it is shown by a preponderance of the evidence that the cancer was caused by non-service-connected risk factors or non-service-connected exposure.” The bill provides such a presumption to all firefighters – volunteer and paid – who:

- complete an initial and any subsequent cancer screening evaluations as recommended by the American Cancer Society based on the age and sex of the firefighter prior to becoming a firefighter or within two years of the effective date of this act and the evaluation indicated no evidence of cancer;
- were engaged in firefighting duties or other hazardous activities for five years prior to the diagnosis;
- have not used tobacco products at any time within ten years prior to the diagnosis;
- are diagnosed within ten years “of the last active date of employment as a firefighter”; and
- are under the age of 65 at the time of diagnosis.

The presumption covers leukemia, lymphoma or multiple lymphoma, and cancers originating in the bladder, brain, colon, gastrointestinal tract, kidney, liver, pancreas, skin or testicles. Workers’ compensation not only pays for all medical treatment, it provides wage replacement while disabled, funeral expenses and payments to surviving dependents. Generally, for every dollar VLCT PACIF pays out in a workers’ compensation claim for medical expenses, it pays an additional dollar in these other costs referred to as the indemnity part of workers’ compensation.

The National Council on Compensation Insurance, Inc. (NCCI) on which Vermont depends to provide data on workers’ compensation, issued an analysis of S.194 which states that the bill “may

result in a significant increase in insured workers' compensation cost for firefighters (class code 7704) in Vermont due to an increase in compensable cancer-related claims." VLCT PACIF did a series of cost estimates as the bill changed and we had more reliable data. Thus, VLCT believes that the bill will more than double the workers' compensation premiums it will have to charge for all firefighters. For purely volunteer departments, we believe that the additional costs may be as much as ten times the premium we now charge. We will be working on ways to control those costs, but PACIF will be required to have the funds necessary to pay for claims made under this new mandate and will have to collect them from our members with fire departments and with firefighters eligible for this benefit.

## LEGISLATIVE STUDY COMMITTEES

The legislature produced more studies and study committees that must be reported back to them in January than we can ever recall. According to the Joint Fiscal Office, there are 44 pages of study committees! (And this doesn't count the standing committees that work between sessions, such as Joint Transportation Oversight, Corrections Oversight, Legislative Committee on Administrative Rules, Joint Energy and Education Governance.) Almost none of the study committees comes with new staff members to conduct their affairs, so they are add-ons to already full plates. Also, please recall that the legislature has several standing committees that work between sessions. Following are those that would affect local governments.

**Current Use Study.** Included in the appropriations bill, H.537, is a call for a consultant to be hired to conduct an independent review of the use value appraisal program ("current use"). The consultant's tasks include an examination of whether or not the program is meeting the goals established in 32 V.S.A. § 3751 for the program and what changes, if any, need to be made. For example, the study includes questions about how the administration of the current use program affects listers and appraisers (the only groups of local officials included as members of the use value appraisal task force), how land is appraised if it is deed restricted, and what role technology can play in the administration of the program, among many others. The study is to be completed and returned to the legislature by January 15, 2008.

**Solid Waste Management Facilities Working Group.** The solid waste management facilities working group, another committee established in H.537, is charged with looking at the future of solid waste management in Vermont. The working group does not convene until February of 2008. The delay allows the Agency of Natural Resources to study and report on the task to the House and Senate Natural Resources Committees first. The report is due to the legislature by January 15, 2008.

**School Construction Assistance (H.405).** During the moratorium on school construction aid that is established in the Capital Bill, the Joint Fiscal Office and legislative council are directed to analyze the following: details of the school construction aid system, including state aid for school construction in other states; possible 30- instead of 20-year bonding; variations in payment schedules; the pros and cons of using the education fund to pay for the state share of school construction or for biomass, emergency projects; performance contracts and technical center equipment; and the impacts of lowering the percentage amount paid by the state on school construction projects.

The commissioners of Education and of Finance and Management are to report by January 1, 2008 on recommendations to address pressures of school construction including recommendations for a funding mechanism and revisions to criteria for school construction project approval.

The bill also contains a study on county court house construction projects. The court administrator and the commissioner of Buildings and General Services would conduct the study to develop a numerical rating to prioritize projects, which the legislature would use to make funding decisions.

**Broadband/Telecommunications.** H.248 establishes a study committee on broadband and mobile telecommunications facilities to review Vermont's municipal, regional and state-level regulatory and planning processes involved in making telecommunications services available to all Vermonters. The committee – comprised of representatives of regional commissions, the Public Service Department, the Natural Resources Board, municipalities and broadband businesses – shall develop recommendations that allow the expeditious deployment of telecommunications services in a manner acceptable to Vermont communities. The recommendations are due to the legislature by January 15, 2008.

**Education Quality and Cost Control.** H.526, the Education Quality and Cost Control bill, contains at least nine studies or reports that call for an examination of everything from special education costs to the effect of legislative mandates. The studies and/or reports are:

1. A report that directs legislative council and the legislative Joint Fiscal Office (JFO) to report on the financial, administrative and educational impacts of mandates handed down to school districts by both the federal and state governments. The report is due on December 1<sup>st</sup>, 2007.
2. A study on education governance, which sprung forth from the commissioner of Education's discussions throughout the state on school governance structures. (These discussions included talk of consolidation, among many other topics.) The commissioner is charged with summarizing and describing the outcome of those sessions, plus any feedback or other ideas received. The report is due by December 1, 2007.
3. A study that directs the director of Property Valuation and Review (PVR) to examine the possibility of having cities and towns move to a statewide system of conducting rolling re-appraisals on either a three- or five-year basis. In addition to looking at the possible mechanical components of such a system, the bill also directs PVR to examine lister and Board of Civil Authority training and education. VLCT is among the organizations listed in the consultation portion of the study language. The report is due November 1, 2007.
4. A JFO report that identifies the cost drivers of education spending in Vermont. In preparing the report – an initial version of which is due to the House and Senate Education Committees by June 1<sup>st</sup> – JFO staff were asked to study the increases or decreases (along with the frequency or intensity of them) for spending areas such as health insurance, energy, school administration and special education. Subsequent reports to the two committees will be due annually on or before December 1.
5. A report on the financial management of school districts and supervisory unions. The commissioner of the Department of Education is responsible for the study, which will be done in consultation with the Vermont School Boards Association, the Vermont Superintendents

Association and the Vermont Association for School Business Officials. The report will look at financial management systems currently in place in Vermont, education and training opportunities, and potential for consolidating and/or integrating financial management systems among school districts and supervisory unions. The report is due November 15, 2007.

6. An examination, performed by an independent and newly created entity formed from interested parties (the Department of Education, the Vermont NEA, the Vermont School Boards Association, the business community, etc.), to determine the “operational effectiveness and efficiency of the Department of Education.” The report may include recommendations to improve the Department’s effectiveness and efficiency of its operations. It’s due to the two legislative committees on Education on or before December 31, 2007. A subsequent report on implementing any recommendations is due to the two committees by December 31, 2008.
7. An analysis of high spending school districts, performed by the Department of Education and presented to the Legislature by January 15<sup>th</sup>. It is an attempt to identify why some school districts spend more than the allowed thresholds and subsequently make recommendations to remedy those issues, or to provide an exemption if excess spending may not be brought back under the excess spending threshold.
8. A study on the provision of special education services provided to eligible persons under 22 (both those in and out of school), to be conducted by JFO in coordination with the Departments of Education and Employment and Training, and the Agency of Human Services, among other interested parties. The study includes, for example, an examination of the human service functions and programs provided through schools that are now found as school budget expenses, rather than state agency or General Fund expenses. The study is due to the legislature on November 1, 2007.
9. Another study by JFO looks at maximizing federal Medicaid funds and ensuring that all eligible students are enrolled and remain enrolled in Medicaid or Dr. Dynasaur. This study is due December 1, 2007.

**Corrections (H.537).** While there isn’t exactly a summer study or report to discuss, two corrections-related tasks assigned by the legislature certainly have the look and feel of summer study committees or reports. Both are discussed in more detail in the Corrections section of the *Wrap-Up*, page 18. The first is a “plan” to try and reduce incarceration costs by at least \$4 million, with half of those savings subsequently reinvested in offender re-entry services. The other task, described as a “justice reinvestment initiative,” charges a committee of legislators, along with representatives from state agencies and the judiciary, with answering questions about the Vermont’s corrections system and its future. Both tasks were authorized in H.537, the appropriations bill.

**Libraries (H.99).** The Joint Fiscal Office and the legislative council shall compare Vermont’s library system, including funding mechanisms and governance, to that of other states. They shall determine the number of libraries operating in Vermont, and examine the demand for services and the potential for delivering adult education and workforce training as well as adequacy of toilet facilities. A report is due to the legislature by January 15, 2008.

**Transportation (H.527).** The transportation bill contains a number of studies of some interest to local officials.

One study looks at public transit – particularly the integration and cooperation between various modes – in a comprehensive manner. The bill calls for the Agency of Transportation (VTrans) to conduct the analysis – using staff and/or a consultant – to find the best way to provide a seamless transit network that links buses, trains, planes, and park and rides, if possible. The report is due to the legislature by January 15, 2008.

Another transit-related study aims to solve the long-term challenges of providing critical care transportation, a service that the state’s public transit providers offer to those in need of, for example, dialysis or cancer treatments. Besides examining that funding need, the study committee is charged with looking at program administration, coordination between the entities involved and overall need. The report is due back to a quartet of legislative committees by December 1, 2007.

The transportation bill also calls for the creation of a railroad farm crossing study committee to study agricultural and other railroad crossing issues. The committee’s report is due back to the House and Senate Committees on Transportation, Agriculture, and Natural Resources by December 1, 2007.

Also in H.527, the legislature directs VTrans to report back on all expenditures made in support of bicycle and pedestrian facilities in the 2007 construction season. The section of the bill that follows directs VTrans to analyze and report on planning and funding alternatives for larger-scale, higher cost facilities, such as a bike paths. The call for a funding and planning analysis came about after Agency staff told legislators that they did not plan to add any new projects to the bicycle and pedestrian facilities program, signaling the potential phasing out of that funding pool. The phase-out would really only leave the enhancement grant program to fund such projects, and the maximum grant award there is much less than what is needed for many bike path or sidewalk projects. Both the report and the analysis are due back to the legislature by January 15, 2007.

**Climate Change and Energy (H.520).** H.520 requires at least 10 separate studies or investigations:

1. The Public Service Board (PSB) would investigate opportunities for Vermont electric utilities to cost-effectively install “smart meters” capable of sending two-way signals and supporting time-of-use pricing during peak use or hourly differentiated time-of-use pricing. This timely information about a customer’s usage habits would supposedly encourage energy conservation. In utility areas where the Board concludes that smart meters are cost-effective, each utility would need to file plans to invest and deploy appropriate technologies. An interim report would be due to the legislature January 15, 2008; a final report and implementation plan would be due June 15, 2008.
2. PSB would report on implementing “inclining block rates” and alternative electricity rate designs by June 15, 2008. Inclining block rates are rates that increase with the amount of electricity a customer uses.
3. By December 15, 2012 (and again by December 15, 2014), PSB must report to the legislature regarding the state’s progress in assuring that 20% of statewide retail electric sales are Sustainably Priced Energy Enterprise Development (SPEED) resources by 2017. Electricity produced at all facilities owned by or under long-term contract to Vermont retail electricity providers, whether

generated inside or outside Vermont, that is new renewable energy is part of the SPEED program.

4. PSB will report on recommendations to fund an office of ombudsman that would help anyone seeking to develop renewable energy projects to navigate the regulatory process. Some of the targeted permit processes would be small-scale hydro, wind or solar. The report would include a program to help municipalities assess renewable energy resources and their potential development.
5. A commissioner of Taxes report would be due January 15, 2008 that recommends transitioning from the kilowatt hour tax in place now for Vermont's nuclear facility to the new tax that would take effect on July 1, 2008.
6. The commissioners of Public Safety and Taxes and a fiscal office representative are directed to study the proper valuation of electric generating facilities.
7. The bill calls for a study of a simple, predictable and environmentally sound process for PSB to issue a certificate of public good for small hydroelectric projects that are not eligible for net metering.
8. ANR is to issue a report for permitting small hydroelectric facilities that addresses Clean Water Act issues. ANR is also to consult with the PSB regarding what constitutes such a facility, including maximum allowable amount of output capacity at the facility and type of eligible facilities.
9. PSB must recommend a revised energy efficiency utility structure that addresses expanded responsibilities of the current efficiency utility for power sources other than electricity and natural gas.
10. A study committee on incentives for efficient transportation would be created to recommend the use of financial incentives or disincentives that would encourage consumers to purchase vehicles that result in fewer emissions contributing to climate change and analysis of motor vehicle contributions to air contaminants and consumption of energy overall. Curiously, no mention is made of the phasing out of VTrans' Bicycle and Pedestrian Facilities Program.

**Stormwater (H.154).** Beginning on January 15, 2008, ANR must report to the legislature every two years regarding its progress to establish and implement the total maximum daily load (TMDL) plan for Lake Champlain. The Agency must also report on progress to establish and implement TMDLs for the stormwater-impaired waters of the state. Prior to issuing those reports, public hearings are to be held in the Lake Champlain watershed and each watershed of a stormwater-impaired water for which a TMDL-implementing permit has been issued.

ANR is also required to report before January 15, 2008 regarding methods for and the cost of reducing phosphorus discharges from wastewater treatment facilities in the Lake Champlain basin. The report must include analyses of current treatment practices at each wastewater treatment facility in the Lake Champlain basin and of each facility to determine the feasibility of reducing the amount of discharged phosphorus into state waters. Included in the analyses will be treatment that could be

implemented to reduce additional phosphorus discharges and capital cost estimates as well as recommended incentives to encourage voluntary reductions of phosphorus discharges.

Finally, the Agency shall write a proposal for utilizing the implementation process for the antidegradation policy required for updating the state's 17 basin plans (this before all of them have even been written the first time). The report shall include a proposed procedure for utilizing the antidegradation implementation process to conduct basin planning and the advantages and disadvantages of utilizing that process; costs to the agency of implementing the process and proposed changes to the Vermont Water Quality Standards that utilizing such a process would necessitate.

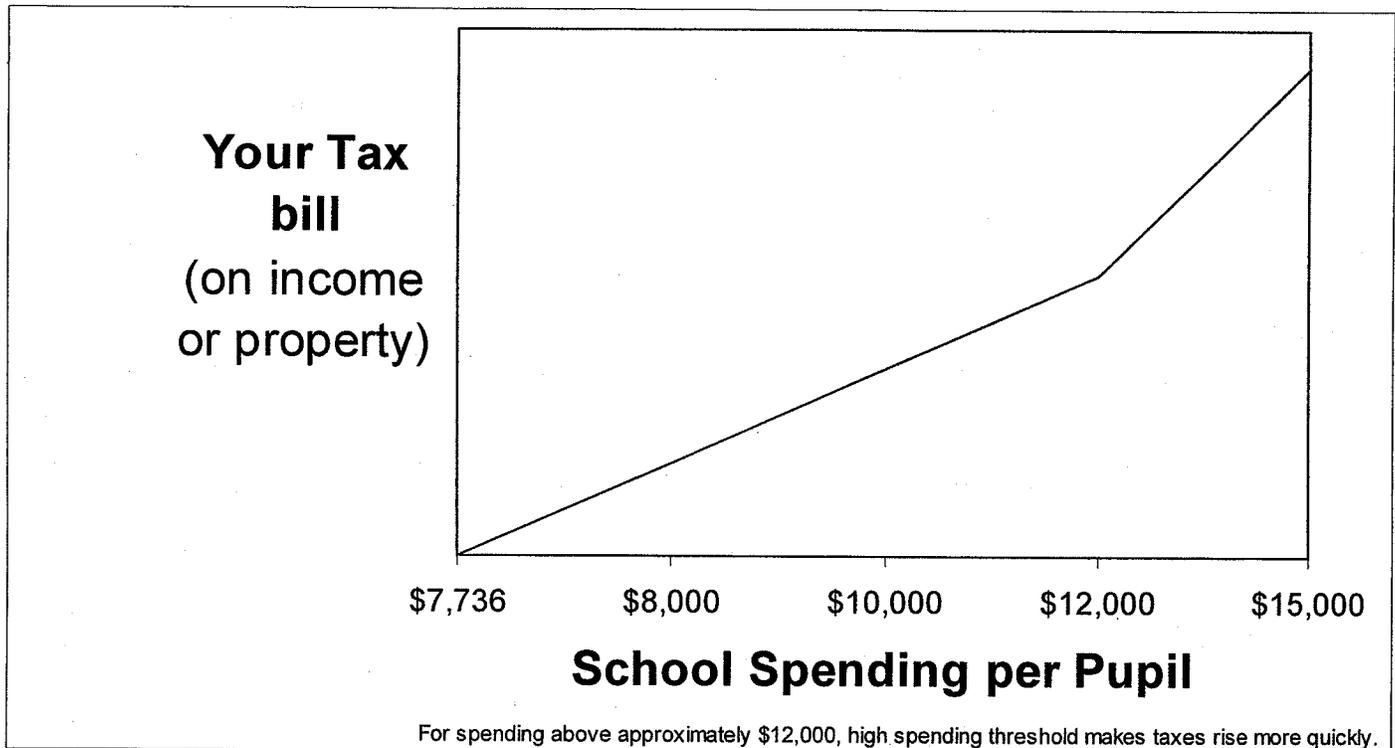
**Groundwater.** The groundwater committee established last session to examine potential regulatory programs to protect groundwater resources of the state is due to produce a final report in 2008.

**Wastewater and Potable Water Supply (H.296, Act 32).** A report from the Department of Housing and Community Affairs is required to include: a summary of ANR requirements to map groundwater resources and implement performance-based wastewater systems; and a summary of the requirements for the Agency of Commerce and Community Development to provide technical assistance and funding to towns to revise their bylaws in light of wastewater and potable water supply statutory changes and to summarize work with VLCT and ANR to develop a groundwater protection ordinance. The report is due January 15, 2008.

# About Your 2007 School Taxes

**“The more you spend, the more you pay”**

Whether you pay your education taxes based on your income or based on your property value, you'll pay more when your school district spends more!



## School Tax Rates

Districts	Spending Per Pupil	Percent above Base	Income Rate	Residential Property Rate (Equalized)	Non Residential Property Rate (Equalized)
Base	\$ 7,736	0%	1.8%	\$ 0.89	\$ 1.39
Example A	\$ 8,510	10%	2.0%	\$ 0.98	\$ 1.39
AVERAGE for VT	\$ 11,095	43%	2.6%	\$ 1.28	\$ 1.39
MONTPELIER	\$ 11,098	43%	2.6%	\$ 1.28	\$ 1.39
Example B	\$ 15,472	100%	3.6%	\$ 1.78	\$ 1.39

Residential School Tax Rates (on income or property) are directly tied to spending. As the spending increases, so do these tax rates. For example, if a town spends 10% above the starting point, the tax rates increase 10%. Non-Residential tax rates are not tied to spending.

### Notes:

The equalized property tax rate shown above may not match the tax rate that appears on your tax bill because of appraisal differences. Turn page over for more detailed information on this.

**Draft - estimates only**

Turn page over for more information

## About Your School Taxes

### Page 2

### If you pay based on your income

For many Vermonters, your property taxes are adjusted so they are a percentage of your household income.

#### School Property Tax for Residence and two acres

Town Spending per Pupil	\$ 90	\$ 270	\$ 450	\$ 630	\$ 810	\$ 990	\$ 1,170	\$ 1,350	\$ 1,530
\$ 7,736	\$ 99	\$ 297	\$ 495	\$ 693	\$ 891	\$ 1,089	\$ 1,287	\$ 1,485	\$ 1,683
\$ 8,510	\$ 108	\$ 324	\$ 540	\$ 756	\$ 972	\$ 1,188	\$ 1,404	\$ 1,620	\$ 1,836
\$ 9,283	\$ 117	\$ 351	\$ 585	\$ 819	\$ 1,053	\$ 1,287	\$ 1,521	\$ 1,755	\$ 1,989
\$ 10,057	\$ 126	\$ 378	\$ 630	\$ 882	\$ 1,134	\$ 1,386	\$ 1,638	\$ 1,890	\$ 2,142
\$ 10,830	\$ 135	\$ 405	\$ 675	\$ 945	\$ 1,215	\$ 1,485	\$ 1,755	\$ 2,025	\$ 2,295
\$ 11,604	\$ 144	\$ 432	\$ 720	\$ 1,008	\$ 1,296	\$ 1,584	\$ 1,872	\$ 2,160	\$ 2,448
\$ 12,378									

**Household Income**

\$ 5,000	\$ 15,000	\$ 25,000	\$ 35,000	\$ 45,000	\$ 55,000	\$ 65,000	\$ 75,000	\$ 85,000
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How to calculate: Find your town spending per pupil on the left (in yellow), then find your income (in green), see where the columns cross.

Example: If your town spends \$9,283 (in yellow) per student, and your household income is \$45,000 (in green), your education property tax for a house and two acres is \$972 (in pink).

**Draft - estimates only**

### If you pay based on your property value

If you pay based on your property value, your homestead tax rate (\$1.28) is affected by how up-to-date the property assessments are in your town, compared with the estimated fair market value.

Montpelier's properties are appraised at a level of 70.94% of the fair market value of 100%, so you divide \$1.28 by 0.7094.

→ Montpelier's Homestead Tax Rate =  $\$1.28 \div 0.7094 = \$1.80$ .

Montpelier homestead owners who pay by the property tax method will pay \$1.80 per \$100 of their homestead's assessed value.

***"The more you spend, the more you pay."***