

# Journal of the House

Monday, April 30, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Rep. Ken Atkins of Winooski.

## Bill Referred to Committee on Appropriations

### S. 93

Senate bill, entitled

An act relating to labeling maple products

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

## Senate Proposal of Amendment Not Concurred in; Committee of Conference Requested and Appointed; Rules Suspended and Bill Messaged to Senate Forthwith

### H. 730

The Senate proposed to the House to amend House bill, entitled

An act relating to miscellaneous consumer protection laws

First: By adding Secs. 1a and 1b to read:

Sec. 1a. 9 V.S.A. chapter 63 is amended to read:

## CHAPTER 63. CONSUMER ~~FRAUD~~ PROTECTION

\* \* \*

## § 2453. PRACTICES PROHIBITED; ANTITRUST AND CONSUMER. ~~FRAUD~~ PROTECTION

\* \* \*

## § 2461e. REQUIREMENTS FOR GUARANTEED PRICE PLANS AND PREPAID CONTRACTS

\* \* \*

(d) Private right of action under consumer ~~fraud~~ protection act. In addition to the remedies set forth in sections 2458 and 2461 of this title, a home heating oil, kerosene, or liquefied petroleum gas dealer may bring an action against its

heating oil, kerosene, or liquefied petroleum gas suppliers for failing to honor its contract with the home heating oil, kerosene, or liquefied petroleum gas dealer. The home heating oil, kerosene, or liquefied petroleum gas dealer bringing the action may recover all remedies available to consumers under subsection 2461(b) of this title.

\* \* \*

#### § 2480q. PENALTIES

(a) The following penalties shall apply to violations of this subchapter:

\* \* \*

(3) A violation of section 2480p of this subchapter shall be deemed a violation of ~~chapter 63 section 2453~~ of this title, ~~the Consumer Fraud Act~~. The attorney general has the same authority to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under subchapter 1 ~~of chapter 63~~ of this title chapter.

\* \* \*

#### Sec. 1b. REDESIGNATION OF TERM “CONSUMER FRAUD” TO READ “CONSUMER PROTECTION”

(a) The legislative council, under its statutory revision authority pursuant to 2 V.S.A. § 424, is directed to delete the term “consumer fraud” and to insert in lieu thereof the term “consumer protection” wherever it appears in each of the following sections: 7 V.S.A. § 1010; 8 V.S.A. §§ 2706, 2709, and 2764; 9 V.S.A. § 2471; 18 V.S.A. §§ 1511, 1512, 4086, 4631, 4633, 4634, and 9473; 20 V.S.A. § 2757; and 33 V.S.A. §§ 1923 and 2010; and in any other sections as appropriate.

(b) Notwithstanding the provisions of 3 V.S.A. chapter 25, the attorney general shall have the authority to delete the term “consumer fraud” and to insert in lieu thereof the term “consumer protection” wherever it appears in the attorney general’s rules, regulations, and procedures and shall exercise such authority upon passage of this act as he or she deems to be necessary, appropriate, and consistent with the purposes of this section.

Second: In Sec. 3, in 9 V.S.A. § 2463, in the first sentence, by striking out the following: “in the United States or Canada”

Third: In Sec. 4, by striking out subdivision (7) in its entirety

Fourth: In Sec. 6, in the section catchline following “SERVICES” by adding the following: “; OBLIGATION OF BUSINESS RECIPIENT TO NOTIFY SELLER” and in 9 V.S.A. § 4401(b)(1), in the second sentence

before the period by adding the following: and shall have no further obligation to accommodate the seller's schedule for pick-up or return shipment or otherwise to facilitate the recovery of the item beyond the requirements of this section

Fifth: In Sec. 9, in 8 V.S.A. § 4260(a), by striking out the sixth sentence and inserting in lieu thereof a new sentence to read as follows: A customer is deemed to consent to receive notice and correspondence by electronic means if the insurer or vendor first discloses to the customer that by providing an electronic mail address the customer consents to receive electronic notice and correspondence at the address, and, the customer provides an electronic mail address.

Sixth: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read:

Sec. 13. 33 V.S.A. § 2607 is amended to read:

§ 2607. PAYMENTS TO FUEL SUPPLIERS

\* \* \*

(g) The public service board shall require natural gas suppliers to provide a discount to fuel assistance customers that is substantially similar to the discount required in public service board docket 7535 for Central Vermont Public Service Corporation and Green Mountain Power.

Seventh: By adding a Sec. 13a to read:

Sec. 13a. STUDY; RESIDENTIAL SPRINKLER SYSTEMS

The department of public safety, in consultation with the department of financial regulation, home builders, and insurance carriers, as well as other interested parties, shall study the costs of requiring sprinklers in new residential construction, including whether fire insurance carriers should be required to absorb all of the costs of sprinkler installation by offsetting premiums until the cost is paid in full and the reduction in premiums is not otherwise recovered in premiums charged to other insureds. The department shall report its findings and any recommendations regarding the cost of installing and paying for residential sprinkler systems to the senate committee on economic development, housing and general affairs and the house committee on general, housing and military affairs on or before January 15, 2013.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Marcotte of Coventry** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the

Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Marcotte of Coventry**  
**Rep. Botzow of Pownal**  
**Rep. Shand of Weathersfield**

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Report of Committee of Conference Adopted;  
 Rules Suspended; Action Ordered Messaged to Senate Forthwith  
 and Bill Delivered to the Governor Forthwith**

**H. 789**

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

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

An act relating to reapportioning the final representative districts of the House of Representatives

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

Sec. 1. 17 V.S.A. § 1893, as amended by Sec. 1 of No. 74 of the Acts of the 2011 Adj. Sess. (2012), is amended to read:

§ 1893. INITIAL DIVISION

The state is divided into the following initial districts, each of which shall be entitled to the indicated number of representatives:

District	Towns and Cities	Representatives
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\* \* \*

<del>BENNINGTON-3</del>	<del>Arlington, Glastenbury, Sandgate, Shaftsbury, Stratton, Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the</del>	
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~~centerline of VT 153 to the intersection of East Street; then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road; then southerly along the western side of the centerline of Kent Hollow Road to the boundary of the town of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning~~ 2

BENNINGTON-3 Glastenbury, Shaftsbury, and that portion of the town of Sunderland encompassed within a boundary beginning at the point where the boundary line of Sunderland and Glastenbury intersects with VT Route 7; then northerly along the eastern side of the centerline of VT 7 to the intersection of North Road; then northerly along the eastern side of the centerline of North Road to the intersection of Borough Road; then northerly along the eastern side of the centerline of Borough Road to the intersection of Sunderland Hill Road; then northeasterly along the southern side of the centerline of Sunderland Hill Road to the boundary of the town of Manchester; then easterly along the Manchester town line to the boundary of the town of Winhall; then easterly along the Winhall town line to the boundary of the town of Stratton; then southerly along the Stratton town line to the boundary of Glastenbury; then westerly along the Glastenbury town line to the point of beginning 1

BENNINGTON-4 Arlington, Manchester, Sandgate, and that portion of the town of Sunderland not in BENNINGTON-3 12

\* \* \*

CHITTENDEN-4-1 Charlotte and, in Hinesburg, the following census block 003507: 1039 that portion of the town of Hinesburg encompassed within a boundary beginning at the point where the boundary line of Hinesburg and Charlotte intersects with Drinkwater Road; then easterly along the southern side of the centerline of Drinkwater Road to the intersection of Baldwin Road; then southerly along the western side of the centerline of Baldwin Road to the boundary of the town of Monkton; then westerly along the Monkton town line to the

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	<u>boundary of Charlotte; then northerly along the Charlotte town line to the point of beginning</u>	1
CHITTENDEN-4-2	Hinesburg, except that portion of the town in CHITTENDEN-4-1	1
CHITTENDEN-5	Shelburne and St. George	2
CHITTENDEN-6	Burlington and Winooski	12
CHITTENDEN-7	South Burlington	4
CHITTENDEN-8-1	That portion of the town of Essex not included in CHITTENDEN-8-2 or 8-3	2
CHITTENDEN-8-2	<u>The village of Essex Junction, except <del>the following census block 002601-1023</del> that portion of the village encompassed within a boundary beginning at the point where Pearl Street intersects with Warner Avenue; then northerly along the western side of the centerline of Warner Avenue to the intersection with Sunderland Brook; then northwesterly along the southern side of the centerline of Sunderland Brook to the intersection with Susie Wilson Road and Pearl Street; then southeasterly along the northern side of the centerline of Pearl Street to the point of beginning</u>	2
CHITTENDEN-8-3	Westford and that portion of the town of Essex encompassed within a boundary beginning at the point where the boundary line of Essex and the town of Colchester intersects with Curve Hill Road; then southeasterly along the northern side of the centerline of Curve Hill Road to the intersection of Lost Nation Road; then southeasterly along the northern side of the centerline of Lost Nation Road to the intersection of Old Stage Road; then northerly along the western side of the centerline of Old Stage Road to the intersection of Towers Road; then southeasterly along the northern side of the centerline of Towers Road to the intersection of <del>Clover Drive; then northeasterly along the western side of the centerline of Clover Drive to the intersection with Alder Brook; then southeasterly along the northern side of the centerline of Alder Brook to the intersection with</del>	

	Brown's River Road; then easterly along the northern side of the centerline of Brown's River Road to the intersection of Weed Road; then easterly along the northern side of the centerline of Weed Road to the intersection of Jericho Road; then easterly along the northern side of the centerline of Jericho Road to the boundary of the town of Jericho; then northeasterly along the Jericho town line to the boundary of Westford; then westerly along the Westford town line to the boundary of Colchester; then southwesterly along the Colchester town line to the point of beginning	1
CHITTENDEN-9	Colchester	4
	* * *	
LAMOILLE-2	Belvidere, Hyde Park, Johnson, <u>and Wolcott</u> , <del>and that portion of the town of Eden not in</del> ORLEANS-LAMOILLE	2
	* * *	
ORLEANS-2	<u>Coventry, Irasburg, Newport City, and Newport Town, and that portion of the town of Troy encompassed within a boundary beginning at the point where the boundary line of Troy and Newport Town intersects with the Canadian Pacific railway; then northwesterly along the southern side of the centerline of the railway to the intersection of VT Route 105; then northwesterly along the southern side of the centerline of VT 105 to the intersection of East Hill Road; then southerly along the eastern side of the centerline of East Hill Road to the intersection of VT Route 100; then westerly along the southern side of the centerline of VT 100 to the intersection with the Missisquoi River; then southwesterly along the eastern side of the centerline of the Missisquoi River to the boundary of the town of Westfield; then southerly along the Westfield town line to the boundary of the town of Lowell; then easterly along the Lowell town line to the boundary of Newport Town; then northerly along the Newport Town boundary to the point of beginning</u>	2
	* * *	

ORLEANS-

LAMOILLE Eden, Jay, Lowell, Troy, Westfield, and that portion of the town of Eden that is west of the centerline of Route 100 Troy not in ORLEANS-2 1

RUTLAND-

BENNINGTON Middletown Springs, Pawlet, Rupert, Wells, and that portion of the town of Tinmouth, that portion of the town of Wells not in RUTLAND 1, and that portion of the town of Rupert not in BENNINGTON 3 not in RUTLAND-2 1

RUTLAND-1 Ira, and Poultney, and that portion of the town of Wells encompassed within a boundary beginning at the point where the boundary line of Wells and Poultney intersects with West Lake Road; then southerly along the eastern and Lake St. Catherine side of the centerline of West Lake Road to the intersection of VT Route 30; then northerly along the western and Lake St. Catherine side of the centerline of VT 30 to the boundary of Poultney; then westerly along the Poultney town line to the point of beginning 1

RUTLAND-2 Clarendon, Proctor, Wallingford, and West Rutland, and that portion of the town of Tinmouth encompassed within a boundary beginning at the point where the boundary line of Tinmouth and Danby intersects with East Road; then northerly along the eastern side of the centerline of East Road and then continuing along the eastern side of the centerline of North East Road to the boundary of Clarendon; then easterly along the Clarendon town line to the boundary of Wallingford; then southerly along the Wallingford town line to the boundary of Danby; then westerly along the Danby town line to the point of beginning 2

\* \* \*

WINDHAM-5 Marlboro, Newfane, and that portion of the town of Townshend not in WINDHAM-BENNINGTON 1

WINDHAM-6 Halifax, Whitingham, and Wilmington, and that portion of the town of Whitingham not in

WINDHAM-BENNINGTON

1

## WINDHAM-

## BENNINGTON

Dover, Readsboro, Searsburg, Somerset, Stamford, Wardsboro, and that portion of the town of ~~Townshend~~ Whitingham encompassed within a boundary beginning at the ~~northernmost point where the boundary line of Townshend and the town of Wardsboro intersects with West Hill Road; then northerly along the eastern side and easterly along the southern side of the centerline of West Hill Road to the intersection of State Forest Road; then easterly along the southern side and southerly along the western side of the centerline of State Forest Road to the boundary of the town of Newfane; then westerly along the town line of Newfane to the boundary line of Wardsboro; then northerly along the town line of Wardsboro to the point of beginning point where the boundary line of~~ Whitingham and Readsboro intersects with VT Route 100; then southerly along the Readsboro town line to the boundary of the state of Massachusetts; then easterly

along the Massachusetts state line to the intersection of Kentfield Road; then northerly along the western side of the centerline of Kentfield Road to the intersection with the Nog Brook; then northerly along the western side of the centerline of Nog Brook to the intersection with VT 100; then southerly along the eastern side and westerly along the southern side of the centerline of VT 100 to the point of beginning

1

## WINDHAM-

## BENNINGTON-

## WINDSOR

Jamaica, Londonderry, Stratton, Weston, and Winhall

1

\* \* \*

## WINDSOR-3-1

Andover, Baltimore, Chester, and that portion of the town of Springfield encompassed within a boundary beginning at the point where the boundary

line of Springfield and Chester intersects with Route 10; then easterly along the southern side of the centerline of Route 10 to the intersection of Cemetery Road; then easterly along the southern side of the centerline of Cemetery Road to the intersection of School Street; then southerly on the western side of the centerline of School Street to the intersection of Main Street; then easterly on the southern side of the centerline of Main Street to the intersection of Church Street; then southerly along the western side of the centerline of Church Street to the intersection with ~~Great Brook~~; then southerly along the western side of the centerline of ~~Great Brook~~ to the intersection with Spoonerville Road; then southerly along the western side of the centerline of Spoonerville Road to the boundary line of Chester; then northerly along the Chester town line to the point of beginning 1

WINDSOR-3-2 That portion of the town of Springfield not in  
WINDSOR-3-1 2

\* \* \*

Sec. 2. 17 V.S.A. § 1893a is amended to read:

§ 1893a. SUBDIVISION OF INITIAL DISTRICTS

(a) The following initial House districts, ~~created and assigned more than two members by section 1893 of this title, as amended by No. 85 of the Acts of 2002,~~ are subdivided into final representative House districts, as designated and defined below, each of which shall be entitled to elect the indicated number of representatives:

(1) ~~BENNINGTON 2 is subdivided into the following districts:~~

~~BENNINGTON 2 1. That portion of the town of Bennington not included in BENNINGTON 2 2. 2~~

~~BENNINGTON 2 2. That portion of the town of Bennington encompassed by a border beginning at the intersection of VT 7 and the Pownal town line, then northerly on the easterly side of VT 7 to the intersection with Monument Avenue, then northerly along the easterly side of Monument Avenue to the intersection with Dewey Street, then northerly along the easterly side of Dewey Street to the intersection with West Main Street, then southeasterly on the southerly side of West Main Street to the intersection with North Street, then northerly along the easterly side of North Street to the~~

~~intersection with County Street, then easterly along the southerly side of County Street to the intersection with Park Street, then northerly along the easterly side of Park Street to the intersection with Roaring Branch River, then easterly along the southerly side of the river to the intersection with VT 9, then easterly along VT 9 to the intersection with the Bennington Woodford town line, then southerly along the westerly side of the Bennington Woodford town line to the intersection with the Bennington Pownal town line, then westerly along the northerly side of the Bennington Pownal town line to the point of beginning.~~

2

~~(2) CHITTENDEN 3 is subdivided into the following districts:~~

~~CHITTENDEN 3 1. Consisting of all that portion of the City of Burlington encompassed within a boundary beginning where the northerly property line of Leddy Park intersects the shore of Lake Champlain, then northeasterly along said property line and said property line extended to North Avenue, then southeasterly along North Avenue to the southerly boundary of Farrington's Trailer Park, then northeasterly and northwesterly along the boundary of Farrington's Trailer Park and the back property lines of property fronting Lopes Avenue to the northwest corner of the corner lot at the intersection of Lopes Avenue and Roseade Parkway including all the residences in Farrington's Trailer Park and on Poirier Place, then northeasterly along the back property lines between property fronting on Roseade Parkway and Arlington Court including all the residences on Arlington Court, and turning northwesterly along the back property lines of property fronting Arlington Court to the intersection of the back property lines of property fronting Farrington Parkway, then easterly along the back property lines of property fronting Farrington Parkway to the south, then easterly along Farrington Parkway to the intersection of Farrington Parkway and Ethan Allen Parkway, then northerly along Ethan Allen Parkway to a point where the back property lines of property fronting the north side of Farrington Parkway intersect Ethan Allen Parkway, then westerly along the back property lines of property fronting the north side of Farrington Parkway to include all residences on Farrington Parkway, continuing west across the end of Gosse Court to the southeast corner of the Lyman C. Hunt School property, then northwesterly along the property boundary of the Lyman C. Hunt School property to its northeast corner, then northeasterly along the back property lines of property fronting on Janet Circle to a point where said back property lines intersect the back property lines of property fronting on James A~~

~~venue, then northwesterly along the back property lines of property fronting on James Avenue and Sandra Circle and continuing northeasterly along the back property lines of property fronting on Sandra Circle to the intersection of the~~

~~right-of-way of the Winooski Valley Park Way, then northerly in a straight line to the Winooski River, then northerly along the Winooski River to its intersection with Lake Champlain, then southerly along the shore of Lake Champlain back to the point of beginning.~~

2

~~CHITTENDEN 3-2. Consisting of all that portion of the City of Burlington encompassed within a boundary beginning where the northerly property line of Leddy Park intersects the shore of Lake Champlain, then northeasterly along said property line and said property line extended to North Avenue, then southeasterly along North Avenue to the southerly boundary of Farrington's Trailer Park, then northeasterly and northwesterly along the boundary of Farrington's Trailer Park and the back property lines of property fronting Lopes Avenue to the northwest corner of the corner lot at the intersection of Lopes Avenue and Roseade Parkway including all the residences on Lopes Avenue and Blondin Circle, then northeasterly along the back property lines between property fronting on Roseade Parkway and Arlington Court including all the residences on Roseade Parkway, and turning northwesterly along the back property lines of property fronting Arlington Court to the intersection of the back property lines of property fronting Farrington Parkway, then easterly along the back property lines of property fronting Farrington Parkway to the south, then easterly along Farrington Parkway to the intersection of Farrington Parkway and Ethan Allen Parkway including all units at 282 Ethan Allen Parkway, then northerly along Ethan Allen Parkway to a point where the back property lines of property fronting the north side of Farrington Parkway intersect Ethan Allen Parkway, then westerly along the back property lines of property fronting the north side of Farrington Parkway, continuing west across the end of Gosse Court to the southeast corner of the Lyman C. Hunt School property, then northwesterly along the property boundary of the Lyman C. Hunt School property to its northeast, then northeasterly along the back property lines of property fronting on Janet Circle to a point where said back property lines intersect the back property lines of property fronting on James Avenue including all residences on Janet Circle, then northwesterly along the back property lines of property fronting on James Avenue and Sandra Circle and continuing northeasterly along the back property lines of property fronting on Sandra Circle to the intersection of the right of way of the Winooski Valley Park Way including all residences on Sandra Circle, then northerly in a straight line to the Winooski River, then following the Winooski River easterly to the railroad bridge, then westerly along the railroad bridge and continuing along the railroad tracks until it intersects at a point with the straight line extension of the property boundary between 603 and 617 Riverside Avenue, then southerly along the straight line extension of the property boundary between 603 and 617 Riverside Avenue,~~

~~continuing southerly along the property boundary of 603 and 617 Riverside Avenue to its intersection with Riverside Avenue, then westerly along Riverside Avenue to the intersection of Intervale Avenue, then southwestward along Intervale Avenue to the intersection of Archibald Street, then westerly along Archibald Street to the intersection of Spring Street, then northwestward along Spring Street to the intersection of Manhattan Drive, then westerly along Manhattan Drive to the intersection of Pitkin Street, then southerly along Pitkin Street to the intersection of Strong Street, then westerly along Strong Street to the intersection of North Avenue, then northwestward along North Avenue to the intersection of Sunset Court, then southwestward along Sunset Court to its end to include all residences on the northwestward side of Sunset Court, continuing southeastward in a straight line extension of Sunset Court to its intersection with the railroad tracks, then southerly along the railroad tracks to the intersection of the northern boundary line of the property to the north of the Moran Plant, then westerly along the boundary line to the intersection of the shore of Lake Champlain, then northerly along the shore of Lake Champlain to the point of beginning.~~

4

~~CHITTENDEN 3 3. Consisting of that portion of the City of Burlington encompassed within a boundary beginning at the intersection of Maple and Willard Streets, then westerly along Maple Street to the intersection of St. Paul Street, then southerly along St. Paul Street to the intersection of Kilburn Street, then westerly along Kilburn Street to the intersection of Pine Street, then southerly along Pine Street to where the railroad track parallels Pine Street, then northwestward along the railroad track to the intersection of Maple Street, then westerly along Maple Street to the shore of Lake Champlain, then northerly along the shore of Lake Champlain to the intersection of the northern boundary line of the property to the north of the Moran Plant, then easterly along the boundary line to the intersection of the railroad tracks, then northerly along the railroad tracks to an intersection with a straight line extension of Sunset Court, then northeastward along the straight line extension of Sunset Court and continuing along Sunset Court to its intersection with North Avenue to include all residences on the southeastward side of Sunset Court, then southeastward along North Avenue to the intersection of Strong Street, then easterly along Strong Street to the intersection of Pitkin Street, then northerly along Pitkin Street to the intersection of Manhattan Drive, then easterly along Manhattan Drive to the intersection of Spring Street, then southeastward along Spring Street to the intersection of Archibald Street, then easterly along Archibald Street to the intersection of North Union Street, then southwestward and southerly along North Union Street to the intersection of Pearl Street, then easterly along Pearl Street to the intersection of Willard Street, then southerly along Willard Street to the point of beginning.~~

2

~~CHITTENDEN 3-4. Consisting of that portion of the City of Burlington encompassed within a boundary beginning at the intersection of Davis Road and the boundary between the City of Burlington and the City of South Burlington, then southwesterly along Davis Road to the intersection of South Prospect Street, then northerly along South Prospect Street to the intersection of Main Street, then westerly along Main Street to the intersection of Willard Street, then northerly along Willard Street to the intersection of Pearl Street, then westerly along Pearl Street to the intersection of North Union Street, then northerly along North Union Street to the intersection of North Winooski Avenue, then northeasterly along North Winooski Avenue to the intersection of Archibald Street, then westerly along Archibald Street to the intersection of Intervale Avenue, then northeasterly along Intervale Avenue to the intersection of Riverside Avenue, then easterly along Riverside Avenue to the intersection of North Winooski Avenue, then northerly along the property boundary between 603 and 617 Riverside Avenue to the northeastern corner of 617 Riverside Avenue, then northerly along the straight line extension of the property boundary between 603 and 617 Riverside Avenue to the intersection of the railroad tracks, then easterly along the railroad tracks to the intersection of Intervale Road, then southerly along Intervale Road, crossing Riverside Avenue, and continuing southerly along North Prospect Street to the intersection of North Street, then easterly along North Street to the intersection of Mansfield Avenue, then southerly along Mansfield Avenue to the intersection of Colchester Avenue, then northeasterly along Colchester Avenue to the intersection of Chase Street, then northeasterly along Chase Street to the intersection of Grove Street, then southeasterly along Grove Street to the intersection of the boundary line between the City of Burlington and the City of South Burlington, then southwesterly along the boundary line to the intersection of Main Street, then northwesterly along Main Street to the intersection with the boundary line, then southerly along the boundary line to the point of beginning.~~

2

~~CHITTENDEN 3-5. Consisting of that portion of the City of Burlington encompassed within a boundary beginning from the shore of Lake Champlain and the boundary line with the City of South Burlington, then easterly along the boundary line between the City of Burlington and the City of South Burlington to Shelburne Street, then northerly and then easterly along the boundary line with the City of South Burlington, then northerly along the boundary line with the City of South Burlington to the intersection of Davis Road, then southwesterly along Davis Road to the intersection of South Prospect Street, then northerly along South Prospect Street to the intersection of Main Street, then westerly along Main Street to the intersection of Willard~~

~~Street, then southerly along Willard Street to the intersection of Maple Street, then westerly along Maple Street to the intersection of St. Paul Street, then southerly along St. Paul Street to the intersection of Kilburn Street, then westerly along Kilburn Street to the intersection of Pine Street, then southerly along Pine Street to where the railroad track parallels Pine Street, then northwesterly along the railroad track to the intersection of Maple Street, then westerly along Maple Street to the intersection of the shore of Lake Champlain, then southerly along the shore of Lake Champlain to the point of beginning.~~

2

~~CHITTENDEN 3-6.— Consisting of all the City of Winooski and that portion of the City of Burlington encompassed within a boundary beginning at the northern terminus of the boundary line between the cities of Burlington and South Burlington located at a point adjacent to the Winooski River west of Interstate 89, then southwestward along the boundary line to the intersection of the boundary line and Grove Street, then northwesterly along Grove Street to the intersection of Chase Street, then southwestward along Chase Street to the intersection of Colechester Avenue, then southwestward along Colechester Avenue to the intersection of Mansfield Avenue, then northerly along Mansfield Avenue to the intersection of North Street, then westerly on North Street to the intersection of North Prospect Street, then northerly along North Prospect Street, crossing Riverside Avenue, and continuing along Intervale Road to the intersection of the railroad tracks, then easterly along the railroad tracks to the Winooski River and the boundary of the City of Burlington and the City of Winooski.~~

2

~~CHITTENDEN 3-7.— That portion of the City of South Burlington starting at a point on Lake Champlain at the Shelburne-South Burlington boundary and following the Shelburne-South Burlington boundary easterly to Shelburne Road; then northerly following Shelburne Road to Allen Road; then easterly following Allen Road to Spear Street; then northerly on Spear Street to Pheasant Way; then westerly on Pheasant Way to Deerfield Drive; then northerly on Deerfield Drive; then easterly on Deerfield Drive to the intersection with Spear Street; then across Spear Street to Nowland Farm Road to the intersection with Pinnacle Drive; then northerly on Pinnacle Drive; then easterly on Pinnacle Drive; then northerly on Pinnacle Drive; then westerly on Pinnacle Drive; then southerly on Pinnacle Drive to the intersection with Olivia Drive; then westerly along Olivia Drive to Spear Street; then northerly on Spear Street to Swift Street; then westerly on Swift Street to Shelburne Road; then westerly along the Burlington-South Burlington boundary to Lake Champlain; then following the shore of Lake Champlain southerly to the point of beginning.~~

4

~~CHITTENDEN 3-8. That portion of the City of South Burlington starting at the junction of Dorset Street and the Shelburne South Burlington boundary and proceeding easterly to the junction of the Shelburne South Burlington Williston boundaries; then northerly following the Williston South Burlington boundary to Williston Road; then continuing westerly to the intersection of Hinesburg Road/Patchen Road; then southerly following Hinesburg Road to Wooderest Street; then westerly on Wooderest Street; then northerly on Wooderest Street; then westerly on Wooderest Street; then southerly on Wooderest Street to Dean Street; then easterly on Dean Street to Hinesburg Road; then southerly along Hinesburg Road to Interstate 89; then westerly along Interstate 89 to its intersection with Dorset Street; then southerly to Swift Street; then westerly following Swift Street to Spear Street; then southerly along Spear Street to Olivia Drive; then easterly on Olivia Drive to Pinnacle Drive; then northerly on Pinnacle Drive; then easterly on Pinnacle Drive; then southerly on Pinnacle Drive; then westerly on Pinnacle Drive; then southerly on Pinnacle Drive to Nowland Farm Road; then westerly to Spear Street; then across Spear Street to Deerfield Drive; then westerly on Deerfield Drive; then southerly on Deerfield Drive to Pheasant Way; then easterly on Pheasant Way to Spear Street; then southerly along Spear Street to Allen Road; then westerly following Allen Road to the intersection of Shelburne Road; then southerly on Shelburne Road to the Shelburne South Burlington boundary; then easterly on the Shelburne South Burlington boundary to the point of beginning at Dorset Street and the Shelburne South Burlington boundary. †~~

~~CHITTENDEN 3-9. That portion of the City of South Burlington starting at the junction of the Burlington South Burlington boundary and Williston Road and following that boundary starting northerly following the city boundary to the Winooski River, then following the South Burlington-Winooski River boundary to Muddy Brook, then following the Muddy Brook-South Burlington boundary to Williston Road, then westerly to Hinesburg Road/Patchen Road, then southerly to Wooderest Street, then westerly on Wooderest Street, then northerly on Wooderest Street, then westerly on Wooderest Street, then southerly on Wooderest Street to Dean Street, then easterly on Dean Street to Hinesburg Road, then continuing southerly on Hinesburg Road to Potash Brook, then westerly following the centerline of Potash Brook to the intersection with Kennedy Drive, then westerly on Kennedy Drive to Dorset Street, then northerly on Dorset Street to Williston Road, then westerly to the point beginning at the junction of the Burlington-South Burlington boundary and Williston Road. †~~

~~CHITTENDEN 3-10. That portion of the City of South Burlington not contained in CHITTENDEN 3-7, 3-8, or 3-9. †~~

~~(3) CHITTENDEN 6 is subdivided into the following districts:~~

~~CHITTENDEN 6 1. That portion of the Town of Essex not included in CHITTENDEN 6 2 or 6 3. 2~~

~~CHITTENDEN 6 2. The Village of Essex Junction. 2~~

~~CHITTENDEN 6 3. The Town of Westford, plus that portion of the Town of Essex bounded by the centerline of the road from Curve Hill at the Colchester Town line, then to Lost Nation Road, then northerly on Old Stage Road to Towers Road, then continuing easterly to Brown's River Road to Weed Road, then easterly on Jericho Road to the Jericho town line. 1~~

~~(4) CHITTENDEN 7 is subdivided into the following districts:~~

~~CHITTENDEN 7 1. That portion of the town of Colchester north of Malletts Creek and west of Interstate 89 to the Milton town line, plus that portion of the town of Colchester east of Interstate 89. 2~~

~~CHITTENDEN 7 2. That portion of the town of Colchester not included in CHITTENDEN 7 1. 2~~

~~(5) GRAND ISLE CHITTENDEN 1 is subdivided into the following districts:~~

~~GRAND ISLE CHITTENDEN 1 1. The towns of Alburg, Grand Isle, Isle La Motte, North Hero and South Hero, plus that portion of the town of Milton bounded by a line beginning at the mouth of the Lamoille River and Lake Champlain, then along the river upstream to the Interstate 89 bridge crossing the Lamoille River, then northerly along Interstate 89 to the Georgia town line, then along the Georgia town line to Lake Champlain, then southerly along the lakeshore to the place of beginning. 2~~

~~CHITTENDEN 9. That portion of the town of Milton not included in GRAND ISLE CHITTENDEN 1. 2~~

~~(6) RUTLAND 1 is subdivided into the following districts:~~

~~RUTLAND 1 1. The town of Poultney and that part of the town of Ira encompassed within a boundary beginning in the southwest at the intersection of the town boundaries of Ira, Middletown Springs and Poultney, then northerly along the boundary with Poultney and continuing northerly along the boundary with Castleton, then easterly along the boundary with Castleton to the boundary with West Rutland, then southeasterly along the boundary with West Rutland to the ridge line of the mountain range, then southwesterly along the ridge line of the mountain range to the boundary with Middletown Springs,~~

~~then westerly along the boundary with Middletown Springs to the point of beginning.~~ 1

~~RUTLAND 1-2. The towns of Clarendon, Proctor, West Rutland and that part of the town of Ira not included in RUTLAND 1-1.~~ 2

~~(7) RUTLAND 5 is subdivided into the following districts:~~

~~RUTLAND 5-1. That portion of the City of Rutland encompassed within a boundary beginning at the point where the boundary line of Rutland City and Rutland Town intersects with Lincoln Avenue, then southerly along the east side of the centerline of Lincoln Avenue to the intersection of West Street, then easterly along the north side of the centerline of West Street across North Main Street, then easterly along the north side of Terrill Street to the intersection of Lafayette Street, then southerly along the east side of the centerline of Lafayette Street to the intersection of Easterly Avenue, then easterly along the north side of Easterly Avenue to the intersection of Easterly Avenue and Piedmont Drive, then easterly along the north side of the centerline of Piedmont Drive to the intersection of Piedmont Drive and Piedmont Parkway, then easterly along the centerline of Piedmont Parkway to the intersection of Piedmont Parkway and Stratton Road, then southerly along the easterly side of the centerline of Stratton Road to the intersection of Stratton Road and Killington Avenue, then easterly along the north side of the centerline of Killington Avenue, including both sides of Grandview Terrace, to the boundary between Rutland City and Rutland Town, then northerly following the boundary line to its intersection with Gleason Road, then westerly along the south side of the centerline of Gleason Road to Woodstock Avenue, then following the boundary line back to the point of beginning.~~ 1

~~RUTLAND 5-2. That portion of the City of Rutland encompassed within a boundary beginning at the point where the boundary line of Rutland City and Rutland Town intersects with South Main Street, then northerly along the easterly side of the centerline of South Main Street to the intersection of South Main Street and Strongs Avenue, then northwesterly along the east side of the centerline of Strongs Avenue to the intersection of Strongs Avenue and Prospect Street, then northerly along the east side of the centerline of Prospect Street to the intersection of Prospect Street and Washington Street, then easterly along the south side of the centerline of Washington Street to the intersection of Washington Street and Court Street, then northerly along the east side of the centerline of Court Street to the intersection of Court Street and West Street, then easterly along the south side of the centerline of West Street, to the intersection of West Street and South Main Street, then east across South Main Street, to the intersection of South Main Street and Terrill Street, then~~

~~easterly along the south side of the centerline of Terrill Street to the intersection of Terrill Street and Lafayette Street, then southerly along the west side of the centerline of Lafayette Street to the intersection of Lafayette Street and Easterly Avenue, then easterly along the south side of the centerline of Easterly Avenue to the intersection of Easterly Avenue and Piedmont Drive, then easterly along the south side of the centerline of Piedmont Drive to the intersection of Piedmont Drive and Piedmont Parkway, then easterly along the south side of the centerline of Piedmont Parkway to the intersection of Piedmont Parkway and Stratton Road, then southerly along the west side of the centerline of Stratton Road to the intersection of Stratton Road and Killington Avenue, then easterly along the south side of the centerline of Killington Avenue to the boundary of Rutland City and Rutland Town, then southerly along the city line to the intersection of the city line and South Main Street to the point of beginning.~~ †

~~RUTLAND 5 3.— That portion of the City of Rutland encompassed within a boundary beginning at the point where the boundary line of Rutland City and Rutland Town intersects with South Main Street, then northerly along the west side of the centerline of South Main Street to the intersection of South Main Street and Strongs Avenue, then northwesterly along the west side of the centerline of Strongs Avenue to the intersection of Strongs Avenue and Prospect Street, then northerly along the west side of the centerline of Prospect Street to the intersection of Prospect Street and Washington Street, then easterly along the north side of the centerline of Washington Street to the intersection of Washington Street and Court Street, then northerly along the west side of the centerline of Court Street to the intersection of Court Street and West Street, then easterly along the north side of the centerline of West Street to the intersection of West Street and Lincoln Avenue, then northerly along the west side of the centerline of Lincoln Avenue to the intersection of Lincoln Avenue and Williams Street, then west along the south side of the centerline of Williams Street to the intersection of Williams Street and Grove Street, then north along the west side of the centerline of Grove Street to the intersection of Grove Street and Maple Street, then west along the south side of the centerline of Maple Street to the intersection of Maple Street and Pine Street, then south along the east side of the centerline of Pine Street to the intersection of Pine Street and Robbins Street, then west along the south side of the centerline of Robbins Street to the intersection of Robbins Street and Baxter Street, then south along the east side of the centerline of Baxter Street to the intersection of Baxter Street and State Street, then west along the south side of the centerline of State Street to the intersection of State Street and Cramton Avenue, then south along the east side of the centerline of Cramton Avenue to the intersection of Cramton Avenue and West Street, then westerly~~

~~along the south side of the centerline of West Street to the intersection of Ripley Road, then southerly along the Rutland City Rutland Town line to the intersection of the city line and South Main Street, the point of beginning. †~~

~~RUTLAND 5-4. That portion of the City of Rutland not located within the boundaries of RUTLAND 5-1, 5-2 or 5-3. †~~

~~(8) WASHINGTON 3 is subdivided into the following districts:~~

~~WASHINGTON 3-1. That portion of the City of Barre bounded on the north, east and south by Barre Town, and bounded on the west by a line running along the center of Hall Street to the intersection of Elm Street, then along the center of Elm Street to the intersection of North Main Street, then along the center of North Main Street to the intersection of Prospect Street, then along the center of Prospect Street to the intersection of Allen Street, then along the western back lot line of Allen Street to the Barre Town boundary. †~~

~~WASHINGTON 3-2. That portion of the City of Barre bound on the north and south by the Barre Town line, on the east by the boundary with WASHINGTON 3-1, and on the west by the boundary with WASHINGTON 3-3. †~~

~~WASHINGTON 3-3. The town of Berlin and that portion of the City of Barre bound on the west by the Berlin town line, on the north and south by the Barre Town line, and on the east by a boundary running from the Barre Town northern boundary along the center of Beckley Street, then along the center of Third Street to North Main Street, then along the center of North Main Street to the intersection of Berlin Street, then along the center of Berlin Street to Prospect Street, then along the center of Prospect Street to the Barre Town line. †~~

~~(9) WINDHAM 3 is subdivided into the following districts:~~

~~WINDHAM 3-1. That portion of the Town of Brattleboro to the west of a boundary beginning at Upper Dummerston Road at the Dummerston town line, then southeasterly along the centerline of Upper Dummerston Road to Interstate 91, then southerly along the median of Interstate 91 to Williams Street, then easterly along the centerline of Williams Street to where the Whetstone Brook crosses, then southwesterly along the western bank of the Whetstone Brook to Lamson Street and southerly along the centerline of Lamson Street to Chestnut Street, then westerly along the centerline of Chestnut Street to Interstate 91, then southerly along the median of Interstate 91 to the Guilford town line. †~~

~~WINDHAM 3-2. That portion of the Town of Brattleboro to the south of a boundary beginning at the Connecticut River at the Whetstone Brook,~~

~~westerly along the southern bank of the Whetstone Brook to Elm Street, then northerly along the centerline of Frost Street to Williams Street and following the centerline of Williams Street to West Street, then westerly along the centerline of West Street to Williams Street and westerly along the centerline of Williams Street to where the Whetstone Brook crosses, then southwesterly along the eastern bank of the Whetstone Brook to Lamson Street and southerly along the centerline of Lamson Street to Chestnut Street, then westerly along the centerline of Chestnut Street to Interstate 91, and east of Interstate 91 to the Guilford town line.~~

†

~~WINDHAM 3 3. That portion of the Town of Brattleboro not located in WINDHAM 3 1 or 3 2.~~

†

~~(10) WINDSOR 1 is subdivided into the following districts:~~

~~WINDSOR 1 1. The towns of Andover, Baltimore, Chester and that portion of the town of Springfield encompassed within a boundary beginning at the Chester Springfield town lines at Northfield Drive, then easterly along the centerline of Northfield Drive to the intersection with Fairbanks Road, then northerly along the centerline of Fairbanks Road to the intersection with Main Street, North Springfield, then easterly along the centerline of Main Street, North Springfield to the intersection with the County Road, then northeasterly along the centerline of the County Road to the intersection with VT 106, then northwesterly along the centerline of VT 106 to the intersection with the Baltimore Road, then northwesterly along the centerline of the Baltimore Road to the Chester boundary line, then southerly along the Chester boundary line to the point of the beginning.~~

†

~~WINDSOR 1 2. That portion of the town of Springfield not part of WINDSOR 1 1.~~

2

~~(11) WINDSOR 6 is subdivided into the following districts:~~

~~WINDSOR 6 1. The towns of Barnard and Pomfret and that portion of the town of Hartford lying westerly and northerly of a boundary beginning on the Norwich Hartford town line at the centerline of Newton Lane, then southerly along the centerline of Newton Lane to its intersection with Jericho Street, then westerly along the centerline of Jericho Street to its intersection with Dothan Road, then southerly along the centerline of Dothan Road to VT 14, then westerly along the centerline of VT 14 to the intersection of the centerline of Runnels Road and VT 14, then at a right angle to a utility pole marked 137T/6 ET&T/3>/136/GMP Corp/156/40030 on the south edge of VT 14, then southerly in a straight line across the White River to the junction of Old River Road and the beginning of Costello Road, then southerly and easterly along the center of Costello Road to its end on U.S. Route 4, then~~

~~westerly along the centerline of U.S. Route 4 to the intersection of Waterman Hill Road, then northerly along the centerline of Waterman Hill Road to the northerly low watermark of the Ottauquechee River, then westerly and southerly along the northerly and westerly low watermark of the Ottauquechee River to the Hartford Hartland town line, then westerly along the town line to the northerly low watermark of the Ottauquechee River, then along the northerly low watermark of the Ottauquechee River to the Hartford-Pomfret town line.~~

1

~~WINDSOR 6 2. That portion of the town of Hartford not located in WINDSOR 6 1.~~

2

~~(b) The following initial House districts, created and assigned two members by section 1893 of this title, as amended by No. 85 of the Acts of 2002, are subdivided as recommended by their respective boards of civil authority into final House districts, as designated and defined below, each of which shall be entitled to elect one representative:~~

~~(1) CHITTENDEN 1 is subdivided into the following districts:~~

~~CHITTENDEN 1 1. The town of Hinesburg, except two portions: the first being that portion of the town of Hinesburg in the southwest corner of the town bounded by a line beginning at the intersection of the Monkton town line and Baldwin Road, then northerly along Baldwin Road to its intersection with Drinkwater Road, then westerly along the centerline of Drinkwater Road to the Charlotte town line, and the second being that portion of the town of Hinesburg in the northwest corner of the town bounded by a line beginning at the junction of VT 116 and the St. George town line, then southerly along the centerline of VT 116 to its intersection with Falls Road, then westerly along the centerline of Falls Road to its intersection with O'Neill Road, then westerly along the centerline of O'Neill Road to the Charlotte town border.~~

1

~~CHITTENDEN 1 2. The town of Charlotte, plus the two portions of the town of Hinesburg not included in CHITTENDEN 1 1.~~

1

~~(2) CHITTENDEN 5 is subdivided into the following districts:~~

~~CHITTENDEN 5 1. That portion of the town of Shelburne bounded by a line beginning on the southwest corner of the Shelburne-Charlotte town line, then following the shore of Lake Champlain to the mouth of Munroe Brook, including all of the Lake that is part of the town of Shelburne, then upstream along the center of Munroe Brook to the intersection with Spear Street, then south along the centerline of Spear Street to the Shelburne-Charlotte town line, then west along the Shelburne-Charlotte town line to the place of beginning.~~

1

~~CHITTENDEN-5-2. The town of St. George, plus that portion of Shelburne which is not in CHITTENDEN-5-1.~~ †

(a) CHITTENDEN-5 is subdivided into the following districts:

(1) CHITTENDEN-5-1. That portion of the town of Shelburne encompassed within a boundary beginning at the point where the boundary line of Shelburne and the town of Charlotte intersects with the shore of Lake Champlain; then northerly along the shore of Lake Champlain to the mouth of Munroe Brook, including all of the lake that is part of the town of Shelburne; then upstream along the western side of the centerline of Munroe Brook to the intersection with Spear Street; then southerly along the western side of the centerline of Spear Street to the boundary of Charlotte; then westerly along the Charlotte town line to the point of beginning 1

(2) CHITTENDEN-5-2. St. George and that portion of the town of Shelburne not in CHITTENDEN-5-1 1

(b) CHITTENDEN-6 is subdivided into the following districts:

(1) CHITTENDEN-6-1. That portion of the city of Burlington encompassed within a boundary beginning at the point where the northwestern property line of Leddy Park intersects with the shore of Lake Champlain; then northeasterly along the northern side of that property line and continuing from that property line in a straight line to the intersection of North Avenue; then southeasterly along the northeastern side of the centerline of North Avenue to the southern boundary of Farrington's Trailer Park; then northeasterly and then northwesterly along the boundary of Farrington's Trailer Park and the back property lines of property fronting Lopes Avenue to the northwest corner of the corner lot at the intersection of Lopes Avenue and Roseade Parkway, including all of the residences in Farrington's Trailer Park and on Poirier Place; then northeasterly along the back property lines between property fronting on Roseade Parkway and Arlington Court, including all the residences on Arlington Court; then turning northwesterly along the back property lines of property fronting Arlington Court to the intersection of the back property lines of property fronting Farrington Parkway on the southern side; then easterly along those back property lines to Farrington Parkway; then easterly along the northern side of the centerline of Farrington Parkway to the intersection of Ethan Allen Parkway; then northerly along the western side of the centerline of Ethan Allen Parkway to the intersection of VT Route 127; then northwesterly along the southern side of the centerline of VT 127 to the intersection of the boundary of the town of Colchester at the Heineberg Bridge over the Winooski River; then northerly and westerly along the Colchester town line to the

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intersection with Lake Champlain; then southerly along the shore of Lake Champlain to the point of beginning

2

(2) CHITTENDEN-6-2. That portion of the city of Burlington encompassed within a boundary beginning at the point where the northwestern property line of Leddy Park intersects with the shore of Lake Champlain; then northeasterly along the southern side of that property line and continuing from that property line in a straight line to the intersection of North Avenue; then southeasterly along the southwestern side of the centerline of North Avenue to the southern boundary of Farrington's Trailer Park; then northeasterly and then northwesterly along the boundary of Farrington's Trailer Park and the back property lines of property fronting Lopes Avenue to the northwest corner of the corner lot at the intersection of Lopes Avenue and Roseade Parkway, including all the residences on Lopes Avenue and Blondin Circle; then northeasterly along the back property lines between property fronting on Roseade Parkway and Arlington Court, including all the residences on Roseade Parkway; then turning northwesterly along the back property lines of property fronting Arlington Court to the intersection of the back property lines of property fronting Farrington Parkway on the southern side; then easterly along those back property lines to Farrington Parkway; then easterly along the southern side of the centerline of Farrington Parkway to the intersection of Ethan Allen Parkway, including all units at 282 Ethan Allen Parkway; then northerly along the eastern side of the centerline of Ethan Allen Parkway to the intersection of VT Route 127; then northwesterly along the northern side of the centerline of VT 127 to the intersection of the boundary of the town of Colchester at the Heineberg Bridge over the Winooski River; then easterly and southerly along the Colchester town line and continuing along the boundary of the city of Winooski to the railroad bridge; then westerly along the northern side of the centerline of the railroad bridge and continuing along the northern side of the centerline of the railroad tracks to the intersection of a point representing the centerline of the railroad tracks and a straight line extension of the centerline of Spring Street; then southeasterly along the western side of the centerline of that straight line to the intersection of Spring Street and Manhattan Drive; then westerly along the northern side of the centerline of Manhattan Drive to the intersection of Pitkin Street; then southerly along the western side of the centerline of Pitkin Street to the intersection of North Street; then easterly along the southern side of the centerline of North Street to the intersection of North Champlain Street; then southerly along the western side of the centerline of North Champlain Street to the intersection of Pearl Street; then westerly along the northern side of the centerline of Pearl Street to the intersection of Battery Street; then southerly along the western side of the centerline of Battery Street to the intersection of College Street; then westerly

along the northern side of the centerline of College Street to the intersection of the Island Line Trail; then southerly along the western side of the Island Line Trail to a point representing the southern end of the Union Station building; then northwesterly from that point to a point representing the intersection of a straight line extension of Main Street and the shore of Lake Champlain; then northwesterly along the shore of Lake Champlain to the point of beginning

1

(3) CHITTENDEN-6-3. That portion of the city of Burlington encompassed within a boundary beginning at the point of the intersection of Spring Street and Manhattan Drive; then westerly along the southern side of the centerline of Manhattan Drive to the intersection of Pitkin Street; then southerly along the eastern side of the centerline of Pitkin Street to the intersection of North Street; then easterly along the northern side of the centerline of North Street to the intersection of North Champlain Street; then southerly along the eastern side of the centerline of North Champlain Street to the intersection of Pearl Street; then westerly along the southern side of the centerline of Pearl Street to the intersection of Battery Street; then southerly along the eastern side of the centerline of Battery Street to the intersection of College Street; then westerly along the southern side of the centerline of College Street to the intersection of the Island Line Trail; then southerly along the eastern side of the centerline of the Island Line Trail to the southern end of the Union Station building; then northwesterly from that point to a point representing the intersection of a straight line extension of Main Street and the shore of Lake Champlain; then southerly along the shore of Lake Champlain to a point representing the intersection of the shore of Lake Champlain and a straight line extension of Maple Street; then easterly along the northern side of the centerline of Maple Street to the intersection of South Willard Street; then northerly along the western side of the centerline of South Willard Street to the intersection of Main Street; then westerly along the southern side of the centerline of Main Street to the intersection of South Union Street; then northerly along the western side of the centerline of South Union Street to the intersection of Pearl Street; then continuing on North Union Street to the intersection of North Street; then easterly along the northern side of the centerline of North Street to the intersection of North Willard Street; then northerly along the western side of the centerline of North Willard Street to the intersection of Hyde Street; then northeasterly along the western side of the centerline of Hyde Street to a point representing the intersection of a straight line extension of Hyde Street and the railroad tracks; then westerly along the southern side of the centerline of the railroad tracks to the intersection of a point representing the intersection of the centerline of the railroad tracks and a straight line extension of the centerline of Spring Street; then southeasterly

along the eastern side of the centerline of that straight line to the point of beginning

2

(4) CHITTENDEN-6-4. That portion of the city of Burlington encompassed within a boundary beginning at the point of the intersection of North Street and North Union Street; then southerly along the eastern side of the centerline of North Union Street to the intersection of Pearl Street; then easterly along the northern side of the centerline of Pearl Street to the intersection of South Prospect Street; then southerly along the eastern side of the centerline of South Prospect Street to the intersection of Main Street; then easterly along the northern side of the centerline of Main Street to the northeastern boundary of 461 Main Street; then southeasterly along the eastern side of the boundary of 461 Main Street and 475 Main Street, including the property at 475, 479, and 481 Main Street and excluding the property at 461 Main Street and continuing in a straight line to the southwestern corner of the property located at 475 Main Street, including that property; then continuing on to and along the eastern side of the boundary between property located on Robinson Parkway and property located on University Terrace, including the University Terrace properties, to the intersection with University Heights Road; then continuing southerly from the intersection with University Heights Road on the eastern side of the boundary between properties within University Heights and those properties on South Prospect Street and on Henderson Terrace to the intersection of a road running along the southern side of the Gucciardi Recreation and Fitness Center and the Gutterson Fieldhouse and Davis Road; then easterly along the northern side of the centerline of the road on the southern boundary of the center and fieldhouse to the boundary of the city of South Burlington; then northerly and easterly along the South Burlington city line to the intersection with Grove Street, including the residences on the inside and southern side of the circle at 284 Grove Street, also known as Apple Grove, but excluding the residences on the outside and northern side of the circle at 284 Grove Street; then westerly along the southern side and northerly along the western side of the centerline of Grove Street to the intersection of Chase Street; then westerly and southwesterly along the southern side of the centerline of Chase Street to the intersection of Colchester Avenue; then northerly along the western side of the centerline of Colchester Avenue to the intersection of Riverside Avenue; then southerly along the eastern side and westerly along the southern side of the centerline of Riverside Avenue to the intersection of Intervale Road; then northwesterly along the western side of the centerline of Intervale Road to the intersection with the railroad tracks; then westerly along the southern side of the centerline of the railroad tracks to a point representing the intersection of the centerline of the railroad tracks and a straight line extension of the centerline of Hyde Street;

then southwesterly along the eastern side of the centerline of that line extension and then Hyde Street to the intersection of North Willard Street; then southerly along the eastern side of the centerline of North Willard Street to the intersection of North Street; then westerly along the southern side of the centerline of North Street to the point of beginning 2

(5) CHITTENDEN-6-5. That portion of the city of Burlington encompassed within a boundary beginning at the point where the boundary of Burlington and the city of South Burlington intersects with the shore of Lake Champlain; then northerly along the shore of Lake Champlain to the intersection of the shore of the lake with a point representing a straight line extension of Maple Street; then easterly along the southern side of the centerline of Maple Street to the intersection of South Willard Street; then southerly along the western side of the centerline of South Willard Street to the intersection of Cliff Street; then easterly along the southern side of the centerline of Cliff Street to the intersection of South Prospect Street; then southerly along the western side of the centerline of South Prospect Street to the intersection of Davis Road; then easterly along the southern side of the centerline of Davis Road to the intersection of the road running along the southern boundary of the Gucciardi Recreation and Fitness Center and the Gutterson Fieldhouse; then easterly along the southern side of the centerline of the road on the southern boundary of the center and fieldhouse to the boundary of the city of South Burlington; then southerly and westerly along the South Burlington city line to the shore of Lake Champlain and the point of beginning 2

(6) CHITTENDEN-6-6. That portion of the city of Burlington encompassed within a boundary beginning at the point of the intersection of Pearl Street and North Union Street; then easterly along the southern side of the centerline of Pearl Street to the intersection of South Prospect Street; then southerly along the western side of the centerline of South Prospect Street to the intersection of Main Street; then easterly along the southern side of the centerline of Main Street to the northeastern boundary of 461 Main Street; then southeasterly along the western side of the boundary of 461 Main Street and 475 Main Street, excluding the property at 475, 479, and 481 Main Street and including the property at 461 Main Street and continuing in a straight line to the southwestern corner of the property located at 475 Main Street, excluding that property; then continuing on to and along the western side of the boundary between property located on Robinson Parkway and property located on University Terrace, including the Robinson Parkway properties, to the intersection with University Heights Road; then continuing southerly from the intersection with University Heights Road on the western side of the boundary

between properties within University Heights and those properties on South Prospect Street and on Henderson Terrace to the intersection of a road running along the southern side of the Gucciardi Recreation and Fitness Center and the Gutterson Fieldhouse and Davis Road; then westerly along the northern side of the centerline of Davis Road to the intersection of South Prospect Street; then northerly along the eastern side of the centerline of South Prospect Street to the intersection of Cliff Street; then westerly along the northern side of the centerline of Cliff Street to the intersection of South Willard Street; then northerly along the eastern side of the centerline of South Willard Street to the intersection of Main Street; then westerly along the northern side of the centerline of Main Street to the intersection of South Union Street; then northerly along South Union Street to the intersection of Pearl Street; then continuing northerly along the eastern side of the centerline of North Union Street to the point of beginning 1

(7) CHITTENDEN-6-7. The city of Winooski and that portion of the city of Burlington not included in CHITTENDEN-6-1, 6-2, 6-3, 6-4, 6-5, or 6-6 2

(c) CHITTENDEN-7 is subdivided into the following districts:

(1) CHITTENDEN-7-1. That portion of the city of South Burlington encompassed within a boundary beginning at the point where the boundary of South Burlington and the city of Burlington intersects with the shore of Lake Champlain; then southerly along the shore of Lake Champlain, including all of the lake belonging to South Burlington, to the boundary of the town of Shelburne; then easterly along the Shelburne town line to the intersection of Shelburne Road; then northerly along the western side of the centerline of Shelburne Road to the intersection of Allen Road; then easterly along the northern side of the centerline of Allen Road to the intersection of Spear Street; then northerly along the western side of the centerline of Spear Street to the intersection of Nowland Farm Drive; then easterly along the northern side of the centerline of Nowland Farm Drive to the intersection of Dorset Street; then northerly along the western side of the centerline of Dorset Street to the intersection of Swift Street; then westerly along the southern side of the centerline of Swift Street and then continuing along the Burlington city line to the shore of Lake Champlain and the point of beginning 1

(2) CHITTENDEN-7-2. That portion of the city of South Burlington encompassed within a boundary beginning at the point of the intersection of Nowland Farm Drive and Spear Street; then southerly along the eastern side of the centerline of Spear Street to the intersection of Allen Road; then westerly along the southern side of the centerline of Allen Road to the intersection of

Shelburne Road; then southerly along the eastern side of the centerline of Shelburne Road to the boundary of the town of Shelburne; then easterly along the Shelburne town line to the boundary of the town of Williston; then northerly along the Williston town line to the intersection of VT Route 2; then westerly along the southern side of the centerline of VT 2 to the intersection of the back property lines of property fronting Elsom Parkway on the western side of Elsom Parkway; then southerly along those back property lines including all of the properties along Elsom Parkway and continuing in a straight line to the intersection with the Potash Brook; then southwestwardly along the southern side of the centerline of the Potash Brook to the intersection with Hinesburg Road; then southeasterly along the eastern side of the centerline of Hinesburg Road to the intersection with Interstate 89; then westerly along the southern side of the centerline of Interstate 89 to the intersection with Dorset Street; then southerly along the eastern side of the centerline of Dorset Street to the intersection of Nowland Farm Drive; then westerly along the southern side of the centerline of Nowland Farm Drive to the point of beginning

1

(3) CHITTENDEN-7-3. That portion of the city of South Burlington encompassed within a boundary beginning at the northwestern-most point where the boundary line of South Burlington and the city of Burlington intersects with Williston Road; then southerly and westerly along the Burlington city line to the intersection with Swift Street; then easterly along the northern side of the centerline of Swift Street to the intersection of Dorset Street; then northerly along the western side of the centerline of Dorset Street to the intersection with Interstate 89; then easterly along the northern side of the centerline of Interstate 89 to the intersection with Hinesburg Road; then northwesterly along the western side of the centerline of Hinesburg Road to the intersection with the Potash Brook; then southwestwardly along the southern side of the centerline of the Potash Brook to the intersection with Kennedy Drive; then westerly along the southern side of the centerline of Kennedy Drive to the intersection of Dorset Street; then northerly along the western side of the centerline of Dorset Street to the intersection of Williston Road; then northwesterly along the southern side of the centerline of Williston Road to the point of beginning

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(4) CHITTENDEN-7-4. That portion of the city of South Burlington not in CHITTENDEN-7-1, 7-2, or 7-3

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(d) CHITTENDEN-9 is subdivided into the following districts:

(1) CHITTENDEN-9-1. That portion of the town of Colchester north of Malletts Creek and west of Interstate 89 to the Milton town line; plus that

portion of the town of Colchester east of Interstate 89, except the portion of that portion of the town encompassed within a boundary beginning at the point where Interstate 89 intersects with VT Route 127; then easterly along the southern side of the centerline of VT 127 to the intersection of the Roosevelt Highway; then southerly along the western side of the centerline of the Roosevelt Highway to the intersection of the Sunderland Brook; then westerly along the northern side of the centerline of the Sunderland Brook to the intersection with Interstate 89; then northerly along the eastern side of the centerline of Interstate 89 to the point of beginning 2

(2) CHITTENDEN-9-2. That portion of the town of Colchester not in CHITTENDEN-9-1 2

Sec. 3. 17 V.S.A. § 1881 is amended to read:

§ 1881. NUMBER TO BE ELECTED

Senatorial districts and the number of senators to be elected from each are as follows:

(1) Addison senatorial district, composed of the towns of Addison, ~~Brandon~~, Bridport, Bristol, Buel's Gore, Cornwall, Ferrisburgh, Goshen, Granville, Hancock, Huntington, Leicester, Lincoln, Middlebury, Monkton, New Haven, Orwell, Panton, Ripton, Salisbury, Shoreham, Starksboro, Vergennes, Waltham, ~~Whiting and Weybridge~~, and Whiting..... two;

(2) Bennington senatorial district, composed of the towns of Arlington, Bennington, Dorset, Glastenbury, Landgrove, Manchester, Peru, Pownal, Readsboro, Rupert, Sandgate, Searsburg, Shaftsbury, Stamford, Sunderland, Wilmington, Winhall, and Woodford..... two;

(3) Caledonia senatorial district, composed of the towns of Barnet, Bradford, Burke, Danville, Fairlee, Groton, Hardwick, Kirby, Lyndon, Newark, Newbury, Orange, Peacham, Ryegate, St. Johnsbury, Sheffield, Stannard, Sutton, Topsham, Walden, Waterford, West Fairlee, and Wheelock..... two;

(4) Chittenden senatorial district, composed of the towns of Bolton, ~~Buel's Gore~~, Burlington, Charlotte, Essex, Hinesburg, ~~Huntington~~, Jericho, Milton, Richmond, St. George, Shelburne, South Burlington, Underhill, Westford, Williston, and Winooski..... six;

(5) Essex-Orleans senatorial district, composed of the towns of Albany, Averill, Avery's Gore, Barton, Bloomfield, Brighton, Brownington, Brunswick, Canaan, Charleston, Concord, Coventry, Craftsbury, Derby, East Haven, ~~Eden~~, Ferdinand, Glover, Granby, Greensboro, Guildhall, Holland,

Irasburg, Jay, Lemington, Lewis, Lowell, Lunenburg, Maidstone, Montgomery, Morgan, Newport City, Newport Town, Norton, Richford, Troy, Victory, Warner's Grant, ~~Warren's~~ Warren Gore, Westfield, Westmore, and Wolcott..... two;

(6) Franklin senatorial district, composed of the towns of ~~Alburg~~ Alburgh, Bakersfield, Berkshire, ~~Enosburg~~ Enosburgh, Fairfax, Fairfield, Fletcher, Franklin, Georgia, Highgate, St. Albans City, St. Albans Town, Sheldon, and Swanton..... two;

(7) Grand Isle senatorial district, composed of the towns of Colchester, Grand Isle, Isle La Motte, North Hero, and South Hero..... one;

(8) Lamoille senatorial district, composed of the towns of Belvidere, Cambridge, Eden, Elmore, Hyde Park, Johnson, Morristown, Stowe, and Waterville..... one;

(9) Orange senatorial district, composed of the towns of Braintree, Brookfield, Chelsea, Corinth, Randolph, Strafford, Thetford, Tunbridge, Vershire, Washington, and Williamstown..... one;

(10) Rutland senatorial district, composed of the towns of Benson, Brandon, Castleton, Chittenden, Clarendon, Danby, Fair Haven, Hubbardton, Ira, Killington, Mendon, Middletown Springs, ~~Mt. Holly~~, Mt. Tabor, Pawlet, Pittsfield, Pittsford, Poultney, Proctor, Rutland City, Rutland Town, Shrewsbury, Sudbury, Tinmouth, Wallingford, Wells, West Haven, and West Rutland..... three;

(11) Washington senatorial district, composed of the towns of Barre City, Barre Town, Berlin, Cabot, Calais, Duxbury, East Montpelier, Fayston, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Warren, Waterbury, Woodbury, and Worcester.....three;

(12) Windham senatorial district, composed of the towns of Athens, Brattleboro, Brookline, Dover, Dummerston, Grafton, Guilford, Halifax, Jamaica, ~~Londonderry~~, Marlboro, Newfane, Putney, Rockingham, Somerset, Stratton, Townshend, Vernon, Wardsboro, Westminster, Whitingham, and Windham..... two;

(13) Windsor senatorial district, composed of the towns of Andover, Baltimore, Barnard, Bethel, Bridgewater, Cavendish, Chester, Hartford, Hartland, Londonderry, Ludlow, Mt. Holly, Norwich, Plymouth, Pomfret, Reading, Rochester, Royalton, Sharon, Springfield, Stockbridge, Weathersfield, Weston, West Windsor, Windsor, and Woodstock..... three.

Sec. 4. TIME FOR FILING PRIMARY PETITIONS AND STATEMENTS OF NOMINATION

Notwithstanding the provisions of 17 V.S.A. § 2356 regarding the earliest date by which primary petitions and statements of nomination from minor party candidates and independent candidates may be filed, for the 2012 elections, primary petitions and statements of nomination shall be filed no sooner than Tuesday, May 29, 2012.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage and shall apply to representative and senatorial districts for the 2012 election cycle and thereafter.

*JEANETTE K. WHITE*

*VINCENT ILLUZZI*

*RICHARD W. SEARS*

*Committee on the part of the Senate*

*DONNA G. SWEANEY*

*WILLEM W. JEWETT*

*Committee on the part of the House*

Pending the question, Shall the report of the committee of conference be adopted? **Rep. Hubert of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the committee of conference be adopted? was decided in the affirmative. Yeas, 124. Nays, 8.

Those who voted in the affirmative are:

Acinapura of Brandon	Clark of Vergennes	Eckhardt of Chittenden
Ancel of Calais	Clarkson of Woodstock	Edwards of Brattleboro
Andrews of Rutland City	Condon of Colchester	Ellis of Waterbury
Atkins of Winooski	Conquest of Newbury	Emmons of Springfield
Bartholomew of Hartland	Consejo of Sheldon	Evans of Essex
Batchelor of Derby	Copeland-Hanzas of	Fagan of Rutland City
Bissonnette of Winooski	Bradford	Fisher of Lincoln
Bohi of Hartford	Corcoran of Bennington	Frank of Underhill
Botzow of Pownal	Courcelle of Rutland City	French of Shrewsbury
Bouchard of Colchester	Crawford of Burke	French of Randolph
Branagan of Georgia	Dakin of Chester	Gilbert of Fairfax
Brennan of Colchester	Davis of Washington	Grad of Moretown
Burke of Brattleboro	Deen of Westminster	Greshin of Warren
Buxton of Tunbridge	Degree of St. Albans City	Haas of Rochester
Campion of Bennington	Dickinson of St. Albans	Head of South Burlington
Cheney of Norwich	Town	Heath of Westford
Christie of Hartford	Donaghy of Poultney	Hebert of Vernon

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Helm of Fair Haven	Malcolm of Pawlet	Scheuermann of Stowe
Hooper of Montpelier	Marcotte of Coventry	Shand of Weathersfield
Howrigan of Fairfield	Marek of Newfane	Sharpe of Bristol
Hubert of Milton *	Martin of Springfield	Shaw of Pittsford
Jerman of Essex *	Masland of Thetford	South of St. Johnsbury
Jewett of Ripton	McCullough of Williston	Spengler of Colchester
Johnson of South Hero	McFaun of Barre Town	Stevens of Waterbury
Johnson of Canaan	Mook of Bennington	Stevens of Shoreham
Keenan of St. Albans City	Moran of Wardsboro	Strong of Albany
Kilmartin of Newport City	Mrowicki of Putney	Sweaney of Windsor
Klein of East Montpelier	Munger of South Burlington	Toll of Danville
Koch of Barre Town *	Nuovo of Middlebury	Townsend of Randolph
Komline of Dorset	O'Brien of Richmond	Trieber of Rockingham
Krebs of South Hero	Olsen of Jamaica	Turner of Milton *
Krowinski of Burlington	O'Sullivan of Burlington	Waite-Simpson of Essex
Kupersmith of South Burlington	Partridge of Windham	Webb of Shelburne
Lanpher of Vergennes	Pearce of Richford	Wilson of Manchester
Larocque of Barnet	Pearson of Burlington	Winters of Williamstown
Lawrence of Lyndon	Peltz of Woodbury	Wizowaty of Burlington
Lenes of Shelburne	Perley of Enosburgh	Woodward of Johnson
Leriche of Hardwick	Poirier of Barre City *	Wright of Burlington
Lewis of Berlin	Pugh of South Burlington	Yantachka of Charlotte
Lewis of Derby	Ralston of Middlebury	Young of Glover
Lorber of Burlington	Ram of Burlington	Zagar of Barnard
Macaig of Williston	Reis of St. Johnsbury	
	Russell of Rutland City	

Those who voted in the negative are:

Browning of Arlington *	Higley of Lowell	Potter of Clarendon
Devereux of Mount Holly *	Martin of Wolcott *	Savage of Swanton *
Donahue of Northfield *	Myers of Essex *	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Lippert of Hinesburg	Peaslee of Guildhall
Burditt of West Rutland	Manwaring of Wilmington	Smith of New Haven
Canfield of Fair Haven	McAllister of Highgate	Stuart of Brattleboro
Donovan of Burlington	McNeil of Rutland Town	Taylor of Barre City
Howard of Cambridge	Miller of Shaftsbury	Till of Jericho
Kitzmiller of Montpelier	Morrissey of Bennington	

**Rep. Browning of Arlington** explained her vote as follows:

“Mr. Speaker:

I vote ‘no’ because the changes to the towns of Sandgate, Arlington and Sunderland violate the stated principles and goals of this process.”

**Rep. Devereaux of Mount Holly** explained his vote as follows:

“Mr. Speaker:

My ‘no’ vote has to do with the changes made to our map by the other body and nothing to do with the hard work of our committee and which towns I may represent.”

**Rep. Donahue of Northfield** explained her vote as follows:

“Mr. Speaker:

There was excellent work and a mostly excellent outcome in this bill. My vote ‘no’ is in support of the statement by the member from Arlington.”

**Rep. Hubert of Milton** explained his vote as follows:

“Mr. Speaker:

I am voting ‘yes’ for all the hard work that has been done on the House map. The House map has been done in a fair and thoughtful manner. This was done in an open manner and with long days and many hours of testimony and it would be unfair for me not to vote for this map.

On the Senate map it is a shame that we have let a historic chance go by the board. In Chittenden County we have the largest Senate district in the country. In conference committee we put forth a plan that would have split up this six-seat Senate district into two three-seat districts. In doing so we would have fixed a long-standing problem. The change would not have harmed any of the sitting senators. This is going to be a problem and cause someone to take that map to court. This is something we were hoping would not happen.”

**Rep. Jerman of Essex** explained his vote as follows:

“Mr. Speaker:

‘Ditto’ to the remarks of the members from Milton and Barre Town.”

**Rep. Koch of Barre Town** explained his vote as follows:

“Mr. Speaker:

I vote ‘YES’ on this bill out of respect for the hard work done by my colleagues and the fact that the House districts, overall, are quite acceptable under all of the circumstances.

If this were a vote only on the Senate plan, I would vote ‘NO’ because the six-member Chittenden district is unwieldy and likely unconstitutional. Anyone who is concerned about how much it costs to run for public office should look first at what it costs to run for a Senate seat in Chittenden County.”

**Rep. Martin of Wolcott** explained her vote as follows:

“Mr. Speaker:

While I appreciate the openness and inclusiveness in creating the House redistricting map, I regret to my committee I must vote ‘no’ to the Senate map.

The process for creating their map lacked transparency and the many voices and desires of Wolcott citizens were discounted as irrelevant in their deliberations.”

**Rep. Myers of Essex** explained her vote as follows:

“Mr. Speaker:

In my other life as chair of the Essex Select board, I represent 20,000 Essex residents who live in the second largest community in Vermont. The six-member Chittenden Senate district short-changes Senate representation for the residents of Essex. I voted ‘no’ today.”

**Rep. Poirier of Barre City** explained his vote as follows:

“Mr. Speaker:

I voted ‘yes’ in spite of my concerns of Senate involvement in the House plan because of the dedicated work of the committee; however, I believe the days of non-partisanship are going to be a thing of the past as a result of actions in 2002 and now in 2012. What can we expect in 2022?”

**Rep. Savage of Swanton** explained his vote as follows:

“Mr. Speaker:

While the main purpose of the reapportionment process is to adjust district boundaries to account for population shifts over the previous decade, the overriding objective is to ensure fair and effective representation for all Vermonters.

The primary way to accomplish this is to equalize population among districts. Our courts have indicated that exact numerical equality is not necessary for legislative districts. However, the courts have also indicated that the aim of districting is to have districts that are of equal population to the extent practicable.

Thus the courts tell us to strive for equal population and then vary only if needed. The plans before us today represent a substantial abandonment of this principle of one-person one-vote.

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In fact, under these proposals, over one-half of the members of the Senate and over one-half of the members of the House would be elected from districts that are outside the range that would normally be acceptable to the courts.

Moreover, the bills before us do nothing to address the substantive aspects of fair and effective representation. Both proposals retain multi-member districts that vary in the number of members. The proposal for the House maintains a mix of two-member and one-member districts but there is no consistency in the application here. A few smaller towns are split while many others are not.

Even in towns and cities with more than one member, two-member districts are created while in many of the larger towns, single member districts are created.

The proposal for the Senate maintains a six-member district that elects 20% of that chamber in one cattle-call election.

Multi-member districts are subject to the interplay of political dynamics and frequently do not offer a voter a clear choice.

The proposals before us today disregard some of these basic principles and do not meet the definition of what most voters understand representative government to be.”

**Rep. Turner of Milton** explained his vote as follows:

“Mr. Speaker:

I am disappointed that the legislature has decided to skip this once-in-a-decade opportunity to make substantive changes to the Chittenden Senate district. This district of six Senators represents the largest such contingency in the country and does not provide fair representation for my constituents in Milton.

My ‘yes’ vote today is out of respect and appreciation for the leadership and the process this body has undertaken to accomplish this political task.”

Thereupon, pursuant to House rule 41, after passage, the title of the bill shall be amended to read as follows:

An act relating to reapportioning the final representative districts of the House of Representatives and the senatorial districts of the Seante.

On motion of **Rep. Turner of Milton**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment**

**S. 99**

Senate bill, entitled

An act relating to supporting mobile home ownership, strengthening mobile home parks and preserving affordable housing

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Recess**

At eleven o'clock and thirty minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

**Proposals of Amendment Agreed to, Read Third Time and Passed  
in Concurrence with Proposal of Amendment**

**S. 95**

Senate bill, entitled

An act relating to exemptions for newspaper deliverers from the unemployment statutes; relieving an employer's experience rating record of charges; studying the receipt of unemployment compensation between academic terms; allowing school employees to be paid wages over the course of a year; and requiring employers to furnish required work apparel

Was taken up and pending third reading of the bill, **Rep. Wilson of Manchester** moved to amend the bill as follows:

By striking Secs. 3 and 5 in their entirety and inserting a new Sec. 3 to read:

Sec. 3. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any person having employees doing and transacting business within the state shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of such payment.

(2) After giving written notice to the employees, any person having employees doing and transacting business within the state may, notwithstanding subdivision (1) of this subsection, pay ~~bi-weekly~~ biweekly or

~~semi-monthly~~ semimonthly in lawful money or checks, each employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

(3) A school district employee may elect in writing to have a set amount or set percentage of his or her after-tax wages withheld by the school district in a district-held bank account each pay period. The percentage or amount withheld shall be determined by the employee. At the option of the employee, the school district shall disburse the funds to the employee in either a single payment at the time the employee receives his or her final paycheck of the school year, or in equal weekly or biweekly sums beginning at the end of the school year. The school district shall disburse funds from the account in any sum as requested by the employee and, at the end of the school year or at the employee's option over the course of the period between the current and next school year, or upon separation from employment, shall remit to the employee any remaining funds, including interest earnings, held in the account. For employees within a bargaining unit organized pursuant to either chapter 22 of this title or 16 V.S.A. chapter 57, the school district shall implement this election in a manner consistent with the provisions of this subdivision and as determined through negotiations under those chapters. For employees not within a bargaining unit, the school district shall, in a manner consistent with this subdivision, determine the manner in which to implement this subdivision.

\* \* \*

Which was agreed to.

Pending third reading of the bill, **Rep. Dickinson of St. Albans Town and Greshin of Warren** moved to amend the House proposal of amendment as follows:

In Sec. 2, 21 V.S.A. § 495i(c)(1), by inserting subdivision (G) to read:

(G) The position of employment involves access to an employer's payroll information.

Which was agreed to.

Pending third reading of the bill, **Rep. Olsen of Jamaica** moved to amend the House proposal of amendment as follows:

By striking Sec. 4 and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 21 V.S.A. § 496a is added to read:

§ 496a. STATE FUNDS; UNION ORGANIZING

On an annual basis, if requested by the secretary of administration, an employer that is the recipient of a grant of state funds shall certify to the state that none of the funds will be used to interfere with or restrain the exercise of an employee's rights with respect to unionization. In making the request, the secretary of administration shall provide written notification to the employer.

Which was disagreed to.

Pending third reading of the bill, **Rep. Olsen of Jamaica** moved to amend the House proposal of amendment as follows:

In Sec. 4, 21 V.S.A. § 496a, by adding a sentence at the end to read:

“If a municipality determines that the certification requirements of this section result in an additional financial burden to the municipality that will be recovered through increased property taxes, the municipality shall be exempt from the requirements of this section.”

Pending the question, Shall the House proposal of amendment be amended as recommended by Rep. Olsen of Jamaica? **Rep. Degree of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House proposal of amendment be amended as recommended by Rep. Olsen of Jamaica? was decided in the negative. Yeas, 50. Nays, 83.

Those who voted in the affirmative are:

Acinapura of Brandon	Donaghy of Poultney	Olsen of Jamaica
Batchelor of Derby	Donahue of Northfield	Pearce of Richford
Bouchard of Colchester	Eckhardt of Chittenden	Perley of Enosburgh
Branagan of Georgia	Evans of Essex	Potter of Clarendon
Brennan of Colchester	Fagan of Rutland City	Reis of St. Johnsbury
Buxton of Tunbridge	Greshin of Warren	Savage of Swanton
Campion of Bennington	Hebert of Vernon	Scheuermann of Stowe
Canfield of Fair Haven	Higley of Lowell	Sharpe of Bristol
Clark of Vergennes	Howard of Cambridge	Shaw of Pittsford
Clarkson of Woodstock	Johnson of Canaan	Stevens of Shoreham
Condon of Colchester	Larocque of Barnet	Strong of Albany
Corcoran of Bennington	Lawrence of Lyndon	Toll of Danville
Crawford of Burke	Lewis of Berlin	Trieber of Rockingham
Degree of St. Albans City	Manwaring of Wilmington	Turner of Milton
Devereux of Mount Holly	Marcotte of Coventry	Wilson of Manchester
Dickinson of St. Albans Town	Miller of Shaftsbury	Winters of Williamstown
	Myers of Essex	Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Atkins of Winooski	Bissonnette of Winooski
Andrews of Rutland City	Bartholomew of Hartland	Bohi of Hartford

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Botzow of Pownal	Jerman of Essex	O'Brien of Richmond
Burke of Brattleboro	Jewett of Ripton	O'Sullivan of Burlington
Cheney of Norwich	Johnson of South Hero	Partridge of Windham
Christie of Hartford	Keenan of St. Albans City	Pearson of Burlington
Conquest of Newbury	Klein of East Montpelier	Peltz of Woodbury
Consejo of Sheldon	Koch of Barre Town	Poirier of Barre City
Copeland-Hanzas of Bradford	Krebs of South Hero	Pugh of South Burlington
Courcelle of Rutland City	Krowinski of Burlington	Ralston of Middlebury
Dakin of Chester	Kupersmith of South Burlington	Ram of Burlington
Davis of Washington	Lanpher of Vergennes	Russell of Rutland City
Deen of Westminster	Lenes of Shelburne	Shand of Weathersfield
Edwards of Brattleboro	Lewis of Derby	South of St. Johnsbury
Ellis of Waterbury	Lorber of Burlington	Spengler of Colchester
Emmons of Springfield	Macaig of Williston	Stevens of Waterbury
Fisher of Lincoln	Malcolm of Pawlet	Stuart of Brattleboro
Frank of Underhill	Marek of Newfane *	Sweaney of Windsor
French of Shrewsbury	Martin of Springfield	Taylor of Barre City
French of Randolph	Martin of Wolcott	Till of Jericho
Gilbert of Fairfax	Masland of Thetford	Townsend of Randolph
Grad of Moretown	McCullough of Williston	Waite-Simpson of Essex
Haas of Rochester	McFaun of Barre Town	Webb of Shelburne
Head of South Burlington	Mook of Bennington	Wizowaty of Burlington
Heath of Westford	Moran of Wardsboro	Woodward of Johnson
Helm of Fair Haven	Mrowicki of Putney	Yantachka of Charlotte
Hooper of Montpelier	Munger of South Burlington	Zagar of Barnard
Howrigan of Fairfield	Nuovo of Middlebury	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Kitzmiller of Montpelier	Peaslee of Guildhall
Browning of Arlington	Komline of Dorset	Smith of New Haven
Burditt of West Rutland	Lippert of Hinesburg	Smith of Morristown
Donovan of Burlington	McAllister of Highgate	Young of Glover
Hubert of Milton	McNeil of Rutland Town	
Kilmartin of Newport City	Morrissey of Bennington	

**Rep. Marek of Newfane** explained his vote as follows:

“Mr. Speaker:

This amendment to the bill would have exempted from its coverage the very entities most likely to be violating the law we are seeking to enforce. That seems an odd objective indeed and I am glad we have rejected it.”

Pending third reading of the bill, **Rep. Edwards of Brattleboro** moved to amend the House proposal of amendment as follows:

In Sec. 4, 21 V.S.A. § 496a, after the words “grant of state funds” by inserting “in a single grant of more than \$1,001.00”

Which was agreed to.

Thereupon, the bill was read the third time and pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Olsen of Jamaica** moved to commit the bill to the committee on General, Housing and Military Affairs, which was disagreed to.

Thereupon, the bill passed in concurrence with proposal of amendment.

**Joint Resolution Adopted in Concurrence with  
Proposal of Amendment**

**J.R.S. 54**

Joint resolution, entitled

Joint resolution approving a land exchange in Alburgh and a lease with Camp Downer, Inc

Was taken up and adopted in concurrence with proposal of amendment.

**Senate Proposal of Amendment Concurred in**

**H. 485**

The Senate proposed to the House to amend House bill, entitled

An act relating to establishing universal recycling of solid waste

By striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Universal Recycling of Solid Waste \* \* \*

Sec. 1. 10 V.S.A. § 6602 is amended to read:

§ 6602. DEFINITIONS

For the purposes of this chapter:

(1) “Secretary” means the secretary of the agency of natural resources, or his or her duly authorized representative.

(2) “Solid waste” means any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment; high carbon bulking agents

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used in composting; or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, chapter 47 of this title.

\* \* \*

(12) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

(13) “Waste” means a material that is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

\* \* \*

(19) “Implementation plan” means that plan which is adopted to be consistent with the state solid waste management plan. This plan must include all the elements required for consistency with the state plan and an applicable regional plan and shall be approved by the secretary. This implementation plan is the basis for state certification of facilities under subsection 6605(c) of this title.

\* \* \*

(27) “Closed-loop recycling” means a system in which a product made from one type of material is reclaimed and reused in the production process or the manufacturing of a new or separate product.

(28) “Commercial hauler” means any person that transports:

(A) regulated quantities of hazardous waste; or

(B) solid waste for compensation in a motor vehicle having a rated capacity of more than one ton.

(29) “Mandated recyclable” means the following source separated materials: aluminum and steel cans; aluminum foil and aluminum pie plates; glass bottles and jars from foods and beverages; polyethylene terephthalate (PET) plastic bottles or jugs; high density polyethylene (HDPE) plastic bottles and jugs; corrugated cardboard; white and colored paper; newspaper; magazines; catalogues; paper mail and envelopes; boxboard; and paper bags.

(30) “Leaf and yard residual” means source separated, compostable untreated vegetative matter, including grass clippings, leaves, kraft paper bags,

and brush, which is free from noncompostable materials. It does not include such materials as pre- and postconsumer food residuals, food processing residuals, or soiled paper.

(31) "Food residual" means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with section 6605k of this title. Food residual may include preconsumer and postconsumer food scraps. "Food residual" does not mean meat and meat-related products when the food residuals are composted by a resident on site.

(32) "Source separated" or "source separation" means the separation of compostable and recyclable materials from noncompostable, nonrecyclable materials at the point of generation.

(33) "Wood waste" means trees, untreated wood, and other natural woody debris, including tree stumps, brush and limbs, root mats, and logs.

Sec. 2. 10 V.S.A. § 6604 is amended to read:

§ 6604. SOLID WASTE MANAGEMENT PLANS PLAN

(a) No later than ~~April 30, 1988~~ November 1, 2013, the secretary shall publish and adopt, after notice and public hearing pursuant to 3 V.S.A. chapter 25 of Title 3, a solid waste management plan which sets forth a comprehensive statewide strategy for the management of waste, including whey. No later than July 1, 1991, the secretary shall publish and adopt, after notice and public hearing pursuant to chapter 25 of Title 3, a hazardous waste management plan, which sets forth a comprehensive statewide strategy for the management of hazardous waste.

(1)(A) The ~~plans plan~~ shall ~~be based upon~~ promote the following priorities, ~~in descending order~~, as found appropriate for certain waste streams, based on data obtained by the secretary as part of the analysis and assessment required under subdivision (2) of this subsection:

(i)(A) the greatest feasible reduction in the amount of waste generated;

(ii)(B) materials management, which furthers the development of products that will generate less waste and which promotes responsibility by manufacturers for waste generated from goods produced by a manufacturer;

(C) the reuse and closed-loop recycling of waste to reduce to the greatest extent feasible the volume remaining for processing and disposal;

(D) the reduction of the state's reliance on waste disposal to the greatest extent feasible;

(E) the creation of an integrated waste management system that promotes energy conservation, reduces greenhouse gases, and limits adverse environmental impacts;

~~(iii)~~(F) waste processing to reduce the volume or toxicity of the waste stream necessary for disposal;

~~(iv) land disposal of the residuals.~~

~~(B) Processing and disposal alternatives shall be preferred which do not foreclose the future ability of the state to reduce, reuse, and recycle waste. In determining feasibility, the secretary shall evaluate alternatives in terms of their expected life cycle costs.~~

(2) The ~~plans~~ plan shall be revised at least once every five years and shall include:

(A) an analysis of the volume and nature of wastes generated in the state, the source of the waste, and the current fate or disposition of the waste. Such an analysis shall include a waste composition study conducted in accordance with generally accepted practices for such a study;

(B) an assessment of the feasibility and cost of diverting each waste category from disposal, including, to the extent the information is available to the agency, the cost to stakeholders, such as municipalities, manufacturers, and customers. As used in this subdivision (a)(2), "waste category" means:

(i) marketable recyclables;

(ii) leaf and yard residuals;

(iii) food residuals;

(iv) construction and demolition residuals;

(v) household hazardous waste; and

(vi) additional categories or subcategories of waste that the secretary identifies that may be diverted to meet the priorities set forth under subdivision (a)(1) of this section;

(C) a survey of existing and potential markets for each waste category that can be diverted from disposal;

(D) measurable goals and targets for waste diversion for each waste category;

(E) methods to reduce and remove material from the waste stream, including commercially generated and other organic wastes, used clothing, and construction and demolition debris, and to separate, collect, and recycle, treat or dispose of specific waste materials that create environmental, health, safety, or management problems, including, ~~but not limited to,~~ tires, batteries, obsolete electronic equipment, and unregulated hazardous wastes. These portions of the plans shall include strategies to assure recycling in the state, and to prevent the incineration or other disposal of marketable recyclables. ~~They shall consider both the current solid waste stream and its projected changes, and shall be based on:~~

~~(i) an analysis of the volume and nature of wastes generated in the state, the sources of those wastes, and the current fate or disposition of those wastes;~~

~~(ii) an assessment of the feasibility and cost of recycling each type of waste, including an assessment of the feasibility of providing the option of single source recycling;~~

~~(iii) a survey of existing and potential markets for each type of waste that can be recycled;~~

(F) a coordinated education and outreach component that advances the objectives of the plan, including the source separation requirements, generator requirements to remove food residuals, and the landfill disposal bans contained within this chapter;

(G) performance and accountability measures to ensure that implementation plans are effective in meeting the requirements of this section;

~~(B)(H) a proposal for the development~~ an assessment of facilities and programs necessary at the state, regional or local level to achieve the priorities identified in subdivision (a)(1) of this section and the goals established in the plan. ~~Consideration shall be given to the need for additional regional or local composting facilities, the need to expand the collection of commercially generated organic wastes, and the cost effectiveness of developing single stream waste management infrastructure adequate to serve the entire population, which may include material recovery centers.~~ These portions of the plan shall be based, in part, on an assessment of the status, capacity, and life expectancy of existing ~~treatment and disposal~~ solid waste facilities, and they shall include siting criteria for waste management facilities, and shall establish requirements for full public involvement.

~~(b) The secretary may manage the hazardous wastes generated, transported, treated, stored or disposed in the state by administering a regulatory and~~

~~management program which, at a minimum, meets the requirements of subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto, codified as 42 U.S.C. chapter 82, subchapter 3, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.~~

~~(1) Removal of hazardous waste from the waste stream. The secretary is authorized to carry out studies, evaluations and pilot projects to remove significant quantities of unregulated hazardous wastes from the waste stream, when in the secretary's opinion the public health and safety will not be adversely affected. One or more of these projects shall investigate the feasibility and effectiveness of separating from the rest of the waste stream those nonhazardous materials which require disposal in landfills, but which may not require the use of liners and leachate collection systems.~~

~~(2) Report on disposal of hazardous wastes. The secretary shall consult with interested persons on the disposal of hazardous waste, including persons with relevant expertise and representatives from state and local government, industry, the agricultural sector, the University of Vermont, and the general public. The secretary shall conduct public hearings, take relevant testimony, perform appropriate analysis and report to the general assembly and the governor by January 1, 1990, on the following:~~

~~(A) the nature, origin and amount of hazardous waste generated in the state;~~

~~(B) the cost and environmental impact of current disposal practices;~~

~~(C) options for the treatment and disposal of leachate collected from sanitary landfills;~~

~~(D) steps that can be taken to reduce waste flows, or recycle wastes;~~

~~(E) the need for recycling, treatment and disposal facilities to be located within the state; and~~

~~(F) a proposed process and proposed criteria for use in siting and constructing needed facilities within the state, and for obtaining the maximum amount of public input in any such process.~~

~~(e) The secretary shall hold public hearings, perform studies as required, conduct ongoing analyses, conduct analyses, and make recommendations to the general assembly with respect to the reduction house and senate committees on natural resources and energy regarding the volume, amount, and toxicity of the waste stream. In this process, the secretary shall consult with manufacturers of commercial products and of packaging used with~~

commercial products, retail sales enterprises, health and environmental advocates, waste management specialists, the general public, and state agencies. The goal of the process is to ensure that packaging used and products sold in the state are not an undue burden to the state's ability to manage its waste. The secretary shall seek voluntary changes on the part of the industrial and commercial sector in both their practices and the products they sell, so as to serve the purposes of this section. In this process, the secretary may obtain voluntary compliance schedules from the appropriate industry or commercial enterprise, and shall entertain recommendations for alternative approaches. The secretary shall report at the beginning of each biennium to the ~~general assembly~~ house and senate committees on natural resources and energy, with any recommendations or options for legislative consideration. At least 45 days prior to submitting its report, the secretary shall post any recommendations within the report to its website for notice and comment.

(1) In carrying out the provisions of this subsection, the secretary first shall consider ways to keep hazardous material; toxic substances, as that term is defined in subdivision 6624(7) of this title; and nonrecyclable, nonbiodegradable material out of the waste stream, as soon as possible. In this process, immediate consideration shall be given to the following:

(A) evaluation of products and packaging that contain large concentrations of chlorides, such as packaging made with polyvinyl chloride (PVC);

(B) evaluation of polystyrene packaging, particularly that used to package fast food on the premises where the food is sold;

(C) evaluation of products and packaging that bring heavy metals into the waste stream, such as disposable batteries, paint and paint products and containers, and newspaper supplements and similar paper products;

(D) identification of unnecessary packaging, which is nonrecyclable and nonbiodegradable.

(2) With respect to the above, the secretary shall consider the following:

(A) product and packaging bans, products or packaging which ought to be exempt from such bans, the existence of less burdensome alternatives, and alternative ways that a ban may be imposed;

(B) tax incentives, including the following options:

(i) product taxes, based on a sliding scale, according to the degree of undue harm caused by the product, the existence of less harmful alternatives, and other relevant factors;

(ii) taxes on all nonrecyclable, nonbiodegradable products or packaging;

(C) deposit and return legislation and extended producer responsibility legislation for certain products.

~~(d)~~(c) A portion of the state's solid waste management plan shall set forth a comprehensive statewide program for the collection, treatment, beneficial use, and disposal of septage and sludge. The secretary shall work cooperatively with the department of health and the agency of agriculture, food and markets in developing this portion of the plan and the rules to carry it out, both of which shall be consistent with or more stringent than that prescribed by section 405 of the Clean Water Act (33 U.S.C. § 1251, et seq.). In addition, the secretary shall consult with local governmental units and the interested public in the development of the plans. The sludge management plan and the septage management plan shall be developed and adopted by January 15, 1987. In the development of these portions of the plan, consideration shall be given to, but shall not be limited to, the following:

- (1) the varying characteristics of septage and sludge;
- (2) its value as a soil amendment;
- (3) the need for licensing or other regulation of septage and sludge handlers;
- (4) the need for seasonal storage capability;
- (5) the most appropriate burdens to be borne by individuals, municipalities, and industrial and commercial enterprises;
- (6) disposal site permitting procedures;
- (7) appropriate monitoring and reporting requirements;
- (8) actions which can be taken through existing state programs to facilitate beneficial use of septage and sludge;
- (9) the need for regional septage facilities;
- (10) an appropriate public information program; and
- (11) the need for and proposed nature and cost of appropriate pilot projects.

~~(e)~~(d) Although the ~~plans~~ plan adopted under this section and any amendments to ~~these plans~~ the plan shall be adopted by means of a public process that is similar to the process involved in the adoption of administrative rules, the ~~plans~~ plan, as initially adopted or as amended, shall not be a rule.

Sec. 3. 10 V.S.A. § 6603 is amended to read:

§ 6603. SECRETARY; POWERS

In addition to any other powers conferred on him or her by law, the secretary shall have the power to:

(1) Adopt, amend, and repeal rules pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~ implementing the provisions of this chapter;

(2) Issue compliance orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings;

(3) Encourage local units of government to manage solid waste problems within their respective jurisdictions, or by contract on a cooperative regional or interstate basis;

(4) Provide technical assistance to municipalities;

(5) Contract in the name of the state for the service of independent contractors under bond, or with an agency or department of the state, or a municipality, to perform services or to provide facilities necessary for the implementation of the state plan, including but not limited to the transportation and disposition of solid waste;

(6) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. This would include the ability to convey such grants or other funds to municipalities, or other instruments of state or local government.

(7) Prepare a report which proposes methods and programs for the collection and disposal of household quantities of hazardous waste. The report shall compare the advantages and disadvantages of alternate programs and their costs. The secretary shall undertake a voluntary pilot project to determine the feasibility and effectiveness of such a program when in the secretary's opinion such can be undertaken without undue risk to the public health and welfare. Such pilot program may address one or more forms of hazardous waste.

(8) Provide financial assistance to municipalities.

(9) Manage the hazardous wastes generated, transported, treated, stored, or disposed in the state by administering a regulatory and management program which, at a minimum, meets the requirements of subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto.

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codified as 42 U.S.C. Chapter 82, subchapter 3, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(10) Require a facility permitted under section 6605 of this title or a transporter permitted under section 6607 of this title to explain its rate structure for different categories of waste to ensure that the rate structure is transparent to residential consumers.

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

(A) the treatment facility does not utilize a process to further reduce pathogens in order to qualify for marketing and distribution; and

(B) the facility is not a drying bed, lagoon, or nonconcrete bunker; and

(C) the owner of the facility has submitted a sludge and septage management plan to the secretary and the secretary has approved the plan. Noncompliance with an approved sludge and septage management plan shall constitute a violation of the terms of this chapter, as well as a violation under chapters 201 and 211 of this title.

(2) Certification shall be valid for a period not to exceed ten years, ~~except that a certification issued to a sanitary landfill or a household hazardous waste facility under this section shall be for a period not to exceed five years.~~

(b) Certification for a solid waste management facility, where appropriate, shall:

(1) Specify the location of the facility, including limits on its development;

(2) Require proper operation and development of the facility in accordance with the engineering plans approved under the certificate;

(3) Specify the projected amount and types of waste material to be disposed of at the facility, which, in case of landfills and incinerators, shall include the following:

(A) if the waste is being delivered from a municipality that has an approved implementation plan, hazardous materials and recyclables shall be removed from the waste according to the terms of that implementation plan;

(B) if the waste is being delivered from a municipality that does not have an approved implementation plan, ~~yard waste leaf and yard residuals~~ shall be removed from the waste stream, ~~as shall a minimum of approximately 75 and 100 percent of each of the following shall be removed from the waste stream: marketable mandated~~ recyclables, hazardous waste from households, and hazardous waste from small quantity generators;

(4) Specify the type and numbers of suitable pieces of equipment that will operate the facility properly;

(5) Contain provisions for air, groundwater, and surface water monitoring throughout the life of the facility and provisions for erosion control, capping, landscaping, drainage systems, and monitoring systems for leachate and gas control;

(6) Contain such additional conditions, requirements, and restrictions as the secretary may deem necessary to preserve and protect the public health and the air, groundwater and surface water quality. This may include, ~~but is not limited to,~~ requirements concerning reporting, recording, and inspections of the operation of the site.

(c) The secretary shall not issue a certification for a new facility or renewal for an existing facility, except for a sludge or septage land application project, unless it is included in an implementation plan adopted pursuant to 24 V.S.A. § 2202a, for the area in which the facility is located. ~~The implementation plan must be consistent with the state plan and in conformance with any municipal or regional plan adopted in accordance with 24 V.S.A. chapter 117. After July 1, 1990, the secretary shall not recertify a facility except for a sludge or septage land application project unless it is included in an implementation plan adopted pursuant to 24 V.S.A. § 2202a, for the area in which the facility is located. The implementation plan must be consistent with the state plan, unless the secretary determines that recertification promotes the public interest, considering the policies and priorities established in this chapter. After July 1, 1990, the secretary shall not recertify a facility, unless it is in conformance with any municipal or regional plan adopted in accordance with 24 V.S.A. chapter 117.~~

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\* \* \*

(j) A facility certified under this section that offers the collection of municipal solid waste shall:

(1) Beginning July 1, 2014, collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables. A facility shall not be required to accept mandated recyclables from a commercial hauler.

(2) Beginning July 1, 2015, collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)–(5) of this title.

(3) Beginning July 1, 2016, collect food residuals separate from other solid waste and deliver food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)–(5) of this title.

(k) The secretary may, by rule, adopt exemptions to the requirements of subsection (j) of this section, provided that the exemption is consistent with the purposes of this chapter and the objective of the state plan.

(l) A facility certified under this section that offers the collection of solid waste shall not charge a separate fee for the collection of mandated recyclables. A facility certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of solid waste and may adjust the charge for the collection of solid waste. A facility certified under this section may charge a separate fee for the collection of leaf and yard residuals or food residuals. If a facility collects mandated recyclables from a commercial hauler, the facility may charge a fee for the collection of those mandated recyclables.

Sec. 5. 10 V.S.A. § 6605c is amended to read:

§ 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

\* \* \*

(b) The secretary may, by rule, list certain solid waste categories as eligible for certification pursuant to this section:

(1) Solid waste categories to be deposited in a disposal facility shall not be a source of leachate harmful to human health or the environment.

(2) Solid waste categories to be managed in a composting facility shall not present an undue threat to human health or the environment.

(3) ~~Solid waste managed~~ Recyclable materials either recycled or prepared for recycling at a recycling facility ~~shall be restricted to facilities that manage 400 tons per year or less of recyclable solid waste.~~

\* \* \*

Sec. 6. 10 V.S.A. § 6605k is added to read:

§ 6605k. FOOD RESIDUALS; MANAGEMENT HIERARCHY

(a) It is the policy of the state that food residuals collected under the requirements of this chapter shall be managed according to the following order of priority uses:

- (1) Reduction of the amount generated at the source;
- (2) Diversion for food consumption by humans;
- (3) Diversion for agricultural use, including consumption by animals;
- (4) Composting, land application, and digestion; and
- (5) Energy recovery.

(b) A person who produces more than an amount identified under subsection (c) of this section in food residuals and is located within 20 miles of a certified organics management facility that has available capacity and that is willing to accept the materials shall:

(1) Separate food residuals from other solid waste, provided that a de minimis amount of food residuals may be disposed of in municipal solid waste when a person has established a program to separate food residuals and the program includes a component for the education of program users regarding the need to separate food residuals; and

(2) Arrange for the transfer of food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions (a)(2)–(5) of this section or shall manage food residuals on site.

(c) The following persons shall be subject to the requirements of subsection (b) of this section:

(1) Beginning July 1, 2014, a person whose acts or processes produce more than 104 tons per year of food residuals;

(2) Beginning July 1, 2015, a person whose acts or processes produce more than 52 tons per year of food residuals;

(3) Beginning July 1, 2016, a person whose acts or processes produce more than 26 tons per year of food residuals;

(4) Beginning July 1, 2017, a person whose acts or processes produce more than 18 tons per year of food residuals; and

(5) Beginning July 1, 2018, any person who generates any amount of food residuals.

Sec. 7. 10 V.S.A. § 66051 is added to read:

§ 66051. PUBLIC COLLECTION CONTAINERS FOR SOLID WASTE

(a) As used in this section:

(1) “Public building” means a state, county, or municipal building, airport terminal, bus station, railroad station, school building, or school.

(2) “Public land” means all land that is owned or controlled by a municipal or state governmental body.

(b) Beginning July 1, 2015, when a container or containers in a public building or on public land are provided to the public for use for solid waste destined for disposal, an equal number of containers shall be provided for the collection of mandated recyclables. The containers shall be labeled to clearly show the containers are for recyclables and shall be placed as close to each other as possible in order to provide equally convenient access to users. Bathrooms in public buildings and on public land shall be exempt from the requirement of this section to provide an equal number of containers for the collection of mandated recyclables.

Sec. 8. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the state shall apply to the secretary for a permit to do so, by submitting an application on a form prepared for this purpose by the secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years. ~~The secretary shall establish a system whereby one fifth of the permits issued under this section, or that were issued prior to July 1, 1996, and shall be renewed annually. The secretary may extend the expiration date of permits issued under this section as of July 1, 1996, for up to four years.~~ The application shall indicate the nature of the waste to be hauled ~~and the area to be served by the hauler.~~ The secretary may specify conditions that the secretary deems necessary to assure compliance with state law. ~~If an area to be served is subject to a duly adopted flow control~~

~~ordinance, the entity that adopted the flow control ordinance may notify the secretary of that fact on forms provided by the secretary, and shall specify the facility or facilities which must be the recipient of the waste from that area. The secretary shall issue to the applicant a permit which specifies those facilities to which the applicant must deliver waste collected from an area that is subject to a duly adopted flow control ordinance, and which otherwise contains the solid waste management conditions established by the secretary, sufficient to assure compliance with state law.~~

\* \* \*

(g)(1) Except as set forth in subdivisions (2) and (3) of this subsection, a transporter certified under this section that offers the collection of municipal solid waste shall:

(A) Beginning July 1, 2014, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning July 1, 2015, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)–(5) of this title.

(C) Beginning July 1, 2016, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)–(5) of this title.

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, leaf and yard residuals, or food residuals, a transporter in that municipality is not required to comply with the requirements of subdivision (1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A transporter is not required to comply with the requirements of subdivision (1)(B) or (C) of this subsection in a specified area within a municipality if:

(A) the secretary has approved a solid waste implementation plan for the municipality;

(B) the approved plan delineates an area where solid waste management services required by subdivision (1)(B) or (C) of this subsection are not required; and

(C) in the delineated area, alternatives to the services, including on site management, required under subdivision (1)(B) or (C) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(h) A transporter certified under this section that offers the collection of solid waste may not charge a separate line item fee on a bill to a residential customer for the collection of mandated recyclables, provided that a transporter may charge a fee for all service calls, stops, or collections at a residential property and a transporter may charge a tiered or variable fee based on the size of the collection container provided to a residential customer or the amount of waste collected from a residential customer. A transporter certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of solid waste and may adjust the charge for the collection of solid waste. A transporter certified under this section that offers the collection of solid waste may charge a separate fee for the collection of leaf and yard residuals or organic waste from a residential customer.

Sec. 9. 10 V.S.A. § 6613 is amended to read:

§ 6613. VARIANCES

(a) A person who owns or is in control of any plant, building, structure, process, or equipment may apply to the secretary for a variance from the rules adopted under this chapter. The secretary may grant a variance if he or she finds that:

(1) The variance proposed does not endanger or tend to endanger human health or safety.

(2) Compliance with the rules from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(3) The variance granted does not enable the applicant to generate, transport, treat, store, or dispose of hazardous waste in a manner which is less

stringent than that required by the provisions of Subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto, codified in 42 U.S.C. Chapter 82, subchapter 3, and regulations promulgated under such subtitle.

(b) A person who owns or is in control of any facility may apply to the secretary for a variance from the requirements of subdivision 6605(j)(2) or (3) of this title if the applicant demonstrates alternative services, including on-site management, are available in the area served by the facility, the alternative services have capacity to serve the needs of all persons served by the facility requesting the variance, and the alternative services are convenient to persons served by the facility requesting the variance.

(c) No variance shall be granted pursuant to this section except after public notice and an opportunity for a public meeting and until the secretary has considered the relative interests of the applicant, other owners of property likely to be affected, and the general public.

~~(e)~~(d) Any variance or renewal thereof shall be granted within the requirements of subsection (a) of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air and water pollution involved, it shall be only until the necessary practicable means for prevention, abatement, or control become known and available, and subject to the taking of any substitute or alternate measures that the secretary may prescribe.

(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the secretary, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a time schedule for the taking of action in an expeditious manner and shall be conditioned on adherence to the time schedule.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subdivisions (1) and (2) of this subsection, it shall be for not more than one year, except that in the case of a variance from the siting requirements for a solid waste management facility, the variance may be for as long as the secretary determines necessary, including a permanent variance.

~~(d)~~(e) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods, which would be appropriate on initial granting of a variance. If a complaint is made to the secretary on account of the variance, no renewal thereof shall be granted, unless following public notice and an opportunity for a public meeting on the complaint, the secretary finds that renewal is justified. No renewal shall be granted except on application therefore. The application shall be made at least 60 days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the secretary shall give public notice of the application.

~~(e)~~(f) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the secretary.

~~(f)~~(g) This section does not limit the authority of the secretary under section 6610 of this title concerning imminent hazards from solid waste, nor under section 6610a of this title concerning hazards from hazardous waste and violations of statutes, rules, or orders relating to hazardous waste.

Sec. 10. 10 V.S.A. § 6621a is amended to read:

§ 6621a. LANDFILL DISPOSAL REQUIREMENTS

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in municipal solid waste or in landfills:

(1) Lead-acid batteries, after July 1, 1990.

(2) Waste oil, after July 1, 1990.

(3) White goods, after January 1, 1991. “White goods” include discarded refrigerators, washing machines, clothes ~~driers~~ dryers, ranges, water heaters, dishwashers, and freezers. Other similar domestic and commercial large appliances may be added, as identified by rule of the secretary.

(4) Tires, after January 1, 1992.

(5) Paint (whether water based or oil based), paint thinner, paint remover, stains, and varnishes. This prohibition shall not apply to solidified water based paint in quantities of less than one gallon, nor shall this prohibition apply to solidified water based paint in quantities greater than one gallon if those larger quantities are from a waste stream that has been subject to an effective paint reuse program, as determined by the secretary.

(6) Nickel-cadmium batteries, small sealed lead acid batteries, ~~and nonconsumer mercuric oxide batteries, after July 1, 1992, in any district or municipality in which there is an ongoing program to accept these wastes for treatment~~ and any other battery added by the secretary by rule.

(7)(A) Labeled mercury-added products on or before July 1, 2007.

(B) Mercury-added products, as defined in chapter 164 of this title, after July 1, 2007, except as other effective dates are established in that chapter.

(8) Banned electronic devices. After January 1, 2011, computers; peripherals; computer monitors; cathode ray tubes; televisions; printers; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; wireless telephones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (as used to charge electronic devices).

(9) Mandated recyclable materials after July 1, 2014.

(10) Leaf and yard residuals and wood waste after July 1, 2015.

(11) Food residuals after July 1, 2018.

(b) This section shall not prohibit the designation and use of separate areas at landfills for the storage or processing, or both, of material specified in this section.

(c) Insofar as it applies to the operator of a solid waste management facility, the secretary may suspend the application of this section to material specified in subdivisions (a)(2), (3), (4), (5), or (6) of this section, or any combination of these, upon finding that insufficient markets exist and adequate uses are not reasonably available to serve as an alternative to disposal.

Sec. 11. 24 V.S.A. § 2202a is amended to read:

§ 2202a. MUNICIPALITIES—RESPONSIBILITIES FOR SOLID WASTE

(a) Municipalities are responsible for the management and regulation of the storage, collection, processing, and disposal of solid wastes within their jurisdiction in conformance with the state solid waste management plan authorized under 10 V.S.A. chapter 159 ~~of Title 10~~. Municipalities may issue exclusive local franchises and may make, amend, or repeal rules necessary to manage the storage, collection, processing, and disposal of solid waste materials within their limits and impose penalties for violations thereof, provided that the rules are consistent with the state plan and rules ~~promulgated~~ adopted by the secretary of the agency of natural resources under 10 V.S.A. chapter 159. A fine may not exceed \$1,000.00 for each violation. This section shall not be construed to permit the existence of a nuisance.

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(b) Municipalities may satisfy the requirements of the state solid waste management plan and the rules of the secretary of the agency of natural resources through agreement between any other unit of government or any operator having a permit from the secretary, as the case may be.

(c)(1) No later than July 1, 1988 each municipality, as defined in subdivision 4303(12) of this title, shall join or participate in a solid waste management district organized pursuant to chapter 121 of this title no later than January 1, 1988 or participate in a regional planning commission's planning effort for purposes of solid waste implementation planning, as implementation planning is defined in 10 V.S.A. § 6602.

(2) No later than July 1, 1990 each regional planning commission shall work on a cooperative basis with municipalities within the region to prepare a solid waste implementation plan for adoption by all of the municipalities within the region which are not members of a solid waste district, that conforms to the state waste management plan and describes in detail how the region will achieve the priorities established by 10 V.S.A. § 6604(a)(1). A solid waste implementation plan adopted by a municipality that is not a member of a district shall not in any way require the approval of a district. No later than July 1, 1990 each solid waste district shall adopt a solid waste implementation plan that conforms to the state waste management plan, describes in detail how the district will achieve the priorities established by 10 V.S.A. § 6604(a)(1), and is in conformance with any regional plan adopted pursuant to chapter 117 of this title. Municipalities or solid waste management districts that have contracts in existence as of January 1, 1987, which contracts are inconsistent with the state solid waste plan and the priorities established in 10 V.S.A. § 6604(a)(1), shall not be required to breach those contracts, provided they make good faith efforts to renegotiate those contracts in order to comply. The secretary may extend the deadline for completion of a plan upon finding that despite good faith efforts to comply, a regional planning commission or solid waste management district has been unable to comply, due to the unavailability of planning assistance funds under 10 V.S.A. § 6603b(a) or delays in completion of a landfill evaluation under 10 V.S.A. § 6605a.

(3) A municipality that does not join or participate as provided in this subsection shall not be eligible for state funds to plan and construct solid waste facilities, nor can it use facilities certified for use by the region or by the solid waste management district.

(4) ~~By no later than July 1, 1992, a~~ A regional plan or a solid waste implementation plan shall include a component for the management of nonregulated hazardous wastes.

(A) At the outset of the planning process for the management of nonregulated hazardous wastes and throughout the process, solid waste management districts or regional planning commissions, with respect to areas not served by solid waste management districts, shall solicit the participation of owners of solid waste management facilities that receive mixed solid wastes, local citizens, businesses, and organizations by holding informal working sessions that suit the needs of local people. At a minimum, an advisory committee composed of citizens and business persons shall be established to provide guidance on both the development and implementation of the nonregulated hazardous waste management plan component.

(B) The regional planning commission or solid waste management district shall hold at least two public hearings within the region or district after public notice on the proposed plan component or amendment.

(C) The plan component shall be based upon the following priorities, in descending order:

(i) The elimination or reduction, whenever feasible, in the use of hazardous, particularly toxic, substances.

(ii) Reduction in the generation of hazardous waste.

(iii) Proper management of household and exempt small quantity generator hazardous waste.

(iv) Reduction in the toxicity of the solid waste stream, to the maximum extent feasible in accordance with the priorities of 10 V.S.A. § 6604(a)(1).

(D) At a minimum, this plan component shall include the following:

(i) An analysis of preferred management strategies that identifies advantages and disadvantages of each option.

(ii) An ongoing educational program for schools and households, promoting the priorities of this subsection.

(iii) An educational and technical assistance program for exempt small quantity generators that provides information on the following: use and waste reduction; preferred management strategies for specific waste streams; and collection, management and disposal options currently or potentially available.

(iv) A management program for household hazardous waste.

(v) A priority management program for unregulated hazardous waste streams that present the greatest risks.

(vi) A waste diversion program element, that is coordinated with any owners of solid waste management facilities and is designed to remove unregulated hazardous waste from the waste stream entering solid waste facilities and otherwise to properly manage unregulated hazardous waste.

(vii) A waste management system established for all the waste streams banned from landfills under 10 V.S.A. § 6621a.

(E) For the purposes of this subsection, nonregulated hazardous wastes include hazardous wastes generated by households and exempt small quantity generators as defined in the hazardous waste management regulations adopted under 10 V.S.A. chapter 159.

(d) By no later than July 1, 2015, a municipality shall implement a variable rate pricing system that charges for the collection of municipal solid waste from a residential customer for disposal based on the volume or weight of the waste collected.

(e) The education and outreach requirements of this section need not be met through direct mailings, but may be met through other methods such as television and radio advertising; use of the Internet, social media, or electronic mail; or the publication of informational pamphlets or materials.

## Sec. 12. ANR REPORT ON SOLID WASTE

(a) On or before November 1, 2013, the secretary of natural resources shall submit to the house and senate committees on natural resources and energy a report addressing solid waste management in the state. At a minimum, the report shall include:

(1) Waste analysis. An analysis of the volume and nature of wastes generated in the state, the sources of those wastes, and the current fate or disposition of those wastes. This analysis shall include:

(A) the results of a waste composition study; and

(B) an analysis of the quantities and types of materials received at recycling facilities, the contamination levels of materials received at recycling facilities, and the final disposition of materials received by recycling facilities.

(2) Cost analysis.

(A) An estimate of the cost of implementation of the existing solid waste management system for the state, including the cost to consumers, avoided costs, and foreseeable future costs;

(B) An estimate of the cost of managing individual categories of solid waste as that term is defined in 10 V.S.A. § 6604(a)(2)(B);

(C) An estimate of the costs, cost savings, increased efficiencies, and economic opportunities attendant to the diversion of solid waste categories, including:

(i) the costs of recycling individual categories of materials, such as glass, aluminum, and polyethylene terephthalate (PET) plastic;

(ii) market opportunities for the sale of recyclable materials; and

(iii) the effect of fluctuating commodity prices on the diversion of solid waste and recycling and how to maintain existing recycling rates during commodity fluctuations;

(D) An estimate of the cost to and potential savings to all stakeholders, including municipalities, manufacturers, and customers, from beverage container deposit and return legislation and extended producer responsibility legislation.

(3) Local governance analysis. An analysis of the services provided by municipalities responsible for the management and regulation of the storage, collection, processing, and disposal of solid waste under 24 V.S.A. § 2202a. The analysis shall summarize:

(A) The organizational structure municipalities use to provide solid waste services, including the number of solid waste districts in the state and the number of towns participating in a solid waste district;

(B) The type of solid waste services provided by municipalities, including the categories of solid waste collected and the disposition of collected solid waste;

(C) The effectiveness of beverage container deposit and return legislation or other types of extended producer responsibility legislation for certain products in achieving the priorities and goals established by the state solid waste management plan;

(D) The effectiveness of those facilities and programs in achieving the priorities and goals established by the state solid waste plan; and

(E) The cost-effectiveness of solid waste services provided by municipalities.

(4) Infrastructure analysis.

(A) An assessment of facilities and programs necessary at the state, regional, or local level to achieve the priorities and the goals established in the state solid waste plan, including, after consultation with the secretary of agriculture, food and markets, an estimate of the number and type of composting facilities on farms.

(B) An estimate of the landfill capacity available in Vermont and an estimated time at which there will be no landfill capacity remaining in the state.

(C) An assessment of the status, capacity, and life expectancy of existing solid waste management facilities.

(D) An estimate of the cost of infrastructure necessary for the mandatory recycling of categories of solid waste.

(5) Natural resources and environmental analysis.

(A) A general, narrative summary or assessment of the natural resources and environmental impacts of current solid waste management practices on air quality, greenhouse gas emissions, and water quality.

(B) A general, narrative summary of how litter or improper disposal or management of solid waste impacts scenic or aesthetic resources.

(6) Legislative recommendation. Recommendations for amending solid waste management practices in the state, including recommended legislative or regulatory changes to promote the reduction in solid waste generation and to increase recycling and diversion of solid waste. Recommendations submitted under this subdivision shall include a summary of the rationale for the recommendation and a general, narrative summary of the costs and benefits of the recommended action.

(b) In preparing the report required by subsection (a) of this section, the secretary shall consult with interested persons, including the secretary of agriculture, food and markets, manufacturers, recyclers, collectors, retailers, solid waste districts, and environmental groups.

Sec. 13. REPEAL

10 V.S.A. § 7113 (advisory committee on mercury pollution) is repealed.

Sec. 14. AGENCY OF NATURAL RESOURCES REPORT OF WASTE TIRE MANAGEMENT AND DISPOSAL

On or before January 15, 2013, the secretary of natural resources shall submit to the house and senate committees on natural resources and energy a

report regarding the management of waste tires within the state. The report shall include:

(1) An inventory of sites in the state where the secretary determines, in his or her discretion, that the disposal, management, or disposition of waste tires is a problem.

(2) An estimate of the number of waste tires disposed of or stored at the problem sites identified under subdivision (1) of this section.

(3) An estimate of how much it would cost to properly dispose of or arrange for the final disposition of the number of waste tires estimated under subdivision (2) of this section.

(4) An estimate of the amount of time required for the proper disposal or final disposition of the number of waste tires estimated under subdivision (2) of this section.

Sec. 15. 10 V.S.A. § 6618(b) is amended to read:

(b) The secretary may authorize disbursements from the solid waste management assistance account for the purpose of enhancing solid waste management in the state in accordance with the adopted waste management plan. This includes:

\* \* \*

(10) the costs of the proper disposal of waste tires. Prior to disbursing funds under this subsection, the secretary shall provide a person with notice and opportunity to dispose of waste tires properly. The secretary may condition a disbursement under this subsection on the repayment of the disbursement. If a person fails to provide repayment subject to the terms of a disbursement, the secretary may initiate an action against the person for repayment to the fund or may record against the property of the person a lien for the costs of cleaning up waste tires at a property.

\* \* \* Collection and Recycling of Electronic Devices \* \* \*

Sec. 16. 10 V.S.A. § 7551 is amended to read:

§ 7551. DEFINITIONS

For the purposes of this chapter:

\* \* \*

(4) “Collector” means a public or private entity that receives ~~covered electronic devices~~ electronic waste from covered entities; or from another collector and that performs any of the following:

- 
- (A) arranges for the delivery of the ~~devices~~ electronic waste to a recycler.
- (B) sorts electronic waste.
- (C) consolidates electronic waste.
- (D) provides data security services in a manner approved by the secretary.

(5) “Computer” means ~~an~~ a laptop computer, desktop computer, tablet computer, or central processing unit that conveys electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, ~~including a laptop computer, desktop computer, and central processing unit.~~ “Computer” does not include an automated typewriter or typesetter or other similar device.

\* \* \*

(8) “Covered electronic device” means a: computer; computer monitor; device containing a cathode ray tube; printer; or television ~~sold to~~ from a covered entity. “Covered electronic device” does not include: any motor vehicle or any part thereof; a camera or video camera; a portable or stationary radio; a wireless telephone; a household appliance, such as a clothes washer, clothes dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development, or commercial setting; security or anti-terrorism equipment; monitoring and control instruments or systems; thermostats; hand-held transceivers; a telephone of any type; a portable digital assistant or similar device; a calculator; a global positioning system receiver or similar navigation device; commercial medical equipment that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display that is not separate from the larger piece of equipment; or other medical devices, as the term “device” is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug, and Cosmetic Act, as that section is amended from time to time.

(9) “Covered entity” means any household, charity, or school district in the state; or a business in the state that employs ten or fewer individuals. If seven or fewer covered electronic devices are delivered to a collector at any given time, those devices shall be presumed to be from a covered entity.

(10) “Electronic waste” means a: computer; computer monitor; computer peripheral; device containing a cathode ray tube; printer; or television ~~sold to~~ from a covered entity. “Electronic waste” does not include: any motor vehicle or any part thereof; a camera or video camera; a portable or

stationary radio; a wireless telephone; a household appliance, such as a clothes washer, clothes dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, library, research and development, or commercial setting; security or antiterrorism equipment; monitoring and control instruments or systems; thermostats; handheld transceivers; a telephone of any type; a portable digital assistant or similar device; a calculator; a global positioning system receiver or similar navigation device; commercial medical equipment that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display that is not separate from the larger piece of equipment; or other medical devices, as the term "device" is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug, and Cosmetic Act, as that section is amended from time to time.

\* \* \*

(12) "Market share" means a "manufacturer's market share" which shall be the manufacturer's percentage share of the total weight of covered electronic devices sold in the state as determined by ~~the best available information, which may include~~ an estimate of the aggregate total weight of the manufacturer's covered electronic devices sold in the state during the previous program year based on national sales data unless the secretary approves a manufacturer to use actual sales data.

\* \* \*

(14) "Program year" means the period ~~from July 1 through June 30 established by the secretary as the program year in the plan required by section 7552 of this title.~~

\* \* \*

(20) "Transporter" means a person that moves electronic waste from a collector to either another collector or to a recycler.

\* \* \* Studies of Ban on Plastic Carryout Bags and Expansion of Beverage Container Redemption System \* \* \*

#### Sec. 17. ANR REPORT ON IMPLEMENTATION OF BAN ON PLASTIC CARRYOUT BAGS

(a) On or before January 15, 2013, the secretary of natural resources shall report to the senate and house committees on natural resources and energy regarding the use of plastic carryout bags in the state. The report shall include:

(1) An estimate of the number of plastic bags used in the state and a summary of how plastic carryout bags are currently disposed of or recycled;

(2) A recommendation on whether to ban the use of plastic carryout bags by retail establishments in the state, to allow the continued use of plastic carryout bags, or to regulate plastic carryout bags in some other manner, including a summary of the basis for the recommendation.

(3) If the secretary under subdivision (2) of this subsection recommends that plastic carryout bags should be banned or regulated, the secretary shall:

(A) Recommend a definition of “plastic carryout bag”;

(B) Specify to whom the ban or regulation should apply;

(C) Recommend an effective date for the recommended ban or regulation; and

(D) Estimate the cost to implement the recommended ban or regulation.

(b) In preparing the report required by this section, the secretary of natural resources shall consult with interested parties, including representatives of: grocers in the state, retail establishments in the state, environmental groups, solid waste districts, and plastic or container industry associations.

#### Sec. 18. ANR REPORT ON THE COSTS AND BENEFITS OF EXPANSION OF THE BEVERAGE CONTAINER REDEMPTION SYSTEM

Report on costs on bottle bill. On or before January 15, 2013, the secretary of natural resources shall submit to the senate and house committees on natural resources and energy, the senate committee on economic development, housing and general affairs, and the house committee on commerce a report regarding the costs and benefits of expanding the beverage container redemption system to include containers for all noncarbonated drinks. The report shall include:

(1) An estimate of the cost of implementing the existing beverage container redemption system;

(2) An estimate of the cost of implementing expansion of the beverage container redemption system to include containers for all noncarbonated drinks, including an estimate of the commodity value lost by municipalities due to diversion of recyclable material from single-stream recycling programs.

(3) An estimate of the cost of implementing a zero-sort, single-stream recycling program.

(4) A summary of the total recycling benefits of a single-stream recycling program in contrast to the beverage container redemption system.

(5) A recommendation from the secretary as to whether the beverage container redemption system should be expanded, remain unchanged, or be repealed.

Sec. 18a. STATE HOUSE RECYCLING PROGRAM

On or before July 1, 2012, the sergeant at arms shall establish a program for the recycling of mandated recyclables, as that term is defined in 10 V.S.A. § 6602. Under the program required by this section, when a container or containers are provided in the state house for the collection of solid waste destined for disposal, a container shall be provided for the collection of mandated recyclables. The program required by this section shall provide for the recycling of all mandated recyclables. Bathrooms in the state house shall be exempt from the requirement to provide an equal number of containers for the collection of mandated recyclables.

\* \* \* Appeals, Enforcement, and Effective Dates \* \* \*

Sec. 19. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

\* \* \*

(21) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste; ~~and~~

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps; and

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a municipal solid waste implementation plan that is consistent with the state solid waste plan.

Sec. 20. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

\* \* \*

(g) This chapter shall govern all appeals of an act or decision of the secretary of natural resources that a municipal solid waste implementation plan

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proposed under 24 V.S.A. § 2202a conforms with the state solid waste implementation plan adopted pursuant to section 6604 of this title.

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Which proposal of amendment was considered and concurred in.

**Committee of Conference Appointed**

**S. 189**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to expanding confidentiality of cases accepted by the court diversion project

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Grad of Moretown**  
**Rep. Waite-Simpson of Essex**  
**Rep. Reis of St. Johnsbury**

**Committee of Conference Appointed**

**S. 244**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to referral to court diversion for driving with a suspended license

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Grad of Moretown**  
**Rep. Waite-Simpson of Essex**  
**Rep. Reis of St. Johnsbury**

**Rules Suspended; Proposal of Amendment Agreed to;**  
**Third Reading Ordered**

**S. 226**

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to combating illegal diversion of prescription opiates and increasing treatment resources for opiate addiction

Appearing on the Calendar for notice, was taken up for immediate consideration.

**Rep. French of Shrewsbury**, for the committee on Judiciary, to which had been referred Senate bill, entitled

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: By striking out Sec. 1 in its entirety

Second: In Sec. 5, 18 V.S.A. § 4253, in subsection (c), by striking out “his or her firearms for drugs and the person who trades his or her drugs for firearms” and inserting in lieu thereof “a firearm for a drug and the person who trades a drug for a firearm”

Third: In Sec. 7, in subdivision (b)(7), after “state’s attorneys” by striking “and sheriffs”

Fourth: In Sec. 7, by adding a subdivision (b)(10) to read:

(10) A representative from the Vermont office of the attorney general.

Five: By adding Secs. 9a–d to read:

Sec. 9a. 13 V.S.A. § 2561 is amended to read:

§ 2561. PENALTY FOR RECEIVING STOLEN PROPERTY; VENUE

(a) A person who ~~is a dealer in property who~~ knowingly or recklessly buys, receives, sells, possesses ~~unless with the intent to restore to the owner,~~ or aids in the concealment of stolen property, knowing or believing the property to be stolen without the intent to restore the property to the rightful owner shall be punished the same as for the stealing of ~~such~~ the property. A prosecution under this section may be brought where the stolen item is recovered or in the location where it was stolen.

~~(b) A person who buys, receives, sells, possesses unless with the intent to restore to the owner, or aids in the concealment of stolen property, knowing the same to be stolen, shall be punished the same as for the stealing of such property.~~

~~(c) A buyer, receiver, seller, possessor, or concealer under subsection (a) or (b) of this section may be prosecuted and punished in the criminal division of the superior court in the unit where the person stealing the property might be~~

~~prosecuted, although such property is bought, received, or concealed in another county or unit.~~

Sec. 9b. 9 V.S.A. § 3865 is amended to read:

§ 3865. PAWNBROKER'S RECORD BOOK RECORDS OF A PAWNBROKER OR SECONDHAND PRECIOUS METAL AND JEWELRY DEALER

~~(a) A pawnbroker or secondhand precious metal and jewelry dealer shall keep a book in which shall be fairly written in the English language, at the time of making a loan, an account and description of the goods, articles or things pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging such property~~ the following records together for each transaction:

(1) a legible statement written at the time of the transaction describing the items pawned, pledged, or purchased, the amount of money lent or paid thereon, the time of the transaction, and the rate of interest to be paid on the loan;

(2) a legible statement of the name and current address of the person pawning, pledging, or selling the items;

(3) a photograph of the items which are the subject of the transaction; and

(4) a photocopy of a government-issued identification card issued to the person pawning, pledging, or selling the items. If the person does not have a government-issued identification card, the pawnbroker or dealer shall take and retain a photograph of the person's face.

~~(b) At all reasonable times, such book~~ the records required under subsection (a) of this section shall be open to the inspection of the town or city authorities, all courts, the chief of police, or of any person who is duly authorized in writing for that purpose by such authority, court or chief of police and who exhibits such written authority to such pawnbroker law enforcement.

~~(c) As used in this section, "secondhand precious metal and jewelry dealer"~~ means a person in the business of purchasing used precious metal and jewelry for resale.

Sec. 9c. 9 V.S.A. § 3872 is added to read:

§ 3872. SECONDHAND DEALERS; RETENTION OF GOODS

(a) A pawnbroker or secondhand dealer shall retain pawned, pledged, or purchased property for no fewer than five days before offering it for resale.

(b) As used in this section, "secondhand dealer" means a person in the business of purchasing used goods for resale.

Sec. 9d. REPORT

(a) The department of public safety shall study the feasibility of establishing a stolen property database which would contain identifying information about property that has been identified as being stolen. The study shall include the consideration of the following:

(1) what information should be contained in the database;

(2) who would have access to the database and under what circumstances;

(3) what types of property would be required to be in the database; and

(4) whether the database should be accessible by merchants for the purpose of determining whether particular property had been stolen.

(b) The department shall report its findings to the house and senate committees on judiciary together with any recommendations for legislative action on or before December 15, 2012.

**Rep. Keenan of St. Albans City**, for the committee on Appropriations, recommended that the House propose to the Seante to amend the bill as follows:

In Sec. 9, by striking out subsection (a) in its entirety and striking the designation "(b)"

The bill was taken up, read the second time, report of the committees on Judiciary and Appropriations agreed to and third reading ordered.

**Rules Suspended to Permit Consideration of H. 485; House concurred in the Senate Proposal of Amendment with a Further Amendment Thereto**

**H. 485**

House bill, entitled

An act relating to establishing universal recycling of solid waste;

**Rep. Savage of Swanton**, moved to suspend the rules to permit consideration of H. 485, which was agreed to.

**Rep. Jerman of Essex**, assuring the Chair that he voted with the prevailing side previously when the House concurred in the Senate proposal of

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amendment, moved that the House reconsider its vote, which was agreed to.

Thereupon, **Rep. Jerman of Essex** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

First: In Sec. 2, 10 V.S.A. § 6604, by striking subdivision (a)(1)(B) in its entirety and by relettering the subsequent subdivisions of subsection (a) to be alphabetically correct

and in subdivision (b)(2)(C), by striking “and extended producer responsibility legislation” where it appears

Second: In Sec. 4, 10 V.S.A. § 6605, in subsection (j), in the lead-in language, after “the collection of” and before “solid waste” by striking “municipal”

and in subdivision (j)(3), by striking “2016” where it appears and inserting in lieu thereof “2017”

Third: In Sec. 6, 10 V.S.A. § 6605k, in subsection (b), in the lead-in language, after “that is willing to accept the” and before “shall:” by striking “materials” and inserting in lieu thereof “food residuals”

And in subdivision (b)(1), after “may be disposed of in” and before “solid waste” by striking “municipal”

and in subdivision (c)(5), by striking “2018” where it appears and inserting in lieu thereof “2020”

Fourth: In Sec. 8, 10 V.S.A. § 6607a, in subdivision (g)(1), in the lead-in language, after “offers the collection of” and before “solid waste” by striking “municipal”

and in subdivision (g)(1)(A), by striking “2014” where it appears and inserting in lieu thereof “2015”

and in subdivision (g)(1)(B), by striking “2015” where it appears and inserting in lieu thereof “2016”

and in subdivision (g)(1)(C), by striking “2016” where it appears and inserting in lieu thereof “2017”

and in subsection (h), in the last sentence, by striking “organic waste” where it appears and inserting in lieu thereof “food residuals”

Fifth: In Sec. 10, 10 V.S.A. § 6621a, in subsection (a), in the lead-in language, after “dispose of the following materials in” and before “solid waste” by striking “municipal”

and in subdivision (a)(9), by striking "2014" where it appears and inserting in lieu thereof "2015"

and in subdivision (a)(10), by striking "2015" where it appears and inserting in lieu thereof "2016"

and in subdivision (a)(11), by striking "2018" where it appears and inserting in lieu thereof "2020"

Sixth: In Sec. 12, subdivision (a)(1)(B), after "(B)" and before "an analysis of the quantities" by inserting "to the extent possible,"

and in subdivision (a)(2)(A), after "solid waste management system for the state, including" and before "the cost to consumers" by inserting "to the extent possible,"

and by striking subdivisions (a)(2)(C) and (D) in its entirety and inserting in lieu thereof the following:

(C) An estimate of the costs, cost savings, increased efficiencies, and economic opportunities attendant to the diversion of solid waste categories;

and by striking subdivision (a)(3)(C) in its entirety

Seventh: By striking Sec. 17 (ANR report on plastic bags) in its entirety

Eighth: In Sec. 18, in the first full sentence, by striking "January 15, 2013" where it appears and inserting in lieu thereof "November 1, 2013"

Ninth: In Sec. 19, 10 V.S.A. § 8003(a), in subdivision (23), after "implementation of a" and before "solid waste implementation plan" by striking "municipal"

Tenth: In Sec. 20, 10 V.S.A. § 8503, in subsection (g), by striking "a municipal solid waste implementation plan" where it appears and inserting in lieu thereof "a solid waste implementation plan for a municipality"

Which was agreed to.

**Rules Suspended; Senate Proposal of Amendment Concurred in  
with a Further Amendment Thereto**

**H. 523**

On motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to revising the state highway condemnation law

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

(a) The intent of the changes to the definition of necessity made in this act is to state the definition in accordance with State Transportation Board v. May, 137 Vt. 320 (1979), and to reorganize the definition for the sake of clarity. No substantive change is intended.

(b) The standard of review of the agency of transportation's determination of necessity established in 19 V.S.A. § 505(a)(3) of this act is intended to replace the former language of 19 V.S.A. § 507(a) stating that "the exercise of reasonable discretion upon the part of the agency shall not be presumed," as well as to replace the standard of review adopted in Latchis v. State Hwy. Bd., 120 Vt. 120 (1957) and relied upon in subsequent cases.

Sec. 2. 19 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CONDEMNATION FOR STATE HIGHWAY PROJECTS

§ 500. INTENT

The purpose of this chapter is to ensure that a property owner receives fair treatment and just compensation when the owner's property is taken for state highway projects, and that condemnation proceedings are conducted expeditiously so that highway projects in the public interest are not unnecessarily delayed.

§ 501. DEFINITIONS

The following words and phrases as used in this chapter shall have the following meanings:

(1) "Necessity" ~~shall mean~~ means a reasonable need which considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. Necessity shall not be measured merely by expense or convenience to the condemning party. ~~Due~~ Necessity includes a reasonable need for the highway project in general as well as a reasonable need to take a particular property and to take it to the extent proposed. In determining necessity, consideration shall be given to the:

(A) adequacy of other property and locations ~~and to;~~

(B) ~~the~~ quantity, kind, and extent of cultivated and agricultural land which may be taken or rendered unfit for use, immediately and over the long term, by the proposed taking. ~~In this matter the court shall view the problem from both a long range agricultural land use viewpoint as well as from the~~

~~immediate taking of agricultural lands which may be involved. Consideration also shall be given to the;~~

(C) effect upon home and homestead rights and the convenience of the owner of the land; ~~to the~~

(D) effect of the highway upon the scenic and recreational values of the highway; ~~to the~~

(E) need to accommodate present and future utility installations within the highway corridor; ~~to the~~

(F) need to mitigate the environmental impacts of highway construction; and ~~to the~~

(G) effect upon town grand lists and revenues.

(2) Damages resulting from the taking or use of property under the provisions of this chapter shall be the value for the most reasonable use of the property or right in the property, and of the business on the property, and the direct and proximate decrease in the value of the remaining property or right in the property and the business on the property. The added value, if any, to the remaining property or right in the property, which accrues directly to the owner of the property as a result of the taking or use, as distinguished from the general public benefit, shall be considered in the determination of damages.

(3) “Interested person” or “person interested in lands” or “property owner” means a person who has a legal interest of record in the property ~~affected~~ taken or proposed to be taken.

#### § 502. AUTHORITY; PRECONDEMNATION PROCEDURE HEARING

(a) Authority. ~~The transportation board agency, when in its judgment the interest of the state requires, shall request the agency to~~ may take any land or rights in land, including easements of access, air, view and light, deemed property necessary to lay out, relocate, alter, construct, reconstruct, maintain, repair, widen, grade, or improve any state highway, including affected portions of town highways. All property rights shall be taken in fee simple whenever practicable. In furtherance of these purposes, the agency may enter upon ~~land adjacent to the proposed highway or upon other lands for the purpose of examination and making necessary surveys. However, that lands to conduct necessary examinations and surveys; however, the agency shall do this work shall be done~~ with minimum damage to the land and disturbance to the owners and shall be subject to liability for actual damages. All property taken permanently shall be taken in fee simple whenever practicable. For all state highway projects involving property acquisitions, the agency shall follow the

provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act (“Act”) and its implementing regulations, as may be amended.

(b) The agency, in the construction and maintenance of limited access highway facilities, may also take any land or rights of the landowner in land under 9 V.S.A. chapter 93, subchapter 2, relating to advertising on limited access highways.

(c) Public hearing; notice of hearing.

(1) A public hearing shall be held for the purpose of receiving suggestions and recommendations from the public prior to the agency’s initiating proceedings under this chapter for the acquisition of any ~~lands or rights~~ property. The hearing shall be conducted by the agency. ~~Public notice shall be given by printing~~

(2) The agency shall prepare an official notice stating the purpose for which the property is desired and generally describing the highway project.

(3) Not less than 30 days prior to the hearing, the agency shall:

(A) cause the official notice not less than 30 days prior to the hearing to be printed in a newspaper having general circulation in the area affected. ~~A;~~

(B) mail a copy of the notice shall be mailed to the board; to the legislative bodies of the municipalities affected; and ~~a copy sent~~

(C) by certified mail a copy of the notice to all known owners of lands and rights in land affected by whose property may be taken as a result of the proposed improvement.

~~The notice shall set forth the purpose for which the land or rights are desired and shall generally describe the improvement to be made.~~

(4) ~~The board may designate one or more members to attend the hearing and shall do so if a written request is filed with the board at least 10 days prior to the public hearing. At the hearing, the agency shall set forth the reasons for the selection of the route intended and shall hear and consider all objections, suggestions for changes, and recommendations made by any person interested. If no board member attended the hearing, a written request may be filed with the board within 30 days after the public hearing asking the board to review the project and the record of the hearing. In such event, the board shall complete its review within 30 days after the request. Following the hearing, unless otherwise directed by the board, the agency may proceed to lay out the highway and survey and acquire the land to be taken or affected, giving~~

~~consideration to any objections, suggestions, and recommendations received from the public in accordance with this chapter.~~

\* \* \*

§ 503. PRECONDEMNATION NECESSITY DETERMINATION; SURVEY AND APPRAISAL; OFFER OF JUST COMPENSATION; NOTICE OF RIGHTS; NEGOTIATION; STIPULATION

(a) ~~When~~ Necessity determination; appraisal.

(1) After conducting the hearing required under section 502 of this chapter and considering the objections, suggestions, and recommendations received from the public, if the agency of transportation desires to acquire land or any rights in land finds the taking of property to be necessary for the purpose of laying out, relocating, altering, constructing, reconstructing, maintaining, repairing, widening, grading, or improving a state highway, it shall cause the land property proposed to be acquired or affected to be surveyed and shall make a written determination of necessity consistent with subdivision 501(1) of this chapter. Prior to initiating negotiations under this section, the agency shall cause property proposed to be taken to be appraised unless:

(A) the property owner offers to donate the property after being fully informed by the agency of the right to receive just compensation for damages and releasing the agency from any obligation to conduct an appraisal; or

(B) the agency determines that an appraisal is unnecessary because the valuation question is uncomplicated and the agency estimates the property to have a low fair market value, in accordance with 49 C.F.R. § 24.102.

(2) The agency shall prepare a waiver valuation if an appraisal is not conducted, pursuant to subdivision (1)(B) of this subsection (a).

(3) The property owner or his or her designee shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(b) Offer of just compensation. Prior to the initiation of negotiations, the agency shall prepare a written offer of just compensation, which shall include a statement of the basis for the offer and a legal description of the property proposed to be acquired.

(c) Negotiation. Prior to instituting condemnation proceedings under section 504 of this chapter, the agency shall make every reasonable effort to acquire property expeditiously by negotiation and shall comply with subsection (d) of this section.

(d) Notice and other documents. The agency shall hand-deliver or send by mail to interested persons a notice of procedures and rights and the offer of just compensation. The notice of procedures and rights shall include an explanation of the proposed state highway project and its purpose, and statements that:

(1) The agency is seeking to acquire the property described in the offer of just compensation for the project.

(2) Agency representatives are available to discuss the offer of just compensation.

(3) The agency does not represent the property owner, and he or she may benefit from the advice of an attorney.

(4) If the agency and the property owner are unable to reach agreement on the agency's legal right to take the property, the agency may file a complaint in superior court to determine this issue. The property owner has the right to challenge the taking by contesting the necessity of the taking, the public purpose of the project, or both, but must contest these issues by filing an answer to the complaint with the court. If the owner does not file a timely answer, the court may enter a default judgment in favor of the agency.

(5) The property owner may enter into an agreement with the agency stipulating to the agency's legal right to take his or her property without waiving the owner's right to contest the amount of the agency's offer of compensation.

(6) If the agency and the property owner agree that a taking is lawful, or if a court issues a judgment authorizing the agency to take the owner's property, title to the property will transfer to the agency only after the agency files documentation of the agreement or judgment with the town clerk, pays or tenders payment to the owner, and sends or delivers to the owner a notice of taking.

(7) To contest the amount of compensation received, the owner must file an action with the transportation board or in superior court within 30 days of the notice of taking, except that the issue of compensation ("damages") must be decided by the superior court if the owner's demand exceeds the agency's offer of just compensation by more than \$25,000.00. The owner or the agency may appeal a decision of the board to the superior court, and may appeal a decision of the superior court to the supreme court. Either party is entitled to demand a trial by jury in superior court on the issue of damages.

(8) A copy of an appraisal or an estimated valuation ("waiver valuation") shall be furnished by the agency at the owner's request.

(9) Summarize the property owner's right to relocation assistance, if applicable.

(e) Agreement on taking, damages.

(1) An interested person may enter into an agreement with the agency stipulating to the necessity of the taking and the public purpose of the project, to damages, or to any of these. The agreement shall include:

(A) a statement that the person executing the agreement has examined a survey or appraisal of the property to be taken;

(B) an explanation of the legal and property rights affected;

(C) a statement that the person has received the documents specified in subsection (d) of this section; and

(D) if the agreement concerns only the issues of necessity or public purpose, a statement that the right of the person to object to the amount of compensation offered is not affected by the agreement.

(2) If an interested person executes an agreement stipulating to the necessity of the taking and the public purpose of the project in accordance with subdivision (1) of this subsection, the agency shall prepare, within 10 business days of entering into the agreement, a notice of condemnation and shall file it in accordance with section 506 of this chapter. The notice of condemnation shall include a legal description of the property to be taken.

§ 504. PETITION FOR HEARING TO DETERMINE NECESSITY COMPLAINT; SERVICE; ANSWER

(a) Upon completion of the survey the agency may petition a superior judge, setting forth in the petition that it proposes to acquire certain land, or rights in land, and describing the lands or rights, and the survey shall be attached to the petition and made a part of the petition. The petition shall set forth the purposes for which the land or rights are desired, and shall contain a request that the judge fix a time and place when he or she, or some other superior judge, will hear all parties concerned and determine whether the taking is necessary. Verified complaint. If a property owner has not entered into an agreement stipulating to the necessity of a taking and the public purpose of a highway project, and the agency wishes to proceed with the taking, the agency shall file a verified complaint in the civil division of the superior court in a county where the project is located seeking a judgment of condemnation. The complaint shall name as defendants each interested person who has not stipulated to a proposed taking, and shall include:

(1) statements that the agency has complied with subsection 503(d) of this chapter;

(2) the agency's written determination of necessity;

(3) a general description of the negotiations undertaken; and

(4) a survey of the proposed project, and legal descriptions of the property and of the interests therein proposed to be taken.

(b) Service and notice.

(1) Except as otherwise provided in this section, the agency shall serve the complaint and summons in accordance with the Vermont Rules of Civil Procedure and section 519 of this chapter.

(2) The agency shall publish a notice of the complaint, the substance of the summons, and a description of the project and of the lands to be taken in a newspaper of general circulation in the municipalities where the project is located, once a week on the same day of the week for three consecutive weeks. The agency shall mail a copy of the newspaper notice to the last known address of an interested person not otherwise served, if any address is known. Upon affidavit by the secretary that diligent inquiry has been made to find all interested persons and, if applicable, that service on a known interested person cannot with due diligence be made in or outside the state by another method prescribed in Rule 4 of the Vermont Rules of Civil Procedure, the newspaper publication shall be deemed sufficient service on all unknown interested persons and all known interested persons who cannot otherwise be served. Service by newspaper publication is complete the day after the third publication.

(3) Unless otherwise served under subdivision (1) of this subsection, the agency shall mail a copy of the complaint to the clerk, legislative body, and board of listers of each municipality in which land is proposed to be taken. The clerk with responsibility over the land records shall record the copy of the complaint (including the survey), and shall enter the names of the property owners named in the complaint in the general index of transactions affecting the title to real estate.

(c) Necessity, public purpose; default. If an interested person does not file a timely answer denying the necessity of a taking or the public purpose of the project, the court may enter a judgment of condemnation by default.

§ 505. HEARING TO DETERMINE NECESSITY ON PROPOSED TAKING; JUDGMENT; APPEAL AND STAY

~~(a) The superior judge to whom the petition is presented shall fix the time for hearing, which shall not be more than 60 nor less than 40 days from the date he or she signs the order. Likewise, he or she shall fix the place for hearing, which shall be the superior court or any other place within the county in which the land in question is located. If the superior judge to whom the petition is presented cannot hear the petition at the time set he or she shall call upon the administrative judge to assign another superior judge to hear the cause at the time and place assigned in the order. Hearing.~~

(1) If a timely answer is filed denying the necessity of a taking or the public purpose of the project, the court shall schedule a final hearing to determine the contested issues, which shall be held within 90 days of expiration of the deadline for filing an answer by the last interested person served. Absent good cause shown, the final hearing date shall not be postponed beyond the 90-day period.

(2) At the hearing, the agency shall present evidence on any contested issue.

(3)(A) The court shall presume that the agency's determination of the necessity for and public purpose of a project is correct, unless a party demonstrates bad faith or abuse of discretion on the part of the agency.

(B) The court shall review de novo the agency's determination of the need to take a particular property and to take it to the extent proposed.

~~(b) If the land proposed to be acquired extends into two or more counties, then a single hearing to determine necessity may be held in one of the counties. In fixing the place for hearing, the superior judge to whom the petition is presented shall take into consideration the needs of the parties. Discovery. Absent a showing of unfair prejudice, the right to discovery on the issues of necessity and public purpose shall be limited to the plans, surveys, studies, reports, data, decisions, and analyses relating to approving and designing the highway project.~~

(c) Judgment. If the court finds a proposed taking lawful, it shall issue a judgment of condemnation describing the property authorized to be taken, declaring the right of the agency to take the property by eminent domain, and declaring that title to the property will be transferred to the agency after the agency, in accordance with section 506 of this chapter, has recorded the judgment, tendered or deposited payment, and notified the owner of the recording and payment. The court may in its judgment modify the extent of a proposed taking.

(d) Litigation expenses. The court shall award the property owner his or her costs and reasonable litigation expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding, if the final judgment of the court is that the agency cannot acquire all of the property proposed to be taken by condemnation, or if the agency abandons the condemnation proceeding other than under a settlement. If the final judgment of the court substantially reduces the scope of the agency's proposed taking, the court shall award the owner a share of his or her costs and reasonable litigation expenses that is proportional to the reduction in the proposed taking.

(e) Appeal, stay. A judgment of condemnation may be appealed or stayed as a final judgment for possession of real estate under the Vermont Rules of Civil Procedure and the Vermont Rules of Appellate Procedure. A judgment that that the agency cannot acquire the property by condemnation likewise may be appealed.

§ 506. SERVICE AND PUBLICATION OF NECESSITY PETITION AND NOTICE OF HEARING; ANSWER RECORDING OF JUDGMENT OR NOTICE OF CONDEMNATION; PAYMENT; VESTING OF TITLE

~~(a)(1) The agency shall prepare a notice of the necessity hearing. The notice shall include the names of the municipalities in which the lands to be taken or affected are located; the names of all interested persons within the meaning of subdivision 501(2) of this chapter; and a brief statement identifying the proposed project and its location, and the date, time and place of the necessity hearing. The agency shall make service of copies of the petition, the notice of hearing and the survey (for the purposes of this section, "survey" means a plan, profile, or cross section of the proposed project) as follows:~~

~~(1) Upon interested persons in accordance with the Vermont Rules of Civil Procedure for service of process, except as stated in subsection (b) of this section and in section 519 of this title or, with respect to interested parties with no known residence or place of business within the state, by certified mail, return receipt requested. The copy of the survey that is served upon interested persons need include only the particular property in which those persons have an interest.~~

~~(2) One copy each upon the clerk, legislative body, and board of listers of each affected municipality by certified mail. The clerk shall record the notice of hearing in the municipal land records, at the agency's expense, and shall enter the names of the interested persons in the general index of transactions affecting the title to real estate. Within 15 business days of the issuance of a judgment of condemnation by the court or of the preparation of a~~

notice of condemnation by the agency in accordance with subdivision 503(e)(2) of this chapter, the agency shall:

(A) record the judgment or notice, including the description of the property taken, in the office of the clerk of the town where the land is situated; and

(B) tender to the property owner, or deposit with the court, the amount of the offer of just compensation prepared under subsection 503(b) of this chapter or any other amount agreed to by the owner.

(2) For the purposes of this chapter, if an interested person has not provided the agency identification information necessary to process payment, or if an interested person refuses an offer of payment, payment shall be deemed to be tendered when the agency makes payment into an escrow account that is accessible by the interested person upon his or her providing any necessary identification information.

~~(b) The agency also shall publish the notice of hearing in a newspaper of general circulation in the municipalities in which the proposed project lies. Publication shall be made once a week for three consecutive weeks on the same day of the week, the last publication to be not less than five days before the hearing. When service on an interested person cannot with due diligence be made within or outside the state, upon affidavit of the secretary of transportation or the secretary's designee that diligent inquiry has been made to find the interested person, the publication shall be deemed sufficient service on that person. The affidavit shall be accompanied by an affidavit of the person attempting service that the location of the interested person is unknown and that the interested person has no known agent upon whom service can be made. Title in the property shall vest in the state, and the agency may proceed with the project, upon the later of:~~

(1) the agency's complying with the requirements of subsection (a) of this section; and

(2) the agency's mailing or delivering to the owner a notice of taking stating that it has complied with the requirements of subsection (a) of this section.

~~(c) Compliance with these provisions of this title shall constitute sufficient notice to and service upon all interested persons and municipalities. Except in the case of agreed compensation, an owner's acceptance and use of a payment under this section does not affect his or her right to contest or appeal damages under sections 511-513 of this chapter, but shall bar the owner's right to contest necessity and public purpose.~~

~~(d) No service need be made upon any interested person or municipality that has stipulated to necessity in accordance with section 508 of this chapter. Upon the agency's recording of the judgment or notice of condemnation, the clerk with responsibility over land records shall enter the name of each property owner named in the judgment or notice as a grantor in the general index of transactions affecting the title to real estate. The agency shall comply with the provisions of 27 V.S.A. chapter 17 governing the composition and recording of project layout plats.~~

~~(e) Unless an answer denying the necessity or propriety of the proposed taking is filed by one or more parties served or appearing in the proceedings on or before the date set in the notice of hearing on the petition, the necessity and propriety shall be deemed to be conceded, and the court shall so find. [Repealed.]~~

#### ~~§ 507. HEARING AND ORDER OF NECESSITY CATTLE-PASSES~~

~~(a) At the time and place appointed for the hearing, the court, consisting of the superior judge signing the order or the other superior judge as may be assigned and, if available within the meaning of 4 V.S.A. § 112, the assistant judges of the county in which the hearing is held shall hear all persons interested and wishing to be heard. If any person owning or having an interest in the land to be taken or affected appears and objects to the necessity of taking the land included within the survey or any part of the survey, then the court shall require the agency of transportation to proceed with the introduction of evidence of the necessity of the taking. The burden of proof of the necessity of the taking shall be upon the agency of transportation and shall be established by a fair preponderance of the evidence, and the exercise of reasonable discretion upon the part of the agency shall not be presumed. The court may cite in additional parties including other property owners whose interest may be concerned or affected and shall cause to be notified, the legislative body of all adjoining cities, towns, villages, or other municipal corporations affected by any taking of land or interest in land based on any ultimate order of the court. The court shall make findings of fact and file them and any party in interest may appeal under the Vermont Rules of Appellate Procedure adopted by the supreme court. The court shall, by its order, determine whether the necessity of the state requires the taking of the land and rights as set forth in the petition and may find from the evidence that another route or routes are preferable in which case the agency shall proceed in accordance with section 502 of this title and this section and may modify or alter the proposed taking in such respects as to the court may seem proper.~~

~~(b) By~~ In its order of condemnation, the court may also direct the agency of ~~transportation~~ to install passes under the highway as ~~specified in this chapter~~ for the benefit of the large modern farm properties, the fee title of which is owned by any party to the proceedings, where a reasonable need is shown by the owner. The court may consider evidence relative to present and anticipated future highway traffic volume, future land development in the area, and the amount and type of acreage separated by the highway in determining the need for an underpass of larger dimensions than a standard cattle-pass of reinforced concrete, metal, or other suitable material which provides usable dimensions five feet wide by six feet three inches high. Where a herd of greater than 50 milking cows is consistently maintained on the property, the court may direct that the dimensions of the larger underpass shall be eight feet in width and six feet three inches in height to be constructed of reinforced concrete, and the owner of the farm property shall pay one-fourth of the difference in overall cost between the standard cattle-pass and the larger underpass. Where the owner of the farm property desires an underpass of dimensions greater than eight feet in width and six feet three inches in height, the underpass may be constructed if feasible and in accordance with acceptable design standards, and the total additional costs over the dimensions specified shall be paid by the owner. The provisions of this section shall not be interpreted to prohibit the agency of ~~transportation~~ and the property owner from determining the specifications of a cattle-pass or underpass by mutual agreement at any time, either prior or subsequent to the date of the court's order. The owner of a fee title shall be interpreted to include lessees of so-called lease land.

#### § 508. STIPULATION OF NECESSITY

~~(a) A person or municipality owning or having an interest in lands or rights to be taken or affected, a municipality in which the land is to be taken or affected, and other interested persons may stipulate as to the necessity of the taking.~~

~~(b) The stipulation shall be an affidavit sworn to before a person authorized to take acknowledgments, and, in the case of a municipality, shall be executed by a majority of its legislative body. The stipulation shall be in a form approved by the attorney general and shall include but not be limited to the following:~~

- ~~(1) a recital that the person or persons executing the stipulation have examined the applicable plan and survey of the lands or rights to be taken;~~
- ~~(2) an explanation of the legal and property rights affected; and~~
- ~~(3) that the right of the person to adequate compensation is not affected by executing the stipulation.~~

~~(e) The stipulation shall be invalid unless within two years of the date of the stipulation an order of necessity is granted. [Repealed.]~~

#### § 509. PROCEDURE

~~(a) The stipulation shall be filed with the appropriate superior court, together with the petition for an order of necessity. Notice of the hearing on the petition shall be published in accordance with section 506 of this title. Other interested persons who have not stipulated to necessity shall be notified and served in accordance with section 506 of this title. The court may also cite in additional parties in accordance with section 507 of this title.~~

~~(b) If a person claiming to be affected or concerned files a notice of objection to a proposed finding of necessity prior to the date of the hearing, the court shall at the hearing determine if the person has an interest in lands or rights to be taken such as to be entitled to object to the proposed finding of necessity, and, if he is so affected or concerned, whether there is necessity for the taking, in accordance with section 507 of this title. Nothing in this section shall prohibit an interested person from consenting to necessity. The court may continue the hearing to allow proper preparation by the agency of transportation and interested parties.~~

~~(c) If all interested persons and municipalities stipulate as to the necessity of the taking, the court may immediately issue an order of necessity.~~

~~(d) Interested persons or municipalities who do not consent to necessity are entitled to a necessity hearing in accordance with the provisions of this chapter.~~

~~(e) A copy of the order finding necessity shall be mailed to each person and municipality who consented by stipulation to necessity, by certified mail, return receipt requested.~~

~~(f) The stipulation of necessity shall not affect the rights of the person with regard to fixing the amount of compensation to be paid in accordance with sections 511-514 of this title. However, the transportation board may enter into an agreement for purchase of lands or rights affected, provided the agreement is conditioned upon the issuance of an order of necessity. [Repealed.]~~

#### § 510. APPEAL FROM ORDER OF NECESSITY

~~(a) If the state, municipal corporation or any owner affected by the order of the court is aggrieved by the order, an appeal may be taken to the supreme court. In the event an appeal is taken according to these provisions from an order of necessity, its effect may be stayed by the superior court or the supreme court where the person requesting the stay establishes:~~

- ~~(1) that he or she has a likelihood of success on the merits;~~
- ~~(2) that he or she will suffer irreparable harm in the absence of the requested stay;~~
- ~~(3) that other interested parties will not be substantially harmed if a stay is granted; and~~
- ~~(4) that the public interest supports a grant of the proposed stay.~~

~~(b) If no stay is granted or, if a stay is granted, upon final disposition of the appeal, a copy of the order of the court shall be recorded within 30 days in the office of the clerk of each town in which the land affected lies.~~

~~(c) Thereafter for a period of one year, the agency of transportation may request the transportation board to institute proceedings for the condemnation of the land included in the survey as finally approved by the court without further hearing or consideration of any question of the necessity of the taking. In no event shall title to or possession of the appealing landowner's property pass to the state until there is a final adjudication of the issue of the necessity and propriety of the proposed taking.~~

~~(d) If the agency of transportation is delayed in requesting the transportation board to institute condemnation proceedings within the one year period by court actions or federal procedural actions, the time lost pending final determination shall not be counted as part of the one year necessity period. [Repealed.]~~

#### ~~§ 511. HEARING TO DETERMINE AMOUNT OF COMPENSATION DETERMINATION OF DAMAGES~~

~~(a) Following a determination of the necessity of the taking as above provided, when an Disputes between a property owner of land or rights and the agency of transportation are unable to agree on the amount of compensation to be paid, and if the agency of transportation desires to proceed with the taking, the transportation board as a result of a taking shall be resolved as follows:~~

~~(1) If the owner's demand exceeds the agency's offer of just compensation by \$25,000.00 or less, the owner may obtain a determination of damages by either:~~

~~(A) petitioning the transportation board, or~~

~~(B) filing a complaint or, if applicable, a motion to re-open a judgment of condemnation, in superior court.~~

~~(2) If the owner's demand exceeds the agency's offer of just compensation by more than \$25,000.00, the owner may obtain a determination~~

of damages by filing a complaint or, if applicable, a motion to re-open a judgment of condemnation, in superior court.

(3) A property owner may file a petition, complaint, or motion under subdivisions (1) or (2) of this subsection no later than 30 days after the date of the notice of taking required under subsection 506(b) of this chapter.

(4) A petition improperly filed with the board shall be transferred to the superior court and, upon such transfer, the owner shall be responsible for applicable court filing fees.

(b) The board or the court shall appoint a time and place in the a county where the land is situated for examining the premises and a hearing parties interested, giving the parties at least 10 days' written notice in writing to the person owning the land or having an interest in the land. At that time and place, a member or members of the transportation board shall hear any person having an interest in the land and desiring to be heard.

(b) If the land proposed to be acquired of the hearing. If the property taken extends into two or more counties, the board or court may hold a single hearing in one of the counties to determine compensation damages. In fixing the place for the hearing, the transportation board or court shall take into consideration consider the needs of the parties.

(c) Unless the parties otherwise agree or unless the board or the court determines that it is in the public interest to proceed on the question of damages, any proceedings to determine damages shall be stayed pending the final disposition of any appeal of the questions of necessity or public purpose.

(d) Upon demand, a party is entitled to a jury trial in superior court on the issue of damages.

(e) The board or the court shall first determine the total damages as between the agency and all interested persons claiming an interest in a subject property, and the agency may thereafter withdraw from further proceedings with respect to that property. The board or the court shall then determine any further questions in the matter, including the apportionment of damages among interested persons. Any board decision on damages shall include findings of fact, and shall be served on the parties immediately after its issuance.

§ 512. ORDER FIXING COMPENSATION PAYMENT FOLLOWING DECISION ON DAMAGES; INVERSE CONDEMNATION; RELOCATION ASSISTANCE CREDIT OF STATE PLEDGED

(a) Within 30 days after the compensation hearing, the board shall by its order fix the compensation to be paid to each person from whom land or rights

~~are taken. Within 30 days of the board's order a final decision on damages and the exhaustion or expiration of all appeal rights, the agency shall file and record the order in the office of the clerk of the town where the land is situated, deliver to each person a copy of that portion of the order directly affecting the person, and pay or tender the owner the amount, if any, by which the award to each the person entitled exceeds the amount previously paid or tendered by the agency. A person to whom a compensation award is paid or tendered under this subsection may accept, retain, and dispose of the award to his or her own use without prejudice to the person's right of appeal, as provided in section 513 of this title. Upon the payment or tender of the award as above provided, the agency may proceed with the work for which the land is taken.~~

~~(b) In the event the plaintiff prevails against the state in an action for inverse condemnation, arising under this title or as a result of the acquisition of real property for a program or project undertaken by a federal agency, or with federal financial assistance, the court shall determine an award or allow to the plaintiff as part of its judgment such sum as will, in the opinion of the court, reimburse the plaintiff for his or her reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the proceeding. [Repealed.]~~

~~(c) When federal funds are available to provide relocation assistance and payments to persons displaced as a result of federal and federally assisted programs, any state agency may match the federal funds to the extent provided by federal law and grant relocation assistance and payments in the instances and on the conditions set forth by federal law and regulations. [Repealed.]~~

(d) The credit of the state of Vermont is pledged to the payment of all amounts awarded or allowed under the provisions of the chapter, and these amounts shall be lawful obligations of the state of Vermont.

~~§ 513. APPEAL FROM ORDER FIXING COMPENSATION OF DAMAGES DECISION; JURY TRIAL~~

~~(a) A person or a municipal corporation interested in the lands affected by a relocation who is party dissatisfied with the a decision of the transportation board as to the amount or apportionment of damages awarded for the lands, may appeal to the a superior court where the land is situated within ninety 30 days after the report has been filed date of the decision, and any number of persons aggrieved may join in the appeal.~~

~~(b) Any person A party appealing the award of damages made by the transportation board, and the agency of transportation, shall be is entitled to a jury trial in the superior court upon demand.~~

(c) A party aggrieved by a superior court decision on damages under this section or section 511 of this chapter may appeal to the supreme court in accordance with the Vermont Rules of Appellate Procedure.

§ 514. AWARD OF COSTS IN DAMAGES ACTION; LITIGATION EXPENSES IN INVERSE CONDEMNATION ACTION

(a) When the appellant is allowed a sum greater than was awarded by the transportation board, the court shall tax costs against the agency of transportation. When the award fixed by the transportation board is upheld, the court shall tax costs against the appellant. The court shall fix the time for paying the damages awarded. If a damages award by a court is more than the agency's offer of just compensation or offer of judgment, whichever is greater, the court shall award the property owner his or her reasonable costs. If the damages award is less than or equal to the greater of the agency's offer of just compensation or offer of judgment, the court shall award the agency its reasonable costs.

(b) If a court renders judgment in favor of a property owner in an inverse condemnation action or if the agency effects a settlement of an inverse condemnation action, the court shall award the owner his or her reasonable costs and other litigation expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding.

§ 515a. EVIDENCE OF HIGHWAY COMPLETION

The lack of a certificate of completion of a highway shall not alone constitute conclusive evidence that a highway is not public. [Repealed.]

\* \* \*

§ 517. VESTING OF TITLE

Title to the lands taken, or other rights acquired, under this chapter, shall vest in the state upon the filing for record with the town clerk of the transportation board's order as provided in section 512 of this chapter, unless previously acquired by deed or other appropriate instrument. [Repealed.]

\* \* \*

§ 519. CONDOMINIUMS; COMMON AREAS AND FACILITIES

(a) For purposes of this section, the terms "apartment owner," "association of owners," "common areas and facilities" facilities, and "declaration" shall have the same meanings as in the Condominium Ownership Act, 27 V.S.A. chapter 15.

(b) Notwithstanding any other provision of law, whenever the agency under this chapter ~~5 of this title~~ proposes to acquire any common areas and facilities of a condominium, the association of owners shall constitute the interested person or persons interested in lands in lieu of the individual apartment owners for purposes of the necessity hearing, the compensation hearing, and any appeals therefrom.

(c) The agency shall serve one copy of the ~~necessity petition~~ complaint and summons upon the association of owners through one of its officers or agents, instead of upon the individual apartment owners.

(d) The agency shall make the compensation check payable to the association of owners, which shall then make proportional payments to the apartment owners as their interests appear in the declaration.

Sec. 3. 19 V.S.A. § 1(12) is amended to read:

(12) “Highways” are only such as are laid out in the manner prescribed by statute; or roads which have been constructed for public travel over land which has been conveyed to and accepted by a municipal corporation or to the state by deed of a fee or easement interest; or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located; or such as may be from time to time laid out by the agency or town. However, the lack of a certificate of completion of a state or town highway shall not alone constitute conclusive evidence that the highway is not public. The term “highway” includes rights-of-way, bridges, drainage structures, signs, guardrails, areas to accommodate utilities authorized by law to locate within highway limits, areas used to mitigate the environmental impacts of highway construction, vegetation, scenic enhancements, and structures. The term “highway” does not include state forest highways, management roads, easements, or rights-of-way owned by or under the control of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

\* \* \* Conforming Changes \* \* \*

Sec. 4. 5 V.S.A. § 652 is amended to read:

§ 652. ~~PETITION TO~~ SUPERIOR COURT

The secretary of transportation or the legislative body of a municipality, as defined in 24 V.S.A. § 2001, or the committee representing two or more municipalities, when authorized by vote of their legislative bodies, may ~~petition a~~ proceed in superior ~~judge~~ court as provided in 19 V.S.A. chapter 5, except as otherwise provided in this subchapter.

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Sec. 5. REPEAL

5 V.S.A. § 654 (answer in airport condemnation proceedings) and 10 V.S.A. § 959 (determination of damages for taking of land for flood control project) are repealed.

Sec. 6. 10 V.S.A. §§ 958 and 960 are amended to read:

§ 958. EMINENT DOMAIN; DETERMINING NECESSITY

(a) The commissioner of the department of environmental conservation may ~~petition~~ file a complaint in the superior court for any county in which a portion of the real estate lies to determine that necessity requires that the state acquire real estate within the state, including real estate held for public use in the name of the state or any municipality, for the purpose of flood control projects.

\* \* \*

(c) The ~~petition~~ complaint, the service thereof and the proceedings in relation thereto, including rights of appeal, shall conform with and be controlled by ~~chapter 5 of~~ Title 19 chapter 5.

§ 960. ENTRY AUTHORIZED

The commissioner of the department of environmental conservation or his or her authorized agents may enter upon any real estate at reasonable times and places for the purpose of making surveys or other investigations under this section, subsection 952(b) and sections 953, ~~957-959~~ 957-958, and 961 of this title. The owners of damaged real estate may recover for damages sustained by reason of the preliminary entry authorized by this section in an action at law against the commissioner.

Sec. 7. 24 V.S.A. § 4012 is amended to read:

§ 4012. EMINENT DOMAIN; EXEMPTION OF PROPERTY FROM EXECUTION

(a) An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided for the condemnation of land or rights therein ~~by the state transportation board~~ as set forth in 19 V.S.A. §§ ~~501-514~~ 500-514 and 519 and acts amendatory thereof or supplementary thereto. Property already devoted to a public use may be acquired, provided that no real property belonging to the

city, county, state, or any political subdivision thereof may be acquired without its consent.

\* \* \*

Sec. 8. 24 V.S.A. § 5104 is amended to read:

§ 5104. PURPOSES AND POWERS

(a) The authority may purchase, own, operate, or provide for the operation of land transportation facilities, and may contract for transit services, conduct studies, and contract with other governmental agencies, private companies, and individuals.

(b) The authority shall be a body politic and corporate with the powers incident to a municipal corporation under the laws of the state of Vermont consistent with the purposes of the authority, and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its functions, including, ~~but not limited to,~~ the following:

\* \* \*

(11) within its area of operation, to acquire by the exercise of the power of eminent domain any real property which it may have found necessary for its purposes, in the manner provided for the condemnation of land or rights therein as set forth in 19 V.S.A. §§ ~~501-514~~ 500-514 and 519.

\* \* \*

\* \* \* Transition Provision \* \* \*

Sec. 9. TRANSITION

(a) The state highway condemnation procedures of 19 V.S.A. chapter 5 in effect prior to July 1, 2012 shall continue to apply to all superior court and transportation board proceedings brought by the agency prior to July 1, 2012.

(b) With respect to any superior court proceeding brought by the agency on or after July 1, 2012 under 19 V.S.A. chapter 5, as amended by this act, the agency shall be required to demonstrate that it has satisfied the requirements of this act with respect to precondemnation appraisals, offers of just compensation, and negotiations with property owners.

Sec. 10. REPORT

By October 15, 2013, the agency shall submit to the house and senate committees on judiciary and on transportation a report listing:

(1) every acquisition of property, whether by agreement or through condemnation, for which the agency prepared a waiver valuation in fiscal year 2013;

(2) the value of the property estimated in the waiver valuation;

(3) whether an appraisal of the property was obtained by the agency or the property owner and, if so, the appraised value of the property;

(4) the date and the amount of the first offer made to the property owner;

(5) the date and the amount of the final payment to the property owner for the property; and

(6) whether the final payment to the property owner resulted from an agreement prior to the filing of a condemnation action, an agreement following the filing of a condemnation action, or a board or court decision on compensation.

#### Sec. 11. TRAINING OF TRANSPORTATION BOARD MEMBERS

(a) Within 30 days after the effective date of this act, the executive secretary of the transportation board shall arrange for transportation board members to be trained on:

(1) the methodology of condemnation appraisals;

(2) the law of Vermont, including court decisions, governing the determination of damages resulting from a condemnation for a state highway project; and

(3) provisions of the Uniform Relocation Assistance and Real Property Acquisition Properties Act related to the determination of damages.

(b) Within 30 days of a new member joining the board, the executive secretary of the board shall arrange for the new member to be trained as described in subsection (a) of this section.

\* \* \* Effective Date \* \* \*

#### Sec. 12. EFFECTIVE DATES

(a) This section, Sec. 9 (transition provision), and Sec. 11 (training of board members) of this act shall take effect on passage.

(b) All other sections shall take effect on July 1, 2012.

Thereupon, **Rep. Koch of Barre Town** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

First: In Sec. 2, in subdivisions 503(d)(7) and 511(a)(3), by striking “30” each place it appears and inserting in lieu thereof “90”

Second: In Sec. 2, by striking subsection 505(d) in its entirety and inserting in lieu thereof a new subsection (d) to read:

(d) Litigation expenses.

(1) If the court finds a proposed taking to be unlawful, or if the agency abandons the condemnation proceeding other than under a settlement, the court shall dismiss the complaint and award the property owner his or her costs and reasonable litigation expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding.

(2) If the court issues a judgment of condemnation that substantially reduces the scope of the agency’s proposed taking, the court shall award the property owner a share of his or her costs and reasonable litigation expenses that is proportional to the reduction in the proposed taking.

Which was agreed to.

#### **Rules Suspended; Senate Proposal of Amendment Concurred in**

##### **H. 556**

On motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to creating a private activity bond advisory committee

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to amend the bill as follows:

In Sec. 3, in 10 V.S.A. § 219(d), wherever it appears, by striking out the following: “or the governor-elect”

Which proposal of amendment was considered and concurred in.

#### **Rules Suspended; Bills Messaged to Senate Forthwith**

On motion of **Rep. Savage of Swanton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

##### **S. 99**

Senate bill, entitled

An act relating to supporting mobile home ownership, strengthening mobile home parks and preserving affordable housing;

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**S. 95**

Senate bill, entitled

An act relating to exemptions for newspaper deliverers from the unemployment statutes; relieving an employer's experience rating record of charges; studying the receipt of unemployment compensation between academic terms; allowing school employees to be paid wages over the course of a year; and requiring employers to furnish required work apparel

**J.R.S. 54**

Joint resolution, entitled

Joint resolution approving a land exchange in Alburgh and a lease with Camp Downer, Inc

**H. 485**

House bill, entitled

An act relating to establishing universal recycling of solid waste

**H. 523**

House bill, entitled

An act relating to revising the state highway condemnation law

**Recess**

At three o'clock and fifteen minutes in the afternoon, the Speaker declared a recess until five o'clock in the afternoon.

At five o'clock in the afternoon, the Speaker called the House to order.

**Rules Suspended; Bill Read Third Time; Passed in Concurrence  
With Proposal of Amendment; Rules Suspended and Bill was Ordered  
Messaged to the Senate Forthwith**

**S. 226**

Senate bill, entitled

An act relating to combating illegal diversion of prescription opiates and increasing treatment resources for opiate addiction

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence with proposal of amendment. The bill was read the third time and passed in concurrence with proposal of amendment and, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Rules Suspended; Proposal of Amendment Agreed to; Third Reading  
Ordered; Rules Suspended; Bill Read Third Time and Passed in  
Concurrence with Proposal of Amendment**

**S. 93**

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to labeling maple products

Was taken up for immediate consideration.

**Rep. McAllister of Highgate**, for the committee on Agriculture, to which had been referred the bill, recommended that the House propose to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Labeling of Maple Products \* \* \*

Sec. 1. FINDINGS

The general assembly finds and declares that for the purposes of the maple products labeling part of this act:

(1) Maple syrup production capacity has increased significantly in recent years.

(2) There is increased interest in maple syrup that is certified for food safety.

(3) The Vermont sugaring industry has requested the creation of a voluntary certification program.

Sec. 2. 6 V.S.A. § 488a is added to read:

§ 488a. VOLUNTARY CERTIFICATION

The secretary may establish by rule a voluntary program for maple syrup production certification which shall be made available upon the request of a person engaged in producing maple syrup or maple products, a dealer, or a processor. The secretary may obtain from the person engaged in producing maple syrup or maple products, the dealer, or the processor reimbursement for the cost of the inspection certification incurred by the agency. The reimbursement fee charged for certification shall be reasonably proportionate to the cost of performing the inspection.

\* \* \* Vermont's Working Landscape \* \* \*

Sec. 3. 6 V.S.A. chapter 207 is amended to read:

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CHAPTER 207. PROMOTION AND MARKETING OF VERMONT  
FOODS AND PRODUCTS

Subchapter 1. Agricultural Practices and Production

\* \* \*

Subchapter 2. The Vermont Working Lands Enterprise Program

§ 4603. LEGISLATIVE FINDINGS

The general assembly finds:

(1) The report issued by the Council on the Future of Vermont indicates that over 97 percent of Vermonters polled endorsed the value of the “working landscape” as key to our future.

(2) Vermont’s unique agricultural and forest assets—its working landscape—are crucial to the state’s economy, communities, character, and culture. These assets provide jobs, food and fiber, energy, security, tourism and recreational opportunities, and a sense of well-being. They contribute to Vermont’s reputation for quality, resilience, and self-reliance.

(3) Human activity involving Vermont’s agricultural and forestland has been integral to the development of Vermont’s economy, culture, and image. Sustainable land use will need to balance economic development demands with the other services the land provides, many of which have economic benefits beyond the agriculture and forest product sectors. Some of these benefits include clean air and water, recreational opportunities, ecosystem restoration, scenic vistas, and wildlife habitat.

(4) The agriculture and forest product sectors are similar and share many of the same challenges. There are potential benefits to be realized by the joining of these sectors in development planning and coordination, making policy decisions, and leveraging economic opportunities.

(5) The agriculture and forest product sectors provide renewable and harvestable products that form the basis of Vermont’s land-based economy. The conversion of these raw commodities into value-added products within our borders represents further economic and employment opportunities.

(6) Vermont is in the midst of an agricultural renaissance and is at the forefront of the local foods movement. The success has been due to the efforts of skilled and dedicated farmers, creative entrepreneurs, and the strategic investment of private and public funds.

(7) State investment in a given industry or economic sector is often essential to stimulate and attract additional private and philanthropic

investment. The combination of public, private, and foundation support can create enterprise opportunities that any one of them alone cannot. Grants issued as a result of No. 52 of the Acts of 2011 helped create jobs and economic activity in the agricultural sector. They also leveraged private and foundation investments.

(8) Vermont's land-based economy has proven to be a driver for Vermont's ongoing economic recovery.

(9) Value-added and specialty Vermont products are a growing source of revenue for Vermont's agricultural producers, many of whom have benefited from the existing infrastructure requirements of commodity producers. Both export and instate markets are necessary options for the agriculture and forest product sectors' economic development.

(10) The Vermont brand is highly regarded both nationally and internationally. Forest management is seen as crop management by those active in the forest product industry. An actively managed forest is a healthy and productive one.

(11) Vermont's agriculture and forest product sectors have not been perceived or treated as businesses by the traditional business and lending communities. They often lack available capital and financial package options that match their stage of development.

(12) Financial service and workforce development programs need to be customized to meet the unique needs of Vermont's agriculture and forest product sectors. Landowner education and labor skills training are also important for future productive management of forestlands.

(13) Scale is an important determining factor for the successful development of businesses that utilize Vermont's agriculture and forest products. Other limiting factors include labor and transportation costs, support services, resource base, and the regulatory environment.

(14) Workers' compensation, health care, energy costs, and regulatory requirements are a major concern to the agriculture and forest product sectors. For example, workers' compensation premiums for loggers may run as high as 48 percent of each dollar of wages.

(15) The amount of land in Vermont is finite, and part of its community and economic value is tied to the way it is used. Farmland and forestland that are developed for other uses affect the future viability of remaining farms and forest enterprises.

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(16) A forestland owner is often not the person actively engaged in the business of land management, such as planning, harvesting, or marketing the raw product, whereas in agricultural operations, the farmer often owns both the land and the business. Many farm operations have woodlots that have traditionally been used for syrup, timber, and firewood production.

(17) Vermonters' perception of and support for local wood and forest products is not at the same level as it is for local food. Public outreach and education efforts need to be created to address the public's perception of actively managed working lands and the people who perpetuate them. Over the last decade, consumers of wood products have become more interested in production and management methods, certification programs, and the source of the raw materials.

(18) Vermont's forest products industry has been in decline for many years, in part due to rising costs, a poor housing market, and a lack of manufacturing. The total value of the forest product industry has dropped from \$1.8 billion to \$1.3 billion since 2007. If wood chips were priced at the equivalent BTU replacement value of oil, they would command a higher price. The number of active sawmills has also declined to fewer than 20 today.

(19) The average age of Vermont's farmers and loggers is over 55 years and the average age of forestland owners is over 65. Attention needs to be brought to efforts that will ensure intergenerational succession and lower those averages. Economically viable farm and forest-based operations are critical to that goal. "Legacy" skills such as farming and logging are disappearing, as the children of those making a living from those skills often aspire to different employment opportunities.

(20) Access to land is a challenge for many, especially younger, people who want the opportunity to make a living from productive use of the land. Farm and forestland ownership is often out of reach for young people who do not have some sort of assistance.

(21) The Vermont forest product sector contains approximately 7,000 jobs, and approximately 57,000 jobs are in Vermont's food system.

(22) Regulations for forest product enterprises need to reflect a balance between economic development and responsible land use practices. There is a need to assess regulations involving the primary processing and transportation elements of the forest product sector.

(23) Seventy-six percent of Vermont's 4.5 million acres is forested, 84 percent of which is privately owned. Sustainable management of state-owned forestlands represents an opportunity for private sector forest businesses.

(24) Forest product sector representatives have identified needs for their industry including market development, additional secondary processing facilities, lower energy and transportation costs, and capital for growth enterprises as well as research and development for new and improved value-added products that make use of Vermont's forest resources. Factors such as health care, labor, and energy policies in Canada contribute to the northward flow of Vermont logs. Research is needed in order to develop strategies that will help keep Vermont's forest product sector competitive.

(25) Vermont's use value appraisal (current use) program is critically important to every component of Vermont's agriculture and forest product sectors. It also helps keep Vermont forestland productive and healthy through the requirement of active forest management plans.

(26) Dairy enterprises remain Vermont's leading source of agricultural revenues, with an estimated annual economic impact of over \$2 billion or approximately 75 percent of total gross agricultural output.

(27) Recent grants and educational programs have started to address the lack of slaughter and meat-processing facilities in the state; however, there continues to be a strong need to further these efforts.

#### § 4604. LEGISLATIVE INTENT

It is the intent of the general assembly in adopting this subchapter to:

(1) stimulate a concerted economic development effort on behalf of Vermont's agriculture and forest product sectors by systematically advancing entrepreneurship, business development, and job creation;

(2) recognize and build on the similarities and unique qualities of Vermont's agriculture and forest product sectors;

(3) increase the value of Vermont's raw and value-added products through the development of in-state and export markets;

(4) attract a new generation of entrepreneurs to Vermont's farm, food system, forest, and value-added chain by facilitating more affordable access to the working landscape;

(5) provide assistance to agricultural and forest product businesses in navigating the regulatory process;

(6) use Vermont's brand recognition and reputation as a national leader in food systems development, innovative entrepreneurship, and as a "green" state to leverage economic development and opportunity in the agriculture and forest product sectors;

(7) promote the benefits of Vermont's working lands, from the economic value of raw and value-added products to the public value of ecological stability, land stewardship, recreational opportunities, and quality of life;

(8) increase the amount of state investment in working lands enterprises, particularly when it leverages private and philanthropic funds; and

(9) support the people and businesses that depend on Vermont's renewable land-based resources and the sustainable and productive use of the land by coordinating and integrating financial products and programs.

#### § 4605. VERMONT WORKING LANDS ENTERPRISE FUND

There is created a special fund in the state treasury to be known as the "Vermont working lands enterprise fund." Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5:

(1) the fund shall be administered and the monies of the funds shall be expended by the Vermont working lands enterprise board created in section 4606 of this title;

(2) the fund shall be composed of moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public, approved by the board, and unexpended balances and any earnings shall remain in the fund from year to year; and

(3) the board shall make expenditures from the fund consistent with the duties and authority of the board established by section 4607 of this title.

#### § 4606. VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Creation and purpose. There is created a Vermont working lands enterprise board, which for administrative purposes shall be attached to the agency of agriculture, food and markets. The board shall:

(1) serve as a driving force for working lands enterprise development in Vermont;

(2) systematically advance entrepreneurship, business development, and job creation in the agricultural and forest product sectors by:

(A) supporting development of new land-based and value-added businesses;

(B) supporting the expansion of existing businesses and potentially high-growth enterprises;

(C) providing infrastructure investments that will support cluster development and spur business success and rural prosperity;

(D) acting as a clearinghouse of support for innovation and growth in the food, farm, forest product and biomass energy sectors including:

(i) regulatory issues;

(ii) financial and investment opportunities; and

(iii) technical assistance services;

(E) supporting outreach and communication of enterprise opportunities;

(3) evaluate quality and breadth of workforce development, technical assistance, and investment service programs to the agriculture and forest product service sectors;

(4) target financial products that are in line with infrastructure investment priorities;

(5) establish and evaluate criteria and benchmarks of investments and actions; and

(6) solicit appropriate perspectives and information from experts.

(b) Organization of board. The board shall be composed of the following members:

(1) the secretary of agriculture, food and markets or designee, who shall serve as chair;

(2) the secretary of commerce and community development or designee;

(3) the commissioner of forests, parks and recreation or designee;

(4) eleven members appointed by the Vermont agriculture and forest products development board as follows:

(A) four members each representing one of the four highest-grossing agricultural commodities produced in Vermont as determined on the basis of annual gross cash sales;

(B) three members representing the forest products industry; and

(C) four members each representing one of the following four sectors:

(i) energy;

(ii) workforce development;

(iii) private capital; and

(iv) distribution and marketing;

(5) two members, one appointed by each of the two largest membership-based agricultural organizations in Vermont;

(6) the following three members, who shall serve as ex officio, non-voting members:

(A) the manager of the Vermont economic development authority or designee;

(B) the executive director of the Vermont sustainable jobs fund or designee; and

(C) the executive director of the Vermont housing conservation board or designee.

(c) Members appointed pursuant to subdivisions (b)(4) and (b)(5) of this section shall serve a term of three years or until his or her earlier resignation or removal for cause by a two-thirds vote of the sitting members of the board. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. A member shall not serve more than three consecutive three-year terms.

(d) The board may elect officers, establish one or more committees or subcommittees, and adopt such procedural rules as it shall determine necessary and appropriate to perform its work.

(e) A majority of the sitting members shall constitute a quorum, and action taken by the board may be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(f) Private-sector members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each member shall be reimbursed from the fund for his or her actual and necessary expenses incurred in carrying out his or her duties.

#### § 4607. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

The Vermont working lands enterprise board shall have the authority:

(1) to establish an application process and eligibility criteria for awarding grants, loans, incentives, and other investment in agricultural and forestry enterprises and in food and forest systems;

(2) to award grants and loans and to recommend incentives that support the purposes of the board under subsection 4606(a) of this title;

(3) to develop application criteria that will encourage individuals and enterprises that have not availed themselves of these opportunities in the past to apply for such grants, loans, and incentives;

(4) to give priority for awarding grants, loans, and incentives to applicants who have not recently received the same from the state or a state-funded entity;

(5) to establish formal public-private partnerships, coordinate the joint provision of investment and services with public or private entities, and enter into performance contracts with one or more persons in order to provide investment and services to agricultural and forestry enterprises, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) organizational, regulatory, and development assistance; and

(D) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies;

(6) to identify workforce needs and programs in order to develop training and incentive opportunities for the agriculture and forest product sectors;

(7) to identify strategic statewide infrastructure and investment priorities considering:

(A) leveraging opportunities;

(B) economic clusters;

(C) return-on-investment analysis; and

(D) other considerations the board determines appropriate;

(8) to pursue and accept grants or other funding from any public or private source and to administer such grants or funding consistent with their terms;

(9) to promote the products and services it provides to as many people and land-based enterprises as possible;

(10) to use the services and staff of the agency of agriculture, food and markets to assist in the performance of the board's duties, with the concurrence of the secretary of agriculture, food and markets; and

(11) to contract for support, technical, or other professional services necessary to perform its duties pursuant to this section.

Sec. 4. INITIAL APPOINTMENTS TO VERMONT WORKING LANDS ENTERPRISE BOARD

Notwithstanding any provision of law to the contrary:

(1) the initial members of the Vermont working lands enterprise board to be appointed pursuant to 6 V.S.A. § 4606(b)(4)–(5) shall be appointed as follows:

(A) of the eleven members of the board appointed by the Vermont agriculture and forest products development board:

(i) four members shall be appointed to an initial term of one year;

(ii) four members shall be appointed to an initial term of two years; and

(iii) three members shall be appointed to an initial term of three years; and

(B) of the two members appointed by the two largest membership-based agricultural organizations in Vermont:

(i) the member representing the organization with the largest membership shall be appointed for an initial term of two years; and

(ii) the member representing the organization with the second largest membership shall be appointed for an initial term of three years; and

(2) the initial one-year and two-year member terms authorized in subdivisions (1)(A) and (1)(B) of this section shall not qualify as a full-term for purposes of the three-term limit established in 6 V.S.A. § 4606(c).

Sec. 5. REPEAL

6 V.S.A. chapter 162, subchapter 1 (Vermont agricultural innovation center) is repealed.

Sec. 6. 6 V.S.A. § 2966 is amended to read:

§ 2966. AGRICULTURAL AND FOREST PRODUCTS DEVELOPMENT BOARD; ORGANIZATION; DUTIES AND AUTHORITY

(a) Purpose. The purpose of this section is to create a permanent Vermont agricultural and forest products development board that is authorized and empowered as the state's primary agricultural and forest products development entity.

(1) The board is charged with:

(A) optimizing the agricultural and forestry use of Vermont lands and other agricultural resources;

\* \* \*

(2) The board shall:

(A) review existing strategies and plans and develop, ~~implement~~, and continually update a comprehensive statewide plan to guide and encourage agricultural and forest products development and new and expanded markets for agricultural and forest products;

(B) advise and make recommendations to the secretaries of relevant state agencies, the governor, the director of the state experiment station, the University of Vermont extension service, and the general assembly on the adoption and amendment of laws, regulations, and governmental policies that affect agricultural development, land use, access to capital, the economic opportunities provided by Vermont agriculture and forest products, and the well-being of the people of Vermont;

(C) monitor and report on Vermont's progress in achieving the agricultural economic development goals identified by the board; ~~and~~

(D) balance the needs of production methods with the opportunities to market products that enhance Vermont agriculture and forest products; and

(E) prepare a comprehensive report, in consultation with the agency of agriculture, food and markets, indicating the progress made by the working lands enterprise board with regard to all activities authorized by this section. The report shall be presented to the senate and house committees on agriculture, the senate committee on economic development, housing and general affairs, and the house committee on commerce and economic development on or before January 15, 2013.

(b) Board created. The Vermont agricultural and forest products development board is hereby created. The exercise by the board of the powers conferred upon it in this section constitutes the performance of essential governmental functions.

(c) Powers and duties. The board shall have the authority and duty to:

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\* \* \*

(5) obtain information from other planning entities, including the ~~farm-to-plate~~ farm to plate investment program;

\* \* \*

(d) Comprehensive agricultural and forest products economic development plan.

(1) Using information available from previous and ongoing agricultural and forest products development planning efforts, such as the ~~farm-to-plate~~ farm to plate investment program's strategic plan, and the board's own data and assumptions, the board shall develop and implement a comprehensive agricultural and forest products economic development plan for the state of Vermont. The plan shall include, at minimum, the following:

(A) an assessment of the current status of agriculture and forestry in Vermont;

(B) current and projected workforce composition and needs;

(C) a profile of emerging business and industry sectors projected to present future agricultural and forest products economic development opportunities, and a cost-benefit analysis of strategies and resources necessary to capitalize on these opportunities;

(D) a profile of current components of physical and social infrastructure affecting agricultural and forest products economic development;

(E) a profile of government-sponsored programs, agricultural and forest products economic development resources, and financial incentives designed to promote and support agricultural and forest products economic development, and a cost-benefit analysis of continued support, expansion, or abandonment of these programs, resources, and incentives;

(F) the use of the Vermont brand to further agricultural and forest products economic development;

\* \* \*

(2) Based on its research and analysis, the board shall establish in the plan a set of clear strategies with defined and measurable outcomes for agricultural and forest products economic development, the purpose of which shall be to guide long-term agricultural and forest products economic development policymaking and planning.

\* \* \*

(4) The board shall conduct a periodic review and revision of the comprehensive agricultural and forest products economic development plan as often as is necessary in its discretion, but at minimum every five years, to ensure the plan remains current, relevant, and effective for guiding and evaluating agricultural and forest products economic development policy.

\* \* \*

(e) Annual report. The board shall make available a report, at least annually, to the administration, the house committee on agriculture, the senate committee on agriculture, the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the people of Vermont on the state's progress toward attaining the goals and outcomes identified in the comprehensive agricultural and forest products economic development plan.

(f) Composition of board.

(1) The board shall be composed of ~~12~~ 16 members. In making appointments to the board pursuant to this section, the governor, the speaker of the house, and the president pro tempore of the senate shall coordinate their selections to ensure, to the greatest extent possible, that the board members selected by them reflect the following qualities:

(A) proven leadership in a broad range of efforts and activities to promote and improve the Vermont agricultural and forest products economy and the quality of life of Vermonters;

(B) demonstrated innovation, creativity, collaboration, pragmatism, and willingness to make long-term commitments of time, energy, and effort;

(C) geographic, gender, ethnic, social, political, and economic diversity;

(D) diversity of agricultural and forest products enterprise location, size, and sector of the for-profit agricultural and forest products business community members; and

(E) diversity of interest of the nonprofit or nongovernmental organization community members.

(2) Members of the board shall include the following:

(A) ~~four~~ five members appointed by the governor:

(i) a person with expertise in rural economic development issues;

(ii) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture;

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(iii) a person familiar with the agricultural tourism industry; ~~and~~  
(iv) an agricultural lender; and  
(v) a person with expertise and professional experience in forest products manufacturing.

(B) ~~four~~ six members appointed by the speaker of the house of representatives:

(i) a person who produces an agricultural commodity other than dairy products;

(ii) a person who creates a value-added product using ingredients substantially produced on Vermont farms;

(iii) a person with expertise in sales and marketing; ~~and~~

(iv) a person representing the feed, seed, fertilizer, or equipment enterprises;

(v) a forester; and

(vi) a sawmill operator.

(C) ~~four~~ five members appointed by the committee on committees of the senate:

(i) a representative of Vermont's dairy industry who is also a dairy farmer;

(ii) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;

(iii) a representative from a Vermont agricultural advocacy organization; ~~and~~

(iv) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture; and

(v) a logger.

(3) The secretary of agriculture, food and markets or his or her designee shall be a nonvoting, ex officio member. The secretary may provide staff support from the agency of agriculture, food and markets as resources permit.

(4) The secretary of commerce and community development or his or her designee shall be a nonvoting, ex officio member.

\* \* \*

Sec. 7. APPROPRIATIONS

(a) The amount of \$1,700,000.00 is appropriated from the general fund to the Vermont working lands enterprise fund established in 6 V.S.A. § 4605 in the amounts and for the purposes as follow:

(1) \$550,000.00 for enterprise grants to entrepreneurs, including grants to leverage private capital, jump-start new businesses, help beginning farmers access land, and support diversification projects that add value to farm and forest commodities. This initial sum is intended to fund an enterprise grant pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(2) \$350,000.00 for wraparound services to growth companies, including technical assistance, business planning, financial packaging, and other services required by companies ready to transition to the next stage of growth. This initial sum is intended to fund a growth company services pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(3) \$800,000.00 for state infrastructure investments, including investment in private and nonprofit sectors for creative diversification projects, value-added manufacturing, processing, storage, distribution, and collaborative ventures. This initial sum is intended to fund an infrastructure investment pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(b) The amount of \$382,400.00 is appropriated from the general fund to the agency of agriculture, food and markets to provide funding for support staff, including a wraparound services advisor and regulatory ombudsman, and for fiscal management and operations costs. The agency shall utilize the funds appropriated to perform its full duties to the Vermont working lands enterprise board.

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 5 (repeal of agriculture innovation center) shall take effect on March 31, 2013.

and that after passage, the title of the bill be amended to read: “An act relating to miscellaneous agricultural subjects”

**Rep. Toll of Danville**, for the committee on Appropriations, recommended that the bill ought to pass in concurrence with proposal of amendment as recommended by the committee on Agriculture.

Thereupon, the bill was read the second time and the report of the committees on Agriculture and Appropriations agreed to and third reading ordered.

On motion of **Rep. Savage of Milton**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence with proposal of amendment.

**Rules Suspended Senate Proposal of Amendment Not Concurred in;  
Committee of Conference Requested and Appointed**

**H. 780**

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to compensation for certain state employees

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to the bill by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Exempt Employees in the Executive Branch \* \* \*

Sec. 1. RESTORATION OF SALARY

(a) The amount equal to the three-percent reduction in salaries taken on July 1, 2010 by exempt employees in the executive branch who earned less than \$60,000.00 annually may be restored to those salaries in fiscal year 2013.

(b) The amount equal to the five-percent reduction in salaries taken on January 1, 2009 by exempt employees in the executive branch who earned \$60,000.00 or more annually may be restored to those salaries in fiscal year 2013.

(c) If the secretary of administration determines that the salary of an exempt employee in the executive branch who earns less than \$60,000.00 annually and was hired or promoted after July 1, 2010 reflects a three-percent reduction in pay, the secretary may restore the amount equal to the three-percent reduction to that salary in fiscal year 2013.

(d) If the secretary of administration determines that the salary of an exempt employee in the executive branch who earns \$60,000.00 or more annually and was hired or promoted after January 1, 2009 reflects a five-percent reduction in pay, the secretary may restore the amount equal to the five-percent reduction to that salary in fiscal year 2013.

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 Sec. 2. COST-OF-LIVING ADJUSTMENTS

(a) Exempt employees in the executive branch earning less than \$60,000.00 annually may receive a cost-of-living adjustment in fiscal year 2013 of two percent.

(b) Exempt employees in the executive branch earning \$60,000.00 or more annually may or may not receive a cost-of-living adjustment in fiscal year 2013.

(c) Exempt employees in the executive branch may receive a cost-of-living adjustment in fiscal year 2014.

## Sec. 3. RATE OF ADJUSTMENT

For purposes of determining annual salary adjustments, special salary increases, and bonuses under 32 V.S.A. §§ 1003(b) and 1020(b), the “total rate of adjustment available to classified employees under the collective bargaining agreement” shall be deemed to be 2.85 percent in fiscal year 2013 and 3.7 percent in fiscal year 2014.

\* \* \* Veterans' Home \* \* \*

## Sec. 4. 32 V.S.A. § 1003(b)(1) is amended to read:

(1) Heads of the following departments, ~~offices~~ and agencies:

	<del>Base</del>	<u>Base</u>
	<del>Salary</del>	<u>Salary</u>
	<del>as of</del>	<u>as of</u>
	<del>July 8,</del>	<u>July 1,</u>
	<del>2007</del>	<u>2012</u>
(A) Administration	<del>\$90,745</del>	<u>\$90,745</u>
(B) Agriculture, food and markets	<del>90,745</del>	<u>90,745</u>
(C) <del>Banking, insurance, securities,</del> <del>and health care administration</del> <u>Financial</u> <u>regulation</u>	<del>84,834</del>	<u>84,834</u>
(D) Buildings and general services	<del>84,834</del>	<u>84,834</u>
(E) Children and families	<del>84,834</del>	<u>84,834</u>
(F) Commerce and community development	<del>90,745</del>	<u>90,745</u>
(G) Corrections	<del>84,834</del>	<u>84,834</u>

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(H) Defender general	76,953	<u>84,834</u>
(I) Disabilities, aging, and independent living	84,834	<u>84,834</u>
(J) <u>Economic, housing, and community</u> development	76,953	<u>76,953</u>
(K) Education	84,834	<u>84,834</u>
(L) Environmental conservation	84,834	<u>84,834</u>
(M) Finance and management	84,834	<u>84,834</u>
(N) Fish and wildlife	76,953	<u>76,953</u>
(O) Forests, parks and recreation	76,953	<u>76,953</u>
(P) Health	84,834	<u>84,834</u>
(Q) <del>Housing and community affairs</del>	76,953	<u>[Repealed.]</u>
(R) Human resources	84,834	<u>84,834</u>
(S) Human services	90,745	<u>90,745</u>
(T) Information and innovation	84,834	<u>84,834</u>
(U) Labor	84,834	<u>84,834</u>
(V) Libraries	76,953	<u>76,953</u>
(W) Liquor control	76,953	<u>76,953</u>
(X) Lottery	76,953	<u>76,953</u>
(Y) Mental Health	84,834	<u>84,834</u>
(Z) Military	84,834	<u>84,834</u>
(AA) Motor vehicles	76,953	<u>76,953</u>
(BB) Natural resources	90,745	<u>90,745</u>
(CC) Natural resources board chairperson	76,953	<u>76,953</u>
(DD) Public Safety	84,834	<u>84,834</u>
(EE) Public service	84,834	<u>84,834</u>
(FF) Taxes	84,834	<u>84,834</u>
(GG) Tourism and marketing	76,953	<u>76,953</u>
(HH) Transportation	90,745	<u>90,745</u>
(II) Vermont health access	84,834	<u>84,834</u>

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(JJ) ~~Veterans~~ Veterans' home                      76,953      84,834

\* \* \* Judicial Branch \* \* \*

Sec. 5. 32 V.S.A. § 1003(c) is amended to read:

(c) The annual salaries of the officers of the judicial branch named below shall be as follows:

	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 8,</u> <u>2007</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 1,</u> <u>2012</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 14,</u> <u>2013</u>
(1) Chief justice of supreme court	<del>\$135,421</del>	<u>\$139,280</u>	<u>\$144,434</u>
(2) Each associate justice	<del>129,245</del>	<u>132,928</u>	<u>137,847</u>
(3) Administrative judge	<del>129,245</del>	<u>132,928</u>	<u>137,847</u>
(4) Each superior judge	<del>122,867</del>	<u>126,369</u>	<u>131,045</u>
(5) <del>Each district judge</del>	<del>122,867</del>	[Repealed.]	
(6) Each magistrate	<del>92,641</del>	<u>95,281</u>	<u>98,807</u>
(7) Each judicial bureau hearing officer	<del>92,641</del>	<u>92,641</u>	<u>92,641</u>

Sec. 6. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES

(a)(1) The compensation of each assistant judge of the superior court shall be ~~\$142.04~~ \$146.09 a day as of ~~July 8, 2007,~~ July 1, 2012 and \$151.49 a day as of July 14, 2013 for time spent in the performance of official duties and necessary expenses as allowed to classified state employees. Compensation under this section shall be based on a two-hour minimum and hourly thereafter.

\* \* \*

Sec. 7. 32 V.S.A. § 1142 is amended to read:

§ 1142. PROBATE JUDGES

(a) The annual salaries of the probate judges in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

		<u>Annual</u>	<u>Annual</u>
		<u>Salary</u>	<u>Salary</u>
		<u>as of</u>	<u>as of</u>
		<u>July 1,</u>	<u>July 14,</u>
		<u>2012</u>	<u>2013</u>
(1) Addison	\$48,439	\$49,820	\$51,663
(2) Bennington	61,235	62,980	65,310
(3) Caledonia	42,956	44,180	45,815
(4) Chittenden	91,395	105,104	108,993
(5) Essex	12,000	12,342	12,799
(6) Franklin	48,439	49,820	51,663
(7) Grand Isle	12,000	12,342	12,799
(8) Lamoille	33,816	34,780	36,067
(9) Orange	40,214	41,360	42,890
(10) Orleans	39,300	40,420	41,916
(11) Rutland	86,825	89,300	92,604
(12) Washington	66,718	68,619	71,158
(13) Windham	53,923	55,460	57,512
(14) Windsor	73,116	75,200	77,982

\* \* \*

~~(c) A probate judge whose salary is less than 50 percent of the salary of the most highly paid probate judge shall be eligible only for the least expensive medical benefit plan option available to state employees or may apply the state share of the premium for which the judge is eligible toward the purchase of another state or private health insurance plan. A probate judge whose salary is less than 50 percent of the salary of the most highly paid probate judge may participate in other state employee benefit plans~~ All probate judges, regardless of the number of hours worked annually, shall be eligible to participate in all employee benefits that are available to exempt employees of the judicial department.

Sec. 8. COURT ADMINISTRATOR; WEIGHTED CASELOAD STUDY

The court administrator shall conduct a weighted caseload study of the probate division and report its findings to the senate and house committees on government operations by January 31, 2013.

\* \* \* Sheriffs \* \* \*

Sec. 9. 32 V.S.A. § 1182 is amended to read:

§ 1182. SHERIFFS

(a) The annual salaries of the sheriffs of all counties except Chittenden shall be ~~\$65,812.00~~ \$67,688.00 as of ~~July 8, 2007~~ July 1, 2012 and \$70,192.00 as of July 14, 2013. The annual salary of the sheriff of Chittenden County shall be ~~\$69,646.00~~ \$71,631.00 as of ~~July 8, 2007~~ July 1, 2012 and \$74,281.00 as of July 14, 2013.

(b) Compensation under subsection (a) of this section shall be reduced by 10 percent for any sheriff who has not completed the full-time training requirements under 20 V.S.A. § 2358.

\* \* \* State's Attorneys \* \* \*

Sec. 10. 32 V.S.A. § 1183 is amended to read:

§ 1183. STATE'S ATTORNEYS

(a) The annual salaries of state's attorneys shall be:

	<u>Annual</u> <u>Salary</u>	<u>Annual</u> <u>Salary</u>	<u>Annual</u> <u>Salary</u>
	<u>as of</u>	<u>as of</u>	<u>as of</u>
	<u>July 8,</u>	<u>July 1,</u>	<u>July 14,</u>
	<u>2007</u>	<u>2012</u>	<u>2013</u>
(1) Addison County	<del>\$89,020</del>	<u>\$91,557</u>	<u>\$94,945</u>
(2) Bennington County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>
(3) Caledonia County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>
(4) Chittenden County	<del>93,069</del>	<u>95,721</u>	<u>99,263</u>
(5) Essex County	<del>66,766</del>	<u>68,669</u>	<u>71,210</u>
(6) Franklin County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>
(7) Grand Isle County	<del>66,766</del>	<u>68,669</u>	<u>71,210</u>
(8) Lamoille County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>
(9) Orange County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>

(10) Orleans County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>
(11) Rutland County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>
(12) Washington County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>
(13) Windham County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>
(14) Windsor County	<del>89,020</del>	<u>91,557</u>	<u>94,945</u>

(b) In settlement of their accounts the commissioner of finance and management shall allow the state's attorneys the expense of printing briefs in cases in which the state's attorney has represented the state and their necessary and actual expenses under the rules and regulations pertaining to classified state employees.

\* \* \* Appropriations \* \* \*

#### Sec. 11. PAY ACT FUNDING

The compensation provided in this act shall be funded by appropriations made in H.781 of the 2011–2012 session of the general assembly in Sec. B.1200 for fiscal year 2013 and in Sec. BB.1200 for fiscal year 2014.

\* \* \* Study \* \* \*

#### Sec. 12. COMMISSIONER OF HUMAN RESOURCES; JUSTICE SYSTEM; PAY PARITY REVIEW

(a) The commissioner of human resources, in consultation with the defender general, state's attorneys, and the court administrator, shall review and compare the annual salaries and professional duties of employees within the justice system, including the judicial bureau hearing officers and magistrates; the attorney general and assistant attorneys general; the defender general and public defenders; and the state's attorneys and deputy state's attorneys. Pursuant to the review and comparison, the commissioner shall specifically determine whether the salaries of the defender general, public defenders, and deputy state's attorneys should be increased relative to other employees within the justice system in light of the following factors: the complexity of their professional duties; the volume of their work, including, among other duties, court caseload; the quality of professional judgment and temperament expected by the public; and the rising cost of legal education and resulting loan debt.

(b) By March 15, 2013, the commissioner shall report his or her findings to the senate and house committees on appropriations and on government operations.

#### Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Atkins of Winooski** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Atkins of Winooski**  
**Rep. Devereux of Mount Holly**  
**Rep. Martin of Wolcott**

**Rules Suspended; Senate Proposal of Amendment Not Concurred in;  
 Committee of Conference Requested and Appointed**

**H. 771**

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to making technical corrections and other miscellaneous changes to education law

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Technical Corrections \* \* \*

Sec. 1. 16 V.S.A. § 212 is amended to read:

§ 212. COMMISSIONER'S DUTIES GENERALLY

The commissioner shall execute those policies adopted by the state board in the legal exercise of its powers and shall:

\* \* \*

(12) Distribute at his or her discretion upon request to approved independent schools appropriate forms and materials relating to the ~~Vermont state basic competency program~~ school quality standards for elementary and secondary pupils.

\* \* \*

Sec. 2. 16 V.S.A. § 261a(a) is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

\* \* \*

(7) employ a person or persons qualified to provide financial and student data management services for the supervisory union and the member districts;

\* \* \*

Sec. 3. 16 V.S.A. § 429 is amended to read:

§ 429. LOANS

~~The Notwithstanding subsection 4029(b) of this title, a school board may draw orders for loans without interest to the town town's general fund and the board of selectmen town selectboard may draw orders for loans without interest to the town school district fund, the loans to be secured by notes signed by the board of selectmen or the school directors as the case may be and stipulating the terms agreed upon between the board of school directors and the board of selectmen. The notes shall be payable on demand or mature within three months from date of issue a note signed by both the selectboard and the school board that stipulates mutually agreeable terms and conditions. A note shall be payable not more than 90 days after its issuance and shall be payable on demand anytime within the 90-day term. The school board shall report all loans to the department pursuant to subsection 4029(f) of this title. For purposes of this section, "town" and "selectboard" shall have the same meaning as they have in 1 V.S.A. § 139.~~

Sec. 4. 16 V.S.A. § 821 is amended to read:

§ 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY SCHOOLS OR PAY TUITION

(a) Elementary school. Each school district shall ~~provide, furnish, and~~ maintain one or more approved schools within the district in which elementary education for its resident pupils in kindergarten through grade six is provided unless:

(1) ~~The~~ the electorate authorizes the school board to provide for the elementary education of the pupils ~~residing in the district~~ by paying tuition in accordance with law to one or more public elementary schools in one or more school districts;

(2) ~~The~~ the school district is organized to provide only high school education for its pupils; or

(3) ~~Otherwise provided for by~~ the general assembly provides otherwise.

(b) ~~Kindergarten program. — Each school district shall provide public kindergarten education within the district. However, a school district may pay tuition for the kindergarten education of its pupils:~~

~~(1) at one or more public schools under subdivision (a)(1) of this section; or~~

~~(2) if the electorate authorizes the school board to pay tuition to one or more approved independent schools or independent schools meeting school quality standards, but only if the school district did not operate a kindergarten on September 1, 1984, and has not done so afterward. [Repealed.]~~

(c) Notwithstanding subsection (a) of this section, without previous authorization by the electorate, a school board ~~without previous authorization by the electorate~~ in a district that operates an elementary school may pay tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there due to geographic considerations. Within 30 days of the board's decision, a parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, who shall have authority to direct the school board to pay all, some, or none of the pupil's tuition and whose decision shall be final.

(d) Notwithstanding ~~subsection (a)~~ subdivision (a)(1) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary pupil at an approved independent elementary school or an independent school meeting school quality standards pursuant to sections 823 and 828 of this chapter upon notice given by the pupil's parent or legal guardian before April 15 for the next academic year.

#### Sec. 5. REPEAL

16 V.S.A. §§ 1381–1385 (appointment of medical inspectors; appropriation to state board of education) are repealed.

\* \* \* Joint Contract Schools; Technical Corrections \* \* \*

Sec. 6. 16 V.S.A. § 3447 is amended to read:

§ 3447. SCHOOL BUILDING CONSTRUCTION-STATE BONDS; CITY AS SCHOOL DISTRICT

The state treasurer may issue bonds under 32 V.S.A. chapter 13 ~~of Title 32~~ in such amount as may from time to time be appropriated to assist incorporated school districts, joint contract ~~school districts~~ schools, town school districts, union school districts, regional technical center school districts, and independent schools meeting school quality standards which serve as the public high school for one or more towns or cities, or combination thereof, and which both receive their principal support from public funds and are conducted within the state under the authority and supervision of a board of trustees, not less than two-thirds of whose membership is appointed by the selectboard of a town or by the city council of a city or in part by such selectboard and the remaining part by such council under the conditions and for the purpose set forth in sections 3447-3456 of this title. A city shall be deemed to be an incorporated school district within the meaning of sections 3447-3456 of this title.

Sec. 7. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

\* \* \*

(6) "School district" means a town, city, incorporated, interstate, or union school district or a joint contract school district established under subchapter 1 of chapter 11 of this title.

\* \* \*

Sec. 8. 16 V.S.A. § 572(d) is amended to read:

(d) Unless the school districts ~~which~~ that are parties to the contract have agreed upon a different method of allocating board members that is consistent with law, the allocation of the board members shall be as ~~follows~~ provided in this subsection. The school district ~~having~~ with the largest number of pupils attending the joint, contract, or consolidated school shall have three members on the joint board. Each other school district shall have at least one member on the joint board, and its total membership shall be determined by dividing the number of pupils from the school district with the largest enrollment by three, rounding off the quotient to the nearest whole number, which shall be called the "factor" and by then dividing the pupil enrollment of each of the other school districts by the "factor," rounding off this quotient to the nearest whole number, this number being the number of school directors on the joint board from each of the other school districts. Pupil enrollment for the purpose of determining the number of members on the joint board to which each school district is entitled shall be taken from the school registers on January 1 of the

calendar year in which the school year starts. ~~Such~~ The joint board shall annually select from among ~~the its~~ members ~~thereof~~ a chairman a chair and a clerk and shall also select a treasurer from among the treasurers of the contracting districts.

\* \* \* Prekindergarten Rules \* \* \*

Sec. 9. 16 V.S.A. § 829(1) is amended to read:

(1) To ensure that, before a school district begins or expands a prekindergarten education program that intends to enroll students who are included in its average daily membership, the district engage the community in a collaborative process that includes an assessment of the need for the program in the community and an inventory of the existing service providers; provided, however, if a district needs to expand a prekindergarten education program in order to satisfy federal law relating to the ratio of special needs children to children without special needs and if the law cannot be satisfied by any one or more qualified service providers with which the district may already contract, then the district may expand an existing school-based program without engaging in a community needs assessment.

Sec. 10. PREKINDERGARTEN EDUCATION; RULES

The state board of education shall amend its rules before January 1, 2013 to reflect the requirements of Sec. 10 of this act.

\* \* \* Harassment, Hazing, and Bullying \* \* \*

Sec. 11. REPEAL

16 V.S.A. 565 (harassment and hazing prevention policies) is repealed.

Sec. 12. 16 V.S.A. chapter 9, subchapter 5 is added to read:

Subchapter 5. Harassment, Hazing, and Bullying

§ 570. HARASSMENT, HAZING, AND BULLYING PREVENTION POLICIES

(a) State policy. It is the policy of the state of Vermont that all Vermont educational institutions provide safe, orderly, civil, and positive learning environments. Harassment, hazing, and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.

(b) Prevention policies. Each school board shall develop, adopt, ensure the enforcement of and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the commissioner.

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Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the commissioner.

(c) Notice. Annually, prior to the commencement of curricular and cocurricular activities, the school board shall provide notice of the policy and procedures developed under this subchapter to students, custodial parents or guardians of students, and staff members, including reference to the consequences of misbehavior contained in the plan required by section 1161a of this title. Notice to students shall be in age-appropriate language and should include examples of harassment, hazing, and bullying. At a minimum, this notice shall appear in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for the school. The school board shall use its discretion in developing and initiating age-appropriate programs to inform students about the substance of the policy and procedures in order to help prevent harassment, hazing, and bullying. School boards are encouraged to foster opportunities for conversations between and among students regarding tolerance and respect.

(d) Duties of the commissioner. The commissioner shall:

(1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and

(2) establish an advisory council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The council shall report annually in January to the state board and the house and senate committees on education. The council shall include:

(A) the executive director of the Vermont Principals' Association or designee;

(B) the executive director of the Vermont School Boards Association or designee;

(C) the executive director of the Vermont Superintendents Association or designee;

(D) the president of the Vermont-National Education Association or designee;

(E) the executive director of the Vermont Human Rights Commission or designee;

(F) the executive director of the Vermont Independent Schools Association or designee; and

(G) other members selected by the commissioner.

(e) Definitions. In this subchapter:

(1) "Educational institution" and "school" mean a public school or an approved or recognized independent school as defined in section 11 of this title.

(2) "Organization," "pledging," and "student" have the same meanings as in subdivisions 140a(2), (3), and (4) of this title.

(3) "Harassment," "hazing," and "bullying" have the same meanings as in subdivisions 11(a)(26), (30), and (32) of this title.

(4) "School board" means the board of directors or other governing body of an educational institution when referring to an independent school.

#### § 570a. HARASSMENT

(a) Policies and plan. The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that harassment, as defined in subdivision 11(a)(26) of this title, is prohibited and may constitute a violation of the public accommodations act as more fully described in section 14 of this title.

(2) Consequences and appropriate remedial action for staff or students who commit harassment. At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints.

(3) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(4) A description of the circumstances under which harassment may be reported to a law enforcement agency.

(5) A procedure for investigating reports of violations and complaints. The procedure shall provide that, unless special circumstances are present and documented by the school officials, an investigation is initiated no later than one school day from the filing of a complaint and the investigation and determination by school officials are concluded no later than five school days from the filing of the complaint with a person designated to receive complaints under subdivision (7) of this section. All internal reviews of the school's initial determination, including the issuance of a final decision, shall, unless special circumstances are present and documented by the school officials, be completed within 30 days after the review is requested.

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(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to harassment.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

(8) A procedure for publicizing the availability of the Vermont human rights commission and the federal Department of Education's Office of Civil Rights and other appropriate state and federal agencies to receive complaints of harassment.

(9) A statement that acts of retaliation for the reporting of harassment or for cooperating in an investigation of harassment are unlawful pursuant to 9 V.S.A. § 4503.

(b) Independent review.

(1) A student who desires independent review under this subsection because the student is either dissatisfied with the final determination of the school officials as to whether harassment occurred or believes that, although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem shall make such request in writing to the headmaster or superintendent of schools. Upon such request, the headmaster or superintendent shall initiate an independent review by a neutral person selected from a list developed jointly by the commissioner of education and the human rights commission and maintained by the commissioner. Individuals shall be placed on the list on the basis of their objectivity, knowledge of harassment issues, and relevant experience.

(2) The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others.

(3) Upon the conclusion of the review, the reviewer shall advise the student and the school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution.

(4) The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records.

(5) The costs of the independent review shall be borne by the public school district or independent school.

(6) Nothing in this subsection shall prohibit the school board from requesting an independent review at any stage of the process.

(7) Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This subdivision shall not require exclusion of any evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.

(8) The commissioner may adopt rules implementing this subsection.

#### § 570b. HAZING

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that hazing, as defined in subdivision 11(a)(30) of this title, is prohibited and may be subject to civil penalties pursuant to subchapter 9 of chapter 1 of this title.

(2) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(3) A procedure for investigating reports of violations and complaints.

(4) A description of the circumstances under which hazing may be reported to a law enforcement agency.

(5) Appropriate penalties or sanctions or both for organizations that or individuals who engage in hazing and revocation or suspension of an organization's permission to operate or exist within the institution's purview if that organization knowingly permits, authorizes, or condones hazing.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to hazing.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

#### § 570c. BULLYING

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that bullying, as defined in subdivision 11(a)(32) of this title, is prohibited.

(2) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(3) A procedure for investigating reports of violations and complaints.

(4) A description of the circumstances under which bullying may be reported to a law enforcement agency.

(5) Consequences and appropriate remedial action for students who commit bullying.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to bullying.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure both for publicizing the availability of those people and clarifying that their designation does not preclude a student from bringing a complaint to any adult in the building.

#### Sec. 13. IMPLEMENTATION

School boards shall adopt and implement bullying prevention policies as required by Sec. 12 of this act no later than January 1, 2013.

\* \* \* Special Education Advisory Council \* \* \*

#### Sec. 14. 16 V.S.A. § 2945(a) is amended to read:

(a) There is created an advisory council on special education that shall consist of ~~17~~ 19 members. All members of the council shall serve for a term of three years or until their successors are appointed. Terms shall begin on April 1 of the year of appointment. A majority of the members shall be either individuals with disabilities or parents of children with disabilities.

(1) ~~Fifteen~~ Seventeen of the members shall be appointed by the governor with the advice of the commissioner of education. Among the gubernatorial appointees shall be:

\* \* \*

(J) a representative from the state child welfare department responsible for foster care; ~~and~~

(K) special education administrators; and

(L) two at-large members.

(2) In addition, two members of the general assembly shall be appointed, one from the house of representatives and one from the senate. The

speaker shall appoint the house member and the committee on committees shall appoint the senate member.

Sec. 15. IMPLEMENTATION

The governor shall appoint the two at-large members required by Sec. 14, 16 V.S.A. § 2945(a)(1)(L), of this act on or before July 1, 2012, provided that the initial term of one member shall end on March 31, 2014 and the initial term of the other member shall end on March 31, 2015.

\* \* \* Prekindergarten-16 Council; Afterschool Programs \* \* \*

Sec. 16. 16 V.S.A. § 2905(b) is amended to read:

(b) The council shall be composed of:

\* \* \*

(15) a member of the senate, who shall be selected by the committee on committees and shall serve until the beginning of the biennium immediately after the one in which the member is appointed; ~~and~~

(16) a member of the faculty of the Vermont State Colleges, the University of Vermont, or a Vermont independent college selected by United Professions AFT Vermont, Inc.; and

(17) a representative of after-school, summer, and expanded learning programs selected by the Vermont Center for Afterschool Excellence.

\* \* \* Regional Technical Center School Districts;

Unorganized Towns, Grants, and Gores \* \* \*

Sec. 17. 16 V.S.A. § 1572(b)(1) is amended to read:

(1) The makeup of the governing board. At least 60 percent of the board members shall be elected by direct vote of the voters, or chosen from member school district boards by the member school district boards, or a combination of the two. If the board is to have additional members, who may constitute up to 40 percent of the board, the additional members shall be appointed by the elected and chosen members from member school district boards for the purpose of acquiring expertise in areas they consider desirable. The appointed members may be selected from nominations submitted by the regional workforce investment board or other workforce organizations, or may be chosen without nomination by an organization. Notwithstanding any provision of law to the contrary, a resident of an unorganized town, grant, or gore that sits within the regional technical center school district who is otherwise eligible to vote under 17 V.S.A. § 2121 may vote for the board members and may be elected to or appointed as a member of the governing board;

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\* \* \* Audits \* \* \*

Sec. 18. 16 V.S.A. § 261a(a) is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

\* \* \*

(10) submit to the ~~town auditors~~ board of each member school district ~~or to the person authorized to perform the duties of an auditor for the school district~~, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount expended by the supervisory union for special education-related services, including:

(A) ~~A~~ a breakdown of that figure showing the amount paid by each school district within the supervisory union; and

(B) ~~A~~ a summary of the services provided by the supervisory union's use of the expended funds;

\* \* \*

Sec. 19. 16 V.S.A. § 323 is amended to read:

§ 323. AUDIT BY PUBLIC ACCOUNTANT

Annually, the supervisory union board shall employ a one or more public accountant accountants to audit the financial ~~statement~~ statements of the supervisory union and its member districts. The ~~audit~~ audits shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report of internal controls over financial reporting ~~that shall~~ to be provided to recipients of the financial statements. Any annual report of the supervisory union to member districts shall include notice that ~~an audit has~~ the audits have been performed and the time and place where the full report of the public accountant will be available for inspection and for copying at cost.

Sec. 20. 16 V.S.A. § 425 is amended to read:

§ 425. OTHER TOWN SCHOOL DISTRICT OFFICERS

Unless otherwise voted, the town clerk ~~and town auditors~~ shall by virtue of ~~their offices~~ the office perform the same duties for the town school district in addition to other duties assigned by this title.

Sec. 21. 16 V.S.A. § 491 is amended to read:

§ 491. ELECTION; NOTICE TO CLERK

At each annual meeting, an incorporated school district shall elect from among the legal voters of such district a moderator, collector, and treasurer, ~~one or three auditors~~ and may elect a clerk. All school officers shall enter upon their duties on July 1, following their election or appointment, ~~and~~. If a clerk is elected or appointed, then the clerk shall, within ten days after his election or appointment, give notice thereof to notify the town clerk within ten days of the election or appointment.

Sec. 22. 16 V.S.A. § 492(a) is amended to read:

(a) The powers, duties, and liabilities of the collector, treasurer, ~~auditors~~, prudential committee, and clerk shall be like those of a town collector, treasurer, ~~auditors~~, and board of school directors, and the school board clerk ~~of same~~, respectively.

Sec. 23. 16 V.S.A. § 563(10) is amended to read:

(10) Shall prepare and distribute to the electorate, not less than ten days prior to the district's annual meeting, a report of the conditions and needs of the district school system, including the superintendent's, supervisory union treasurer's, and school district treasurer's annual report for the previous school year; and the balance of any reserve funds established pursuant to 24 V.S.A. § 2804, ~~a summary of the town auditor's report as to fiscal years which are audited by town auditors as required by 24 V.S.A. § 1681, a summary of the public accountant's report as to fiscal years which are audited by a public accountant, and a notice of the time and place where the full report of the town auditor or the public accountant will be available for inspection and copying at cost. Each town auditor's and public accountant's report shall comply with 24 V.S.A. § 1683(a).~~ At a school district's annual meeting, the electorate may vote to provide notice of availability of the report required by this subdivision to the electorate in lieu of distributing the report. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual or special meeting.

Sec. 24. REPEAL

16 V.S.A. § 563(17) (responsibility of school boards for audits of school district finances) is repealed.

Sec. 25. 16 V.S.A. § 706m is amended to read:

§ 706m. TERMS OF OFFICE; ~~ELIMINATION OF OFFICE OF AUDITOR~~

(a) The terms of office of directors ~~and auditors~~ shall be three years after the first term and of all other officers shall be one year. ~~At the first annual meeting, one auditor shall be elected for a term of one year, one auditor for a term of two years, and one for a term of three years, or until their successors are chosen and qualified.~~

(b) ~~At any annual or special meeting warned for the purpose, the electorate may vote to eliminate the office of auditor and to employ instead a public accountant annually to audit the financial statements of the union school district.~~

Sec. 26. 16 V.S.A. § 706q(a) is amended to read:

(a) The powers, duties, and liabilities of the treasurer, ~~auditor~~, board of directors, and clerk shall be like those of a treasurer, ~~auditor~~, board of school directors, and clerk of a town school district.

Sec. 27. 16 V.S.A. § 706q(c) is amended to read:

(c) The board of directors shall prepare an annual report concerning the affairs of the union district and have it printed and distributed to the legal voters of the union at least ten days prior to the annual union district meeting. The report shall be filed with the clerk of the union district, and the town clerk of each member district. It shall include:

- (1) A statement of the board concerning the affairs of the union district;
- (2) The budget proposed for the next year;
- (3) A statement of the superintendent of schools for the union district concerning the affairs of the union;
- (4) A treasurer's report;
- (5) ~~A summary of an auditor's report prepared pursuant to subchapter 5 of chapter 51 of Title 24. The summary shall include a list of the fiscal years which are audited by the auditors and a notice of the time when and the place where the full report of the auditor will be available for inspection and copying at cost. The union district clerk shall distribute copies of the annual report as provided by 24 V.S.A. § 1173. [Repealed.]~~

Sec. 28. 17 V.S.A. § 2651b(a) is amended to read:

(a) A town may vote by ballot at an annual meeting to eliminate the office of town auditor. If a town votes to eliminate the office of town auditor, the selectboard shall contract with a public accountant, licensed in this state, to perform an annual financial audit of all funds of the town except the funds audited pursuant to 16 V.S.A. § 323. Unless otherwise provided by law, the selectboard shall provide for all other auditor duties to be performed. A vote to eliminate the office of town auditor shall remain in effect until rescinded by majority vote of the legal voters present and voting, by ballot, at an annual meeting duly warned for that purpose.

Sec. 29. 24 V.S.A. § 1681 is amended to read:

§ 1681. AUDITORS; DUTIES; MEETING

Town auditors shall meet at least ~~twenty-five~~ 25 days before each annual town meeting; to examine and adjust the accounts of all town ~~and town school district~~ officers and all other persons authorized by law to draw orders on the town treasurer. Such auditing shall include the account ~~which~~ that the treasurer is required to keep with the collector, the tax accounts of the collector, trust accounts where the town or any town officer, as such officer, is trustee or where the town is sole beneficiary, accounts relating to the town ~~and town school district~~ indebtedness, and accounts of any special funds in the care of any town ~~or town school district~~ official. Notice of such meeting shall be given by posting or publication ten days in advance of such meeting. ~~However, if the town has not elected to eliminate the office of auditor, and town auditors and the school board concur, the town auditors need not conduct an audit of school district accounts as to school district fiscal years which are audited by a public accountant.~~

Sec. 30. 24 V.S.A. § 1683 is amended to read:

§ 1683. CONTENTS OF REPORT

(a) The report shall show a detailed statement of the financial condition of such town ~~and school district~~ for ~~their~~ its fiscal year, a classified summary of receipts and expenditures, a list of all outstanding orders and payables more than 30 days past due, and show deficit, if any, pursuant to section 1523 of this title and such other information as the municipality shall direct. Individuals who are exempt from penalty, fees and interest by virtue of 32 V.S.A. § 4609 shall not be listed or identified in any such report, provided that they notify or cause to be notified in writing the municipal or district treasurer that they should not be so listed or identified.

(b) The fiscal year of all school districts, charter provisions notwithstanding, shall end on June 30.

(c) The fiscal year of other municipalities shall end on December 31, unless the municipality votes at an annual or special meeting duly warned for that purpose to have a different fiscal year, in which case the fiscal year so voted shall remain in effect until amended.

~~(d) The annual report of the town auditors or the selectboard, if the town has voted to eliminate the office of auditor, shall include the report and budget of the supervisory union as required by 16 V.S.A. § 261a(10). [Repealed.]~~

Sec. 31. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive money belonging to the town.

(b) If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors under subsection (a) of this section upon request of the selectboard.

(c) Any town officer who wilfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all necessary information in relation thereto, shall be ineligible to reelection for the year ensuing and be subject to the penalties otherwise prescribed by law.

(d) As used in this section, the term "town officer" shall not include an officer subject to the provisions of 16 V.S.A. § 323.

\* \* \* Definitions \* \* \*

Sec. 32. 16 V.S.A. § 11(a)(7), (10), and (18) are amended to read:

(7) "Public school" means an elementary school or secondary school ~~for which the governing board is publicly elected~~ operated by a school district. A public school may maintain evening or summer schools for its pupils and it shall be considered a public school.

(10) "School district" means town school districts, union school districts, interstate school districts, city school districts, unified union districts, and incorporated school districts, each of which is governed by a publicly elected board.

~~(18) "Approved public school" means a public school which is approved under section 165 of this title. [Repealed.]~~

\* \* \* Public High School Choice \* \* \*

Sec. 33. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR PAY TUITION; TUITION

(a) Each school district shall ~~provide, furnish, and~~ maintain one or more approved ~~high~~ schools in which it provides high school education is provided for its resident pupils unless:

(1) ~~The the~~ electorate authorizes the school board to ~~close an existing high school and to~~ provide for the high school education of its resident pupils solely by paying tuition ~~in accordance with law. Tuition for its pupils shall be paid pursuant to this chapter~~ to a public high school, an approved independent high school, or an independent school meeting school quality standards, to be selected by the parents or guardians of the pupil, within or ~~without~~ outside the state; or

(2) ~~The the~~ school district is organized to provide only elementary education for its pupils.

~~(b) For purposes of this section, a school district which provides, furnishes and maintains a program of education for the first eight years of compulsory school attendance shall be obligated to pay tuition for its pupils for at least four additional years. [Repealed.]~~

~~(c) The school board may both maintain a high school and furnish high school education by paying tuition to a public school as in the judgment of the board may best serve the interests of the pupils, or~~ A district that maintains a high school may pay tuition pursuant to this chapter to an approved independent school or an independent school meeting school quality standards on behalf of one or more pupils if the school board judges that a pupil has unique educational needs that cannot be served within the district or at a nearby another public school. Its judgment shall be final in regard to the institution the pupils may attend at public cost.

Sec. 34. 16 V.S.A. § 822a is added to read:

§ 822a. PUBLIC HIGH SCHOOL CHOICE

(a) Definitions. In this section:

(1) "High school" means a public school or that portion of a public school that offers grades 7 through 12 or some subset of those grades.

(2) "Student" means a student's parent or guardian if the student is a minor or under guardianship and means a student himself or herself if the student is not a minor.

(b) Limits on transferring students. A sending high school board may limit the number of resident students who transfer to another high school under this section in each year; provided that in no case shall it limit the potential number of new transferring students to fewer than five percent of the resident students enrolled in the sending high school as of October 1 of the academic year in which the calculation is made or 10 students, whichever is fewer; and further provided that in no case shall the total number of transferring students in any year exceed 10 percent of all resident high school students or 40 students, whichever is fewer.

(c) Capacity. On or before February 1 each year, the board of a high school district shall define and announce its capacity to accept students under this section. The commissioner shall develop, review, and update guidelines to assist high school district boards to define capacity limits. Guidelines may include limits based on the capacity of the program, class, grade, school building, measurable adverse financial impact, or other factors, but shall not be based on the need to provide special education services.

(d) Lottery.

(1) Subject to the provisions of subsection (f) of this section, if more than the allowable number of students wish to transfer to a school under this section, then the board of the receiving high school district shall devise a nondiscriminatory lottery system for determining which students may transfer.

(2) Subject to the provisions of subsection (f) of this section, if more than the allowable number of students wish to transfer from a school under this section, then the board of the sending high school district shall devise a nondiscriminatory lottery system for determining which students may transfer; provided, however:

(A) a board shall give preference to the transfer request of a student whose request to transfer from the school was denied in a prior year; and

(B) a board that has established limits under subsection (b) of this section may choose to waive those limits in any year.

(e) Application and notification.

(1) A high school district shall accept applications for enrollment until March 1 of the school year preceding the school year for which the student is applying.

(2) A high school district shall notify each student of acceptance or rejection of the application by April 1 of the school year preceding the school year for which the student is applying.

(3) An accepted student shall notify both the sending and the receiving high schools of his or her decision to enroll or not to enroll in the receiving high school by April 15 of the school year preceding the school year for which the student has applied.

(4) After sending notification of enrollment, a student may enroll in a school other than the receiving high school only if the student, the receiving high school, and the high school in which the student wishes to enroll agree. If the student becomes a resident of a different school district, the student may enroll in the high school maintained by the new district of residence.

(5) If a student who is enrolled in a high school other than in the school district of residence notifies the school district of residence by July 15 of the intent to return to that school for the following school year, the student shall be permitted to return to the high school in the school district of residence without requiring agreement of the receiving district or the sending district.

(f) Continued enrollment. An enrolled nonresident student shall be permitted to remain enrolled in the receiving high school without renewed applications in subsequent years unless:

(1) the student graduates;

(2) the student is no longer a Vermont resident; or

(3) the student is expelled from school in accordance with adopted school policy.

(g) Tuition and other costs.

(1) Unless the sending and receiving schools agree to a different arrangement, no tuition or other cost shall be charged by the receiving district or paid by the sending district for a student transferring to a different high school under this section; provided, however, a sending high school district shall pay special education and technical education costs for resident students pursuant to the provisions of this title.

(2) A student transferring to a different high school under this section shall pay no tuition, fee, or other cost that is not also paid by students residing in the receiving district.

(3) A district of residence shall include within its average daily membership any student who transfers to another high school under this section; a receiving school district shall not include any student who transfers to it under this section.

(h) Special education. If a student who is eligible for and receiving special education services chooses to enroll in a high school other than in the high school district of residence, then the receiving high school shall carry out the individualized education plan, including placement, developed by the sending high school district. If the receiving high school believes that a student not on an individualized education plan may be eligible for special education services or that an existing individualized education plan should be altered, it shall notify the sending high school district. When a sending high school district considers eligibility, development of an individualized education plan, or changes to a plan, it shall give notice of meetings to the receiving high school district and provide an opportunity for representatives of that district to attend the meetings and participate in making decisions.

(i) Suspension and expulsion. A sending high school district is not required to provide services to a resident student during a period of suspension or expulsion imposed by another high school district.

(j) Transportation. Jointly, the superintendent of each supervisory union shall establish and update a statewide clearinghouse providing information to students about transportation options among the high school districts.

(k) Nonapplicability of other laws. The provisions of subsections 824(b) and (c) (amount of tuition), 825(b) and (c) (maximum tuition rate), and 826(a) (notice of tuition change) and section 836 (tuition overcharge and undercharge) of this chapter shall not apply to enrollment in a high school pursuant to this section.

(l) Waiver. If a high school board determines that participation under this section would adversely affect students in its high school, then it may petition the commissioner for an exemption. The commissioner's decision shall be final.

(m) Report. Annually, on or before January 15, the commissioner shall report to the senate and house committees on education on the implementation of public high school choice as provided in this section, including a quantitative and qualitative evaluation of the program's impact on the quality of educational services available to students and the expansion of educational opportunities.

Sec. 35. 16 V.S.A. § 4001(1) is amended to read:

(1) "Average daily membership" of a school district, or if needed in order to calculate the appropriate homestead tax rate, of the municipality as defined in 32 V.S.A. § 5401(9), in any year means:

(A) The full-time equivalent enrollment of pupils, as defined by the state board by rule, who are legal residents of the district or municipality attending a school owned and operated by the district, attending a public school outside the district under ~~an interdistrict agreement~~ section 822a of this title, or for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period. The census period consists of the 11th day through the 30th day of the school year in which school is actually in session.

\* \* \*

Sec. 36. REPEAL

16 V.S.A. §§ 1621 and 1622 (public high school choice regions) are repealed.

Sec. 37. REPORT

On or before January 15, 2013, the department of education shall evaluate the funding system set forth in Sec. 34 of this act at 16 V.S.A. § 822a(g) and present to the senate and house committees on education its recommendations for changes, if any.

\* \* \* Effective Dates \* \* \*

Sec. 38. EFFECTIVE DATES

Secs. 18–31 (audits) shall take effect on July 1, 2013. This section and all other sections of this act shall take effect on passage; provided, however, that Secs. 33–37 (school choice) of this act shall apply to enrollment in academic year 2013–2014 and after.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Peltz of Woodbury** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Donovan of Burlington**  
**Rep. Crawford of Burke**  
**Rep. Peltz of Woodbury**

**Rules Suspended; Bills Messaged to Senate Forthwith**

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

**S. 93**

Senate bill, entitled

An act relating to labeling maple products

**H. 771**

House bill, entitled

An act relating to making technical corrections and other miscellaneous changes to education law

**H. 780**

House bill, entitled

An act relating to compensation for certain state employees

**Adjournment**

At five o'clock and thirty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.