

H.784

Introduced by Committee on Transportation

Date:

Subject: Transportation; transportation program

Statement of purpose: This bill proposes to approve, with modifications, the state's transportation program for fiscal year 2011 and to make miscellaneous changes in statutes relating to transportation.

An act relating to the state's transportation program

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

Sec. 1. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2011 transportation program appended to the agency of transportation's proposed fiscal year 2011 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) the term "agency" means the agency of transportation;

(2) the term "secretary" means the secretary of transportation;

(3) the table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As

Amended” figure; and the term “change” or “changes” in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading;

(4) the term “ARRA funds” refers to federal funds allocated to the state by the American Recovery and Reinvestment Act of 2009;

(5) the term “TIB funds” refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f; and

(6) the column heading “TIB” in the agency’s proposed fiscal year 2011 transportation program refers to TIB funds and to the proceeds of transportation infrastructure bonds issued pursuant to this act.

Sec. 2. RAIL

(a) A new project is added for Albany, New York – Bennington, Vermont – Rutland, Vermont bi-state intercity rail corridor track 3 planning with the following spending authority:

<u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	1,000,000	1,000,000
Total	0	1,000,000	1,000,000
<u>Source of funds</u>			
State	0	250,000	250,000
Federal	0	500,000	500,000
Local	0	250,000	250,000

1 Total 0 1,000,000 1,000,000

2 The local share indicated represents the state of New York's participation in
3 the project.

4 (b) A new project is added for Amtrak Vermonter – New England Central
5 Railroad track 1 improvements with the following spending authority:

6 <u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
7 Construction	0	26,231,846	26,231,846
8 Total	0	26,231,846	26,231,846

9 Sources of funds

10 State	0	0	0
11 Federal	0	0	0
12 ARRA	0	26,231,846	26,231,846
13 Local	0	0	0
14 Total	0	26,231,846	26,231,846

15 Sec. 3. DEPARTMENT OF MOTOR VEHICLES

16 Spending authority for the department of motor vehicles is amended to read:

17 <u>FY11</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
18 Personal Services	15,786,441	15,786,441	0
19 Operating Expenses	8,377,553	8,303,553	-74,000
20 Grants	136,476	136,476	0
21 Total	24,300,470	24,226,470	-74,000

Sources of funds

State	23,096,730	23,022,730	-74,000
Federal	1,203,740	1,203,740	0
Total	24,300,470	24,226,470	-74,000

Sec. 4. PROGRAM DEVELOPMENT

Spending authority in program development is modified as follows:

(1) Among eligible projects selected in the secretary's discretion, the secretary shall replace project spending authority in the total amount of \$1,949,321.00 in transportation funds with the same amount in TIB funds.

(2) Among eligible projects selected in the secretary's discretion, the secretary shall replace project spending authority in the total amount of \$130,000.00 in transportation funds with the same amount in federal funds via the use of federal toll credits.

Sec. 5. AGENCY PERSONAL SERVICES SPENDING

Total spending authority for agency personal services is reduced by \$500,000.00 in transportation funds to reflect fiscal year 2011 pension benefit savings. The agency shall apportion the reduction among its programs and activities accordingly.

Sec. 6. PUBLIC TRANSIT

Spending authority for the public transit program is increased by \$30,000.00 in transportation funds. The agency shall allocate \$30,000.00 in

1 transportation funds to fund a grant to the Vermont Kidney Association to
2 support the transportation costs of dialysis patients.

3 * * * ARRA Maintenance of Effort – Appropriation Transfers * * *

4 Sec. 7. AMERICAN RECOVERY AND REINVESTMENT ACT;

5 TRANSPORTATION MAINTENANCE OF EFFORT

6 (a) The general assembly finds that the state should maximize the federal
7 money available for transportation. It is the intent of this section to assist the
8 state in complying with the maintenance of effort requirements in section 1201
9 of the American Recovery and Reinvestment Act of 2009 (ARRA), Public
10 Law 111-5, which requires the state to certify and maintain planned levels of
11 expenditure of state funds for the types of projects funded by ARRA during the
12 period February 17, 2009, through September 30, 2010. Failure to maintain
13 the certified level of effort will prohibit the state from receiving additional
14 federal funds through the August 2011 redistribution of federal aid highway
15 and safety programs.

16 (b) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or
17 activity spending authority in the fiscal year 2010 and 2011 transportation
18 programs, the secretary, with the approval of the secretary of administration
19 and subject to the provisions of subsection (c) of this section, may transfer
20 transportation fund or federal fund appropriations, other than appropriations
21 for the town highway state aid, structures, and class 2 roadway programs, to

1 redirect funding to activities eligible for inclusion in, and for the specific
2 purpose of complying with, the maintenance of effort requirements of section
3 1201 of the American Recovery and Reinvestment Act of 2009, Public Law
4 111-5. Any appropriations so transferred shall be expended on projects or
5 activities within the fiscal year 2010 or 2011 transportation programs.

6 (c) If a contemplated transfer of an appropriation would, by itself, have the
7 effect of significantly delaying the planned work schedule of a project which
8 formed the basis of the project's funding in the fiscal year of the contemplated
9 transfer, the secretary shall submit the proposed transfer for approval by the
10 house and senate committees on transportation when the general assembly is in
11 session, and when the general assembly is not in session, by the joint
12 transportation oversight committee. In all other cases, the secretary may
13 execute the transfer, giving prompt notice thereof to the joint fiscal office and
14 to the house and senate committees on transportation when the general
15 assembly is in session, and when the general assembly is not in session, to the
16 joint transportation oversight committee.

17 (d) This section shall be repealed on September 30, 2010.

* * * FY 2011 Transportation Infrastructure Bonds * * *

Sec. 8. AUTHORITY TO ISSUE TRANSPORTATION

INFRASTRUCTURE BONDS

(a) The state treasurer is authorized to issue transportation infrastructure bonds pursuant to 32 V.S.A. § 972 for the purpose of funding the appropriations of Sec. 9 of this act and associated costs of the transportation infrastructure bonds as defined in 32 V.S.A. § 972(b) in the amount of \$13,500,000.00 in fiscal year 2011.

(b) In the event that the state treasurer determines that the creation and funding of a bond reserve or debt service reserve is advisable to support the successful issuance of transportation infrastructure bonds, and that the balance of the TIB fund as of the end of fiscal year 2010 is insufficient to fund such reserves, the treasurer is authorized to increase the issue of transportation infrastructure bonds authorized in subsection (a) of this section up to a total amount of \$16,500,000.00.

Sec. 9. TRANSPORTATION INFRASTRUCTURE BONDS;

APPROPRIATION

The amount of up to \$13,500,000.00 from the issuance of transportation infrastructure bonds is appropriated in fiscal year 2011 to the agency of transportation program development appropriation (8100001100) for use on

1 eligible projects as defined in 32 V.S.A. § 972(c) in the state's fiscal year 2011
2 transportation program.

3 * * * Transportation Infrastructure Bond Reserves * * *

4 Sec. 10. FISCAL YEAR END 2010 TRANSPORTATION FUND SURPLUS

5 Subject to the funding of the transportation fund stabilization reserve in
6 accordance with 32 V.S.A. § 308a and notwithstanding 32 V.S.A. § 308c
7 (transportation fund surplus reserve), any surplus in the transportation fund as
8 of the end of fiscal year 2010 up to a maximum amount of \$3,000,000.00 shall
9 be transferred to the TIB fund.

10 Sec. 11. AUTHORITY TO TRANSFER APPROPRIATIONS TO CREATE

11 TIB BOND RESERVES AS OF FISCAL YEAR END 2010

12 (a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or
13 activity spending authority in the fiscal year 2010 transportation program, the
14 secretary, with the approval of the secretary of administration and subject to
15 the provisions of subsection (b) of this section, may transfer transportation
16 fund appropriations, other than appropriations for the town highway state aid,
17 structures, and class 2 roadway programs, or TIB fund appropriations, to the
18 TIB fund for the specific purpose of creating and funding as of the end of fiscal
19 year 2010 such TIB fund bond or debt service reserves in such form and in
20 such amounts as may be recommended by the treasurer to support the issuance
21 of transportation infrastructure bonds authorized by this act.

1 (b) The secretary's authority under subsection (a) of this section to transfer
2 appropriations is limited to appropriations, the transfer of which, by itself, will
3 not have the effect of significantly delaying the planned fiscal year 2010 work
4 schedule of a project which formed the basis of the project's funding in fiscal
5 year 2010.

6 (c) When any appropriation is transferred pursuant to this section, the
7 secretary shall report the transfer to the joint fiscal office and to the house and
8 senate committees on transportation when the general assembly is in session,
9 and when the general assembly is not in session, to the joint transportation
10 oversight committee.

11 Sec. 12. CHANGE TO CONSENSUS REVENUE FORECAST

12 In the event the July 2010 consensus revenue forecast of fiscal year 2011
13 transportation fund revenue is increased above the January 2010 forecast, up to
14 \$3,000,000.00 of the increase shall be transferred to the TIB fund to create and
15 fund as of the end of fiscal year 2011 such TIB fund bond or debt service
16 reserves in such form and in such amounts as may be required under the terms
17 of, or recommended by the treasurer to support, the issuance of transportation
18 infrastructure bonds authorized by this act.

1 Sec. 13. AUTHORITY TO TRANSFER APPROPRIATIONS TO CREATE
2 TIB BOND RESERVES AS OF FISCAL YEAR END 2011

3 (a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or
4 activity spending authority in the fiscal year 2011 transportation program, the
5 secretary, with the approval of the secretary of administration and subject to
6 the provisions of subsection (b) of this section, may transfer transportation
7 fund appropriations, other than appropriations for the town highway state aid,
8 structures, and class 2 roadway programs, or TIB fund appropriations, to the
9 TIB fund for the specific purpose of creating and funding as of the end of fiscal
10 year 2011 such TIB fund bond or debt service reserves in such form and in
11 such amounts as may be required under the terms of, or recommended by the
12 treasurer to support, the issuance of transportation infrastructure bonds
13 authorized by this act.

14 (b) The secretary's authority under subsection (a) of this section to transfer
15 appropriations is limited to appropriations, the transfer of which, by itself, in
16 the context of any spending authorized for the project in the fiscal year 2012
17 transportation program, will not have the effect of significantly delaying the
18 planned work schedule of the project which formed the basis of the project's
19 funding in fiscal years 2011 and 2012.

20 (c) The agency shall expedite the procedures required to determine the
21 eligibility and certification of federal toll credits with respect to potentially

1 qualifying capital expenditures made by Vermont entities through the end of
2 fiscal year 2010 which, subject to compliance with federal maintenance of
3 effort requirements, would be available for use by the state in fiscal year 2012.
4 The fiscal year 2012 transportation program shall reserve up to \$3,000,000.00
5 of such potentially available federal toll credits and federal formula funds and
6 authorize the secretary to utilize the federal toll credits and federal formula
7 funds to accomplish the objectives of this section.

8 (d) When any appropriation is transferred pursuant to this section, the
9 secretary shall report the transfer to the joint fiscal office and to the house and
10 senate committees on transportation when the general assembly is in session,
11 and when the general assembly is not in session, to the joint transportation
12 oversight committee.

13 * * * FY 2011 Contingent Transportation Bonding Authority * * *

14 Sec. 14. FY 2011 BONDING AUTHORITY

15 Notwithstanding 32 V.S.A. § 980 (authority to issue transportation
16 infrastructure bonds), the state treasurer is authorized to issue transportation
17 infrastructure bonds for fiscal year 2011 of up to \$10,000,000.00 more than the
18 amounts authorized in the preceding sections of this act, provided that the
19 agency of transportation requests and the general assembly, or if the general
20 assembly is not in session, the joint transportation oversight committee,
21 approves of such issue.

* * * Central Garage * * *

Sec. 15. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2011, the amount of \$1,120,000.00 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

Sec. 16. REPEAL

19 V.S.A § 13(g) (report on central garage activity, equipment rental, and fleet condition) is repealed.

* * * Notification of Emergency and Safety Projects; Reporting of

Expenditures and Carry Forwards * * *

Sec. 17. 19 V.S.A. § 10g is amended to read:

§ 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM;

ADVANCEMENTS, CANCELLATIONS, AND DELAYS

(a) The agency of transportation shall annually present to the general assembly a multiyear transportation program covering the same number of years as the statewide transportation improvement plan (STIP), consisting of the recommended budget for all agency activities for the ensuing fiscal year and projected spending levels for all agency activities for the following fiscal years. The program shall include a description and year-by-year breakdown of recommended and projected funding of all projects proposed to be funded within the time period of the STIP and, in addition, a description of all projects

1 which are not recommended for funding in the first fiscal year of the proposed
2 program but which are ~~projected to be ready~~ scheduled for construction ~~at that~~
3 ~~time (shelf projects)~~ during the time period covered by the STIP. The program
4 shall be consistent with the planning process established by No. 200 of the
5 Acts of the 1987 Adj. Sess. (1988), as codified in ~~3 V.S.A.~~ chapter 67 of
6 Title 3 and ~~24 V.S.A.~~ chapter 117 of Title 24, the statements of policy set forth
7 in sections 10b-10f of this title, and the long-range systems plan, corridor
8 studies, and project priorities developed through the capital planning process
9 under section 10i of this title.

10 * * *

11 (e)(1) The agency's annual transportation program shall include a separate
12 report summarizing with respect to the most recently ended fiscal year:

13 (A) all expenditures of funds by source; and

14 (B) all unexpended appropriations of transportation funds and TIB
15 funds that have been carried forward from the previous fiscal year to the
16 ensuing fiscal year.

17 (2) The summary shall identify expenditures and carry forwards for each
18 program category included in the proposed annual transportation program as
19 adopted for the closed fiscal year in question and such other information as the
20 agency deems appropriate.

21 * * *

1 (g) The agency's annual transportation program shall include a separate
2 report referencing this section describing all proposed projects in the program
3 which would be new to the state transportation program if adopted.

4 (h) Should capital projects in the transportation program be delayed
5 because of unanticipated problems with permitting, right-of-way acquisition,
6 construction, local concern, or availability of federal or state funds, the
7 secretary is authorized to advance projects in the approved transportation
8 program, ~~giving priority to shelf projects~~. The secretary is further authorized
9 to undertake projects to resolve emergency or safety issues. Upon authorizing
10 a project to resolve an emergency or safety issue, the secretary shall promptly
11 inform the members of the senate and house committees on transportation and
12 the joint fiscal office of the decision and action taken. Should an approved
13 project in the current transportation program require additional funding to
14 maintain the approved schedule, the agency is authorized to allocate the
15 necessary resources. However, the secretary shall not delay or suspend work
16 on approved projects to reallocate funding for other projects except when other
17 funding options are not available. In such case, the secretary shall notify the
18 members of the joint transportation oversight committee and the joint fiscal
19 office. With respect to projects in the approved transportation program, the
20 secretary shall notify, in the district affected, the regional planning
21 commission, the municipality, legislators, ~~and~~ members of the senate and

1 house committees on transportation, and the joint fiscal office of any
2 significant change in design, change in construction cost estimates requiring
3 referral to the transportation board under ~~19 V.S.A. §~~ section 10h of this title,
4 or any change which likely will affect the fiscal year in which the project is
5 planned to go to construction. No project shall be cancelled without the
6 approval of the general assembly.

7 * * * Joint Transportation Oversight Committee; Meetings * * *

8 Sec. 18. 19 V.S.A. § 12b is amended to read:

9 § 12b. JOINT TRANSPORTATION OVERSIGHT COMMITTEE

10 (a) There is created a joint transportation oversight committee composed of
11 the chairs of the house and senate committees on appropriations, the house and
12 senate committees on transportation, the house committee on ways and means,
13 and the senate committee on finance. The committee shall be chaired
14 alternately by the chairs of the house and senate committees on transportation,
15 and the ~~two-year~~ two-year term shall run concurrently with the biennial session
16 of the legislature. The chair of the senate committee on transportation shall
17 chair the committee during the 2009–2010 legislative session.

18 (b) The committee shall meet during adjournment for official duties.

19 Meetings shall be convened by the chair and when practicable shall be
20 coordinated with the regular meetings of the joint fiscal committee. Members
21 shall be entitled to compensation and reimbursement pursuant to 2 V.S.A.

1 § 406. The committee shall have the assistance of the staff of the legislative
2 council and the joint fiscal office.

3 (c) The committee shall provide legislative overview of the transportation
4 fund revenues collection and the operation and administration of the agency of
5 transportation construction, paving and rehabilitation programs. The secretary
6 of transportation shall report to the oversight committee upon request.

7 (d)(1) In coordination with the regular meetings of the joint fiscal
8 committee, ~~the joint transportation oversight committee shall meet~~ in mid-July,
9 mid-September, and mid-November. ~~At these meetings,~~ the secretary shall
10 prepare a report on the status of the state's transportation finances and
11 transportation programs, including. If a meeting of the committee is not
12 convened on the scheduled dates of the joint fiscal committee meetings, the
13 secretary in advance shall transmit the report electronically to the joint fiscal
14 office for distribution to committee members. The report shall include a report
15 on contract bid awards versus project estimates and a detailed report on all
16 known or projected cost overruns, project savings and funding availability
17 from delayed projects; and the agency's actions taken or planned to cover the
18 cost overruns and to reallocate the project savings and delayed project funds
19 with respect to:

20 (A) all paving projects other than statewide maintenance programs;
21 and

1 (B) all projects in the roadway, state bridge, interstate bridge, or town
2 bridge programs with authorized spending in the fiscal year of \$500,000.00 or
3 more with a cost overrun equal to 20 percent or more of the authorized
4 spending or generating project savings or delayed project available funding
5 equal to 20 percent or more of the authorized spending.

6 (2) In addition, ~~at~~ with respect to the July meeting of the joint
7 ~~transportation oversight~~ fiscal committee, the ~~secretarys shall~~ secretary's report
8 ~~to the committee on~~ shall discuss the agency's plans to adjust spending to any
9 changes in the consensus forecast for transportation fund revenues.

10 * * * Vermont Bridge Maintenance Program * * *

11 Sec. 19. REPEAL

12 The following are repealed:

13 (1) 19 V.S.A. § 40 (Vermont bridge maintenance program).

14 (2) Sec. 56 of No. 80 of the Acts of 2005 (allocation of vehicle
15 inspection change revenue).

16 Sec. 20. 23 V.S.A. § 1230 is amended to read:

17 § 1230. CHARGE

18 For each inspection certificate issued by the department of motor vehicles,
19 the commissioner shall be paid \$4.00 provided that state and municipal
20 inspection stations that inspect only state or municipally owned and registered
21 vehicles shall not be required to pay a fee. All vehicle inspection certificate

1 charge revenue shall be allocated to the transportation fund with one-half
2 reserved for bridge maintenance activities.

3 Sec. 21. CARRY-FORWARD AUTHORITY – BRIDGE MAINTENANCE

4 Notwithstanding any other provisions of law and subject to the approval of
5 the secretary of administration, transportation fund appropriations remaining
6 unexpended on June 30, 2010, in the transportation – bridge maintenance
7 appropriation (8100005400) shall be carried forward, shall be designated for
8 expenditure in the transportation – program development appropriation
9 (8100001100), and shall be used for the purpose of bridge maintenance.

10 * * * Vermont Route 114 Bridge Naming * * *

11 Sec. 22. VERMONT ROUTE 114 BRIDGE NAMING

12 Bridge #8 on Vermont Route 114 in the town of Lyndon shall be named the
13 “Cola H. Hudson Memorial Bridge.” In fiscal year 2011, the agency of
14 transportation shall place a commemorative plaque or erect a sign on or near
15 the bridge to reflect its naming. This plaque or sign shall conform to the
16 Federal Highway Administration’s Manual on Uniform Traffic Control
17 Devices.

18 * * * Cancellation of Locally Managed Projects * * *

19 Sec. 23. 19 V.S.A. § 5(d) is amended to read:

20 (d) The board shall:

21 * * *

1 (12) maintain the accounting functions for the duties imposed by
2 ~~9 V.S.A.~~ chapter 108 of Title 9 separately from the accounting functions
3 relating to its other duties;

4 (13) hear and determine disputes involving a determination of the
5 agency under section 309c of this title that the municipality is responsible for
6 repayment of federal funds required by the Federal Highway Administration.

7 Sec. 24. 19 V.S.A. § 309c is added to read:

8 § 309c. CANCELLATION OF LOCALLY MANAGED PROJECTS

9 (a) Notwithstanding section 309a of this title, a municipality or other local
10 sponsor responsible for a locally managed project through a grant agreement
11 with the agency shall be responsible for the repayment, in whole or in part, of
12 federal funds required by the Federal Highway Administration or other federal
13 agency because of cancellation of the project by the municipality or other local
14 sponsor due to circumstances or events wholly or partly within the
15 municipality's or other local sponsor's control. Prior to any such
16 determination that cancellation of a project was due to circumstances or events
17 wholly or partly within a municipality's or other local sponsor's control, the
18 agency shall consult with the municipality or other local sponsor to attempt to
19 reach an agreement to determine the scope of the municipality's or other local
20 sponsor's repayment obligation.

1 (b) Within 15 days of an agency determination under subsection (a) of this
2 section, a municipality may petition the board for a hearing to determine if
3 cancellation of the project was due to circumstances or events in whole or in
4 part outside the municipality's control. The board shall hold a hearing on the
5 petition within 30 days of its receipt and shall issue an appropriate order within
6 30 days thereafter. If the board determines that cancellation of the project was
7 due in whole or in part to circumstances or events outside the municipality's
8 control, it shall order that the municipality's repayment obligation be reduced
9 proportionally, in whole or in part. The municipality shall have no obligation
10 to make a repayment under this section until the board issues its order.

11 * * * Renaming Caledonia County State Airport * * *

12 Sec. 25. CALEDONIA COUNTY STATE AIRPORT; RENAMING

13 The Caledonia County State Airport in Lyndonville shall be renamed the
14 "Thomas E. Winans State Airport." In fiscal year 2011, the agency of
15 transportation shall replace any existing road sign for the airport to reflect its
16 renaming. Any such sign shall conform to the Federal Highway
17 Administration's Manual on Uniform Traffic Control Devices.

1 * * * Filing of Transportation Deeds and Leases * * *

2 Sec. 26. 3 V.S.A. § 103 is amended to read:

3 § 103. DOCUMENTS REQUIRED TO BE FILED

4 (a) All deeds, contracts of sale, leases, and other documents or copies of
5 same conveying land or an interest therein to the state, except for ~~highway~~
6 ~~rights-of-way~~ transportation rights-of-way, leases, and conveyances, shall be
7 filed in the office of the secretary of state.

8 (b) All deeds, contracts of sale, leases, and other documents conveying land
9 or an interest in land from the state as grantor, except for transportation
10 rights-of-way, leases, and conveyances, shall be made out in duplicate by the
11 authorized agent of the state. The original shall be delivered to the grantee and
12 the duplicate copy, so marked, shall be filed in the office of the secretary of
13 state.

14 (c) The secretary of state shall also record the state treasurer's bonds and
15 other documents required to be recorded in ~~his~~ the secretary of state's office
16 and give copies of the same upon tender of ~~his~~ the secretary of state's legal
17 fees.

* * * Transportation Board; Town Reports * * *

Sec. 27. 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

The clerk of a municipality shall supply annually each library in such municipality with two copies of the municipal report, upon its publication.

The clerk shall also mail to the state library two copies thereof, and one copy each to the secretary of state, commissioner of taxes, ~~transportation board~~, state board of health, commissioner for children and families, director of the office of Vermont health access, auditor of accounts, and board of education.

Officers making these reports shall supply the clerk of the municipality with the printed copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

* * * State-owned Railroad Property * * *

Sec. 28. 5 V.S.A. § 3406(b) is amended to read:

(b) The secretary shall have authority, with the approval of the governor, to sell ~~to any person or legal entity part or all of any parcel of state-owned railroad property or rights therein, provided that the terms of the sale are approved by the legislature or, in the event that the general assembly is not in session, by the joint fiscal committee~~ within the right-of-way of a state-owned rail line, other than the rail line itself, which the secretary determines is no longer needed to support existing and planned operations on the rail line:

(2) if the appraised value of the property is below \$100,000.00, without further approval.

Sec. 29. 5 V.S.A. § 3408 is amended to read:

§ 3408. RAILBANKING; NOTIFICATION

(a) If the secretary finds that the continued operation of any state-owned railroad property is not economically feasible under present conditions, he or she may place the line in railbanked status after giving advance notice of such planned railbanking to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee. The agency, on behalf of the state, shall continue to hold the right-of-way of a railbanked line for reactivation of railroad service or for other public purposes not inconsistent with future reactivation of railroad service. Such railbanking shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of the rights-of-way for railroad purposes.

* * *

1 Sec. 30. APPROVAL OF TRANSACTIONS REGARDING

2 STATE- OWNED RAILROAD PROPERTY

3 (a) The secretary of transportation, as agent for the state of Vermont, is
4 authorized to sell to New England Central Railroad, Inc., for fair market value,
5 a segment of the so-called Fonda Branch of the former Central Vermont
6 Railway, Inc. in the town of Swanton, beginning at approximate mile post
7 137.86 and extending northerly a distance of approximately 1.26 miles to
8 approximate mile post 139.12, which is the northerly abutment of the railroad
9 bridge over the Missisquoi River.

10 (b) The secretary, as agent for the state of Vermont, is authorized to sell to
11 Shelburne Limestone Corporation, for fair market value, a segment of the
12 so-called Fonda Branch of the former Central Vermont Railway, Inc. in the
13 town of Swanton, beginning at approximate mile post 139.12, which is the
14 northerly abutment of the railroad bridge over the Missisquoi River, and
15 extending northerly a distance of approximately 0.58 miles to approximate
16 mile post 139.70, which is the southwesterly line of U.S. Route 7.

17 (c) In aid of the descriptions contained in this section, reference may be had
18 to valuation plans V8/138-140 for the former Central Vermont Railway
19 Company (dated June 30, 1917); the October 17, 1973 quit-claim deed of
20 Central Vermont Railway, Inc. to the St. Johnsbury & Lamoille County
21 Railroad, which is recorded at book 81, page 278 of the Swanton land records;

1 and the December 7, 1973 quit-claim deed of the St. Johnsbury & Lamoille
2 County Railroad to the Vermont Transportation Authority, which is recorded at
3 book 81, page 368 of the Swanton land records.

4 * * * Passenger Rail Service * * *

5 Sec. 31. PASSENGER RAIL SERVICE; BURLINGTON TO RUTLAND TO
6 BENNINGTON TO ALBANY

7 (a) The agency of transportation shall prepare a comprehensive detailed
8 project plan to create passenger rail service from Burlington to Rutland to
9 Bennington to Albany, New York. The plan shall include rail, ties, and rail
10 bed installation and improvement, bridge repair where necessary, and safe
11 on-grade rail crossings where needed.

12 (b) The detailed project plan shall identify each task of the project
13 sequentially with a time schedule for the start and completion of each task and
14 include a Gantt chart, a cost estimate for each task, and a time rate of
15 expenditure of cost for the total project, including funding sources. The
16 comprehensive project plan shall be delivered to both the house and senate
17 committees on transportation on or before January 15, 2011.

18 * * * Establishing Speed Limits * * *

19 Sec. 32. 23 V.S.A. § 1003(a) is amended to read:

20 (a) When the traffic committee constituted under 19 V.S.A. § 1(24)
21 determines, on the basis of an engineering and traffic investigation that shall

1 take into account, if applicable, safe speeds within school zones (or safe speeds
2 within 200 feet of school district-operated prekindergarten program facilities)
3 when children are traveling to or from such schools or facilities, that a
4 maximum speed limit established by this chapter is greater or less than is
5 reasonable or safe under conditions found to exist at any place or upon any part
6 of a state highway, ~~except~~ including the Dwight D. Eisenhower national
7 system of interstate and defense highways, it may determine and declare a
8 reasonable and safe limit which is effective when appropriate signs stating the
9 limit are erected. This limit may be declared to be effective at all times or at
10 times indicated upon the signs; and differing limits may be established for
11 different times of day, different types of vehicles, varying weather conditions,
12 or based on other factors, bearing on safe speeds which are effective when
13 posted upon appropriate fixed or alterable signs.

14 Sec. 33. 23 V.S.A. § 1004(a) is amended to read:

15 (a) The traffic committee has exclusive authority to make and publish, and
16 from time to time may alter, amend, or repeal, rules pertaining to vehicular,
17 pedestrian, and animal traffic, ~~speed limits,~~ and the public safety on the
18 Dwight D. Eisenhower national system of interstate and defense highways and
19 other limited access and controlled access highways within this state. The
20 rules and any amendments or revisions may be made by the committee only in
21 accordance with chapter 25 of Title 3. The rules shall be consistent with

1 accepted motor vehicle codes or standards, shall be consistent with law, and
2 shall not be unreasonable or discriminatory in respect to persons engaged in
3 like, similar, or competitive activities. The rules are applicable only to the
4 extent that they are not in conflict with regulations or orders issued by any
5 agency of the United States having jurisdiction and shall be drawn with due
6 consideration for the desirability of uniformity of law of the several states of
7 the United States.

8 * * * Authorized Emergency and Enforcement Vehicles * * *

9 Sec. 34. 23 V.S.A. § 1011 is amended to read:

10 § 1011. APPLICABILITY OF THIS CHAPTER; AUTHORIZED
11 ENFORCEMENT VEHICLES

12 (a) The provisions of this chapter relating to the operation of motor
13 vehicles apply to operation upon public highways only, except where a
14 different place is specifically referred to.

15 (b)(1) ~~On-duty On-duty enforcement officers are exempt from the speed~~
16 ~~limits established in accordance with sections 1003 and 1007 of this title, and~~
17 ~~fixed by section 1081 of this title.;~~

18 (A) may park or stand contrary to the provisions of this chapter;

19 (B) may proceed past a red or stop signal or stop sign, but only after
20 slowing down as may be necessary for safe operation;

1 (C) shall come to a full stop when approaching a school bus flashing
2 red lights and may proceed only when the flashing red lights are extinguished;

3 (D) may exceed the maximum speed limits;

4 (E) may disregard regulations governing direction of movement or
5 turning in specified directions.

6 (2) Unless an officer is conducting covert operations, the exemptions
7 granted in this subsection shall apply only when the officer's vehicle is
8 displaying a signal lamp or sounding a siren meeting the requirements of this
9 title.

10 (c) The provisions of subsection (b) of this section shall not relieve an
11 on-duty officer from the duty to drive with due regard for the safety of all
12 persons, nor shall such provisions protect the officer from the consequences of
13 his or her reckless disregard for the safety of others.

14 (d) The operator of a school bus, upon the approach of an on-duty officer in
15 a vehicle displaying a blue or blue and white signal lamp or sounding a siren,
16 shall take action immediately to ensure the safety of the schoolchildren, and
17 shall thereafter extinguish any flashing red lights.

18 Sec. 35. 23 V.S.A. § 1015 is amended to read:

19 § 1015. AUTHORIZED EMERGENCY VEHICLES

20 (a) The driver of an authorized emergency vehicle, when responding to an
21 emergency call or when responding to, but not returning from, a fire alarm ~~and~~

1 ~~a law enforcement officer operating an authorized emergency vehicle in fresh~~
2 ~~pursuit of a suspected violator of the law:~~

3 (1) may park or stand contrary to the provisions of this chapter;

4 (2) may proceed past a red or stop signal or stop sign, but only after
5 slowing down as may be necessary for safe operation;

6 (3) shall come to a full stop when approaching a school bus ~~which is~~
7 flashing red lights and may proceed only when the flashing red lights are
8 extinguished;

9 (4) may exceed the maximum speed limits;

10 (5) may disregard regulations governing direction of movement or
11 turning in specified directions.

12 (b) The exemptions granted to an authorized emergency vehicle apply only
13 when the vehicle is ~~making use of audible or visual signals~~ displaying a signal
14 lamp or sounding a siren meeting the requirements of this title.

15 (c) The foregoing provisions shall not relieve the driver of an authorized
16 emergency vehicle from the duty to drive with due regard for the safety of all
17 persons, nor shall such provisions protect the driver from the consequences of
18 his or her reckless disregard for the safety of others.

19 (d) The operator of a school bus, upon the approach of an authorized
20 emergency vehicle ~~as described in subsection (a) of this section~~ displaying a
21 signal lamp or sounding a siren, shall take action immediately to ~~get school~~

1 ~~children out of the public highway and to a safe place~~ ensure the safety of the
2 schoolchildren and shall thereafter extinguish ~~the~~ any flashing red lights.

3 * * * Out-of-state First Responder Vehicles * * *

4 Sec. 36. 23 V.S.A. § 1252(c) is added to read:

5 (c) Notwithstanding the provisions of subdivision (a)(2) of this section,
6 when responding to emergencies, out-of-state ambulances, fire vehicles, or
7 vehicles owned or leased by, or provided to, volunteer firefighters or rescue
8 squad members may use sirens and red or red and white signal lamps in
9 Vermont, and a permit shall not be required for such use, as long as the vehicle
10 is properly permitted in its home state.

11 * * * Replacement of Gasoline Dispensers * * *

12 Sec. 37. 10 V.S.A. § 583 is amended to read:

13 § 583. REPEAL OF STAGE II VAPOR RECOVERY REQUIREMENTS

14 (a) Effective January 1, 2013, all rules of the secretary pertaining to stage II
15 vapor recovery controls at gasoline dispensing facilities are repealed. The
16 secretary may not issue further rules requiring such controls. For purposes of
17 this section, “stage II vapor recovery” means a system for gasoline vapor
18 recovery of emissions from the fueling of motor vehicles as described in
19 42 U.S.C. § 7511a(b)(3).

20 (b) Prior to January 1, 2013, stage II vapor recovery rules shall not apply
21 to:

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1 (b) For the purposes of this section and 23 V.S.A. § 1025, the term
2 “school” shall include school district-operated prekindergarten program
3 facilities.

4 * * * Transportation Projects; Construction Claims * * *

5 Sec. 40. 19 V.S.A. § 5(d) is amended to read:

6 (d) The board shall:

7 * * *

8 (4) provide appellate review, when requested in writing, regarding legal
9 disputes in the execution of contracts awarded by the agency or by
10 municipalities cooperating with the agency to advance projects in the state’s
11 transportation program;

12 * * *

13 * * * Transportation Contracts; Procurement Standards * * *

14 Sec. 41. 19 V.S.A. § 10 is amended to read:

15 § 10. DUTIES

16 The agency shall, except where otherwise specifically provided by law:

17 (1) Award contracts on terms as it deems to be in the best interest of the
18 state, for the construction, repair, or maintenance of transportation related
19 facilities; for the use of any machinery or equipment either with or without
20 operators or drivers; for the operation, repair, maintenance, or storage of any
21 state-owned machinery or equipment; for professional engineering services,

1 inspection of work or materials, diving services, mapping services,
2 photographic services, including aerial photography or surveys, and any other
3 services, with or without equipment, in connection with the planning,
4 construction, and maintenance of transportation facilities. Persons rendering
5 these services shall not be within the classified service, and the services shall
6 not entitle the provider to rights under any state retirement system.
7 Notwithstanding ~~3 V.S.A.~~ chapter 13 of Title 3, the agency may contract for
8 services also provided by persons in the classified service, either at present or
9 at some time in the past. ~~Any contract of more than \$50,000.00 shall be~~
10 ~~advertised and awarded to the lowest qualified bidder unless determined~~
11 ~~otherwise by the board.~~ The solicitation and award of contracts by the agency
12 shall follow procurement standards approved by the secretary of administration
13 as well as applicable federal laws and regulations.

14 * * *

15 * * * Relinquishment of State Highway Segments to Municipalities * * *

16 Sec. 42. RELINQUISHMENT OF FORMER VERMONT ROUTE 109 TO
17 TOWN OF BELVIDERE

18 (a) Under the authority of 19 V.S.A. § 15(2), approval is granted for the
19 secretary to enter into an agreement with the town of Belvidere to relinquish to
20 the town's jurisdiction a segment of former Vermont Route 109 beginning at a
21 point in the northerly right-of-way boundary of the present Vermont Route

1 109, said point also being the northerly right-of-way boundary of the former
2 Vermont Route 109, being 35 feet distant northerly radially from station 73+00
3 of the established centerline of Highway Project Belvidere S 0282(1); thence
4 155 feet, more or less, southeasterly, crossing the former Vermont Route 109,
5 to a point in the northerly right-of-way boundary of the present Vermont Route
6 109, said point also being in the southerly right-of-way boundary of the former
7 Vermont Route 109, being 45 feet distant northerly radially from station 74+55
8 of the centerline; thence northeasterly, easterly, and southeasterly along the
9 southerly right-of-way boundary of the former Vermont Route 109 to a point
10 in the northerly right-of-way boundary of the present Vermont Route 109,
11 being 70 feet distant northerly at right angle from station 82+15 of the
12 centerline; thence 79 feet, more or less, northeasterly crossing the former
13 Vermont Route 109 to a point in the northerly right-of-way boundary of
14 present Vermont Route 109, being 92 feet distant northerly at right angle from
15 station 82+90 of the centerline; thence northwesterly, westerly, and
16 southwesterly along the northerly right-of-way boundary of the former
17 Vermont Route 109 to the point and place of beginning.

18 (b) The relinquishment shall include a three-rod (49.5') right-of-way and
19 slope rights within the area and is subject to the rights of utility companies
20 under chapter 71 of Title 30 and other statutes of similar effect.

1 Sec. 43. RELINQUISHMENT OF U.S. ROUTE 5 AND NORWICH
2 STATE HIGHWAY IN THE TOWN OF NORWICH

3 (a) Pursuant to 19 V.S.A. § 15(2), approval is granted for the secretary of
4 transportation to enter into an agreement with the town of Norwich to
5 relinquish to the town's jurisdiction a segment of the state highway known as
6 U.S. Route 5 (Church Street) in the town of Norwich, beginning at a point in
7 the center of U.S. Route 5 which is 1,012 feet northerly of its intersection with
8 Vermont Route 10A approximately at mile marker 1.218. This point is also
9 station 78+00 on the U.S. Route 5 centerline of Highway Project
10 Hartford-Norwich I 91-2(5). The relinquishment shall continue 6,496 feet
11 (approximately 1.230 miles) northerly and easterly along the center of U.S.
12 Route 5 to its intersection with the Norwich State Highway approximately at
13 U.S. Route 5 mile marker 2.448.

14 (b) Pursuant to 19 V.S.A. § 15(2), approval is granted for the secretary of
15 transportation to enter into an agreement with the town of Norwich to
16 relinquish to the town's jurisdiction a segment of the state highway known as
17 Norwich State Highway, beginning at a point in the center of the Norwich
18 State Highway 110 feet northerly of its intersection with Vermont Route 10A.
19 This point is also station 1+10 on the Norwich State Highway centerline of
20 Highway Project Norwich S 0170(1). The relinquishment shall continue 5,961
21 feet (approximately 1.129 miles) northerly along the center of the Norwich

1 State Highway to its intersection with U.S. Route 5 approximately at Norwich
2 State Highway mile marker 1.150.

3 (c) Control of the highways but not ownership of the lands or easements
4 within the highway right-of-way shall be relinquished to the town of Norwich.
5 The town of Norwich shall not sell or abandon any portion of the
6 relinquishment areas or allow any encroachments within the relinquishment
7 areas without written permission of the agency of transportation.

8 * * * Town of Bennington; Adjustments to State Highway System * * *

9 Sec. 44. TOWN OF BENNINGTON; ADJUSTMENTS TO STATE
10 HIGHWAY SYSTEM

11 (a) Under the authority of 19 V.S.A. § 15(2), the general assembly
12 authorizes the secretary to enter into an agreement with the town of
13 Bennington to relinquish to the town's jurisdiction approximately 1.07 miles of
14 U.S. Route 7 (South Street) between mile marker 1.088 (near Carpenter Hill
15 Road [TH #48]) and mile marker 2.156 (near the entrance to the Park Lawn
16 Cemetery) to become a class 1 town highway.

17 (b) Under the authority of 19 V.S.A. § 15(2), the general assembly
18 authorizes the secretary to enter into an agreement with the town of
19 Bennington to accept as part of the state highway system approximately 1,300
20 feet of Vermont Route 9 (Main Street [TH #2]) between mile marker 5.655,
21 near the location of a crosswalk to be constructed under the transportation

1 project Bennington NH 019-1(51), and mile marker 5.901, which is the
2 existing jurisdictional boundary between the state highway and the class 1
3 town highway. The agreement shall provide for the town of Bennington to be
4 responsible for maintenance of sidewalks within the subject area.

5 * * * Short-range Public Transit Plan * * *

6 Sec. 45. REPEAL

7 The following are repealed:

8 (1) 24 V.S.A. § 5088(7) (definition of “short range public transit plan”).

9 (2) 24 V.S.A. § 5091(f) (requirement that grantees shall be eligible for
10 funding only if a short range public transit plan has been completed).

11 * * * Scenery Preservation Council * * *

12 Sec. 46. The title of 10 V.S.A. chapter 19 is amended to read:

13 CHAPTER 19. SCENERY ~~PRESERVATION COUNCIL~~ PROTECTION

14 Sec. 47. REPEAL

15 10 V.S.A. § 425 (scenery preservation council) is repealed.

16 Sec. 48. 19 V.S.A. § 2501 is amended to read:

17 § 2501. STATE SCENIC ROADS; DESIGNATION AND
18 DISCONTINUANCE

19 (a) On the recommendation of the ~~scenery preservation council~~ agency, the
20 ~~transportation~~ board may designate or discontinue any state highway, or
21 portion of a state highway, as a state scenic road. The board shall hold a

1 hearing on the recommendation and shall submit a copy of its decision together
2 with its findings to the ~~scenery preservation council~~ agency within 60 days
3 after receipt of the recommendation. The hearing shall be held in the vicinity
4 of the proposed scenic highway.

5 (b) Annually, the ~~council~~ agency shall provide information to the agency of
6 commerce and community development on designated scenic roads for
7 inclusion on state maps.

8 (c) A state scenic road shall not be reconstructed or improved unless the
9 reconstruction or improvement conforms to the standards established by the
10 agency of ~~transportation~~ pursuant to 10 V.S.A. § 425.

11 Sec. 49. 30 V.S.A. § 218c(d)(2) is amended to read:

12 (2) Prior to the adoption of any transmission system plan, a utility
13 preparing a plan shall host at least two public meetings at which it shall present
14 a draft of the plan and facilitate a public discussion to identify and evaluate
15 nontransmission alternatives. The meetings shall be at separate locations
16 within the state, in proximity to the transmission facilities involved or as
17 otherwise required by the board, and each shall be noticed by at least two
18 advertisements, each occurring between one and three weeks prior to the
19 meetings, in newspapers having general circulation within the state and within
20 the municipalities in which the meetings are to be held. Copies of the notices
21 shall be provided to the public service board, the department of public service,

1 any entity appointed by the public service board pursuant to subdivision
2 209(d)(2) of this title, the agency of natural resources, the division for historic
3 preservation, the department of health, ~~the scenery preservation council~~, the
4 agency of transportation, the attorney general, the chair of each regional
5 planning commission, each retail electricity provider within the state, and any
6 public interest group that requests, or has made a standing request for, a copy
7 of the notice. A verbatim transcript of the meetings shall be prepared by the
8 utility preparing the plan, shall be filed with the public service board and the
9 department of public service, and shall be provided at cost to any person
10 requesting it. The plan shall contain a discussion of the principal contentions
11 made at the meetings by members of the public, by any state agency, and by
12 any utility.

13 Sec. 50. 30 V.S.A. § 248(a)(4)(C) is amended to read:

14 (C) At the time of filing its application with the board, copies shall be
15 given by the petitioner to the attorney general and the department of public
16 service, and, with respect to facilities within the state, the department of health,
17 agency of natural resources, historic preservation division, ~~scenery~~
18 ~~preservation council~~, state planning office, agency of transportation, the
19 agency of agriculture, food and markets and to the chairperson or director of
20 the municipal and regional planning commissions and the municipal legislative
21 body for each town and city in which the proposed facility will be located.

* * * State Highways; Condemnation Procedures * * *

Sec. 51. 3 V.S.A. § 816(d) is added to read:

(d) Sections 809–814 of this title shall not apply to any acts, decisions, findings, or determinations by the agency of transportation or the transportation board or their duly authorized agents under chapter 5 of Title 19 or to any procedures or hearings before or by them or their agents under chapter 5 of Title 19.

Sec. 52. 5 V.S.A. § 652 is amended to read:

§ 652. NECESSITY PETITION ~~TO SUPERIOR COURT~~

The ~~secretary agency 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 superior judge~~ the secretary of transportation to designate a hearing examiner as provided in ~~19 V.S.A. chapter 5~~ of Title 19, except as otherwise provided in this subchapter.

Sec. 53. 19 V.S.A. § 502 is amended to read:

§ 502. AUTHORITY; PRECONDEMNATION PROCEDURE

(a) 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 necessary to lay out, relocate, alter, construct, reconstruct, maintain, repair, widen, grade, or

1 improve any state highway including affected portions of town highways. All
2 property rights shall be taken in fee simple whenever practicable. In
3 furtherance of these purposes, the agency may enter upon land adjacent to the
4 proposed highway or upon other lands for the purpose of examination and
5 making necessary surveys. However, that work shall be done with minimum
6 damage to the land and disturbance to the owners.

7 * * *

8 (c)(1) A Before initiating proceedings under this chapter for the acquisition
9 of any lands or rights, the agency shall hold a public hearing ~~shall be held~~ for
10 the purpose of receiving suggestions and recommendations from the public
11 ~~prior to the agency's initiating proceedings under this chapter for the~~
12 ~~acquisition of any lands or rights. The hearing shall be conducted by the~~
13 ~~agency. Public~~ The agency shall give public notice ~~shall be given~~ by printing
14 the official notice not less than 30 days prior to the hearing in a newspaper
15 having general circulation in the area affected. ~~A~~ The agency shall mail a copy
16 of the notice ~~shall be mailed to the board,~~ the legislative bodies of the
17 municipalities affected and send a copy ~~sent~~ by certified mail to all known
18 owners of lands and rights in land affected by the proposed improvement.

19 (2) The notice shall set forth the purpose for which the land or rights are
20 desired and shall generally describe the improvement to be made.

1 ~~The board may designate one or more members to attend the hearing and~~
2 ~~shall do so if a written request is filed with the board at least 10 days prior to~~
3 ~~the public hearing.~~

4 (3) At the hearing the agency shall set forth the reasons for the selection
5 of the route intended and shall hear and consider all objections, suggestions for
6 changes, and recommendations made by any person interested.

7 ~~If no board member attended the hearing, a written request may be filed~~
8 ~~with the board within 30 days after the public hearing asking the board to~~
9 ~~review the project and the record of the hearing. In such event, the board shall~~
10 ~~complete its review within 30 days after the request.~~

11 (4) Following the hearing, ~~unless otherwise directed by the board,~~ the
12 agency may proceed to lay out the highway and survey and acquire the land to
13 be taken or affected, giving consideration to any objections, suggestions, and
14 recommendations received from the public.

15 (d) The agency shall not take land or any right in land that is owned by a
16 town or union school district and being used for school purposes until the
17 voters of the district have voted on the issue of taking at a meeting called for
18 that purpose. A Upon receiving notice of a public hearing under this section,
19 the town or union school district shall promptly call a special meeting of the
20 town or union school district ~~shall be called promptly upon receiving notice of~~
21 ~~a public hearing~~ unless the annual meeting is to be held within 30 days after

1 receiving the notice of public hearing. ~~Due~~ In determining necessity, the
2 agency shall give due consideration ~~shall be given by the court~~ to the result of
3 the vote, in addition to the other factors referred to in section 501 of this title,
4 ~~in determining necessity.~~

5 * * *

6 Sec. 54. 19 V.S.A. § 503 is amended to read:

7 § 503. SURVEY

8 When the agency ~~of transportation~~ desires to acquire land or any rights in
9 land for the purpose of laying out, relocating, altering, constructing,
10 reconstructing, maintaining, repairing, widening, grading or improving a state
11 highway, it shall cause the land to be acquired or affected to be surveyed.

12 Sec. 55. 19 V.S.A. § 504 is amended to read:

13 § 504. PETITION FOR HEARING TO DETERMINE NECESSITY;

14 HEARING EXAMINER

15 (a) ~~Upon~~ After completion of the survey, unless the land or rights have
16 been acquired by negotiation, the agency ~~may~~ shall prepare a petition a
17 ~~superior judge,~~ setting forth ~~in the petition~~ that it proposes to acquire certain
18 land, or rights in land, and describing the lands or rights, ~~and the~~. The survey
19 shall be attached to the petition and made a part of the petition. The petition
20 shall set forth the purposes for which the land or rights are desired, and shall
21 ~~contain a request that the judge fix~~ request a time and place when ~~he or she, or~~

1 ~~some other superior judge,~~ a hearing examiner designated by the secretary will
2 hear all parties concerned and determine whether the taking is necessary.

3 (b) The secretary, in consultation with the board, shall approve a pool of
4 three or more hearing examiners from which appointments shall be made. A
5 hearing examiner shall not participate in deciding a matter in which he or she
6 has a personal or pecuniary interest or the appearance of a personal or
7 pecuniary interest.

8 Sec. 56. 19 V.S.A. § 505 is amended to read:

9 § 505. HEARING TO DETERMINE NECESSITY

10 (a) ~~The superior judge to whom the petition is presented~~ hearing examiner
11 shall fix the time for hearing, which shall not be more than 60 nor or less than
12 40 days from the date he or she signs the order notice. Likewise, he or she
13 shall fix the place for hearing, which shall be ~~the superior court or any other~~
14 ~~place~~ within the county in which the land in question is located. ~~If the superior~~
15 ~~judge to whom the petition is presented cannot hear the petition at the time set~~
16 ~~he or she shall call upon the administrative judge to assign another superior~~
17 ~~judge to hear the cause at the time and place assigned in the order.~~

18 (b) If the land proposed to be acquired extends into two or more counties,
19 then a single hearing to determine necessity may be held in one of the counties.
20 In fixing the place for hearing, the ~~superior judge to whom the petition is~~

1 ~~presented~~ hearing examiner shall take into consideration the needs of the
2 parties.

3 (c) The hearing examiner shall conduct the hearing for the purpose of
4 issuing findings of fact, conclusions of law, and a decision. The hearing
5 examiner may administer oaths and otherwise exercise the powers of a judicial
6 officer regarding the conduct of a fair and impartial hearing.

7 Sec. 57. 19 V.S.A. § 506 is amended to read:

8 § 506. SERVICE AND PUBLICATION OF NECESSITY PETITION AND
9 NOTICE OF HEARING; ANSWER

10 * * *

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

16 Sec. 58. 19 V.S.A. § 507 is amended to read:

17 § 507. HEARING AND ORDER OF NECESSITY

18 (a) At the time and place appointed for the hearing, the ~~court, consisting of~~
19 ~~the superior judge signing the order or the other superior judge as may be~~
20 ~~assigned and, if available within the meaning of 4 V.S.A. § 112, the assistant~~
21 ~~judges of the county in which the hearing is held~~ hearing examiner shall hear

1 all persons interested and wishing to be heard. If any person owning or having
2 an interest in the land to be taken or affected appears and objects to the
3 necessity of taking the land included within the survey or any part of the
4 survey, then ~~the court shall require~~ the agency of transportation to shall
5 proceed with the introduction of evidence of the necessity of the taking. The
6 burden of proof of the necessity of the taking shall be upon the agency of
7 ~~transportation~~ and shall be established by a fair preponderance of the evidence;
8 ~~and the.~~ The exercise of reasonable discretion upon the part of the agency
9 shall not be presumed. The ~~court~~ hearing examiner may cite in additional
10 parties including other property owners whose interest may be concerned or
11 affected and shall cause to be notified; the legislative body of all adjoining
12 cities, towns, villages, or other municipal corporations affected by any taking
13 of land or interest in land ~~based on any ultimate order of the court.~~ The ~~court~~
14 hearing examiner shall make findings of fact and conclusions of law and shall
15 file them ~~and any.~~ Any party in interest ~~may appeal under the rules of~~
16 ~~appellate procedure adopted by the supreme court~~ aggrieved by the decision of
17 a hearing examiner under this section may have the decision reviewed on the
18 record by the superior court pursuant to Rule 74 of the Vermont Rules of Civil
19 Procedure. The ~~court~~ hearing examiner shall, by ~~its~~ his or her order, determine
20 whether the necessity of the state requires the taking of the land and rights as
21 set forth in the petition and may find from the evidence that another route or

1 routes are preferable in which case the agency shall proceed in accordance
2 with section 502 of this title and this section and may modify or alter the
3 proposed taking ~~in such respects as to the court may seem proper.~~

4 (b) By ~~its~~ his or her order, the ~~court~~ hearing examiner may also direct the
5 agency ~~of transportation~~ to install passes under the highway as specified in this
6 chapter for the benefit of the large modern farm properties, the fee title of
7 which is owned by any party to the proceedings, where a reasonable need is
8 shown by the owner. The ~~court~~ hearing examiner may consider evidence
9 relative to present and anticipated future highway traffic volume, future land
10 development in the area, and the amount and type of acreage separated by the
11 highway in determining the need for an underpass of larger dimensions than a
12 standard cattle-pass of reinforced concrete, metal, or other suitable material
13 which provides usable dimensions five feet wide by six feet three inches high.
14 Where a herd of greater than fifty milking cows is consistently maintained on
15 the property, the ~~court~~ hearing examiner may direct that the dimensions of the
16 larger underpass shall be eight feet in width and six feet three inches in height
17 to be constructed of reinforced concrete, ~~and~~. In such event, the owner of the
18 farm property shall pay one-fourth of the difference in overall cost between the
19 standard cattle-pass and the larger underpass. Where the owner of the farm
20 property desires an underpass of dimensions greater than eight feet in width
21 and six feet three inches in height, the underpass may be constructed if feasible

1 and in accordance with acceptable design standards, and the total additional
2 costs over the dimensions specified shall be paid by the owner. The provisions
3 of this section shall not be interpreted to prohibit the agency ~~of transportation~~
4 and the property owner from determining the specifications of a cattle-pass or
5 underpass by mutual agreement at any time, either prior or subsequent to the
6 date of the ~~court's~~ order. The owner of a fee title shall be interpreted to
7 include lessees of so-called lease land.

8 Sec. 59. 19 V.S.A. § 509 is amended to read:

9 § 509. PROCEDURE

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

17 (b) If a person claiming to be affected or concerned files a notice of
18 objection to a proposed finding of necessity prior to the date of the hearing, the
19 ~~court~~ hearing examiner shall at the necessity hearing determine if the person
20 has an interest in lands or rights to be taken such as to be entitled to object to
21 the proposed finding of necessity, and, if he or she is so affected or concerned,

1 whether there is necessity for the taking, in accordance with section 507 of this
2 title. Nothing in this section shall prohibit an interested person from
3 consenting to necessity. The ~~court~~ hearing examiner may continue the hearing
4 to allow proper preparation by the agency ~~of transportation~~ and interested
5 parties.

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

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

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

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

1 Sec. 60. 19 V.S.A. § 510 is amended to read:

2 § 510. APPEAL FROM ORDER OF NECESSITY

3 (a) ~~If the state, municipal corporation or any owner affected by the order of~~
4 ~~the court is aggrieved by the order~~ An interested person aggrieved by the order
5 of necessity may have the decision reviewed on the record by the superior
6 court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. If an
7 interested person is aggrieved by the order of the superior court, an appeal may
8 be taken to the supreme court. In the event an appeal is taken according to
9 these provisions from an order of necessity, its effect may be stayed by the
10 hearing examiner, the superior court, or the supreme court where the person
11 requesting the stay establishes:

12 (1) that he or she has a likelihood of success on the merits;

13 (2) that he or she will suffer irreparable harm in the absence of the
14 requested stay;

15 (3) that other interested parties will not be substantially harmed if a stay
16 is granted; and

17 (4) that the public interest supports a grant of the proposed stay.

18 (b) If no stay is granted at any stage of appeal or, if a stay is granted, upon
19 final disposition of ~~the any~~ appeal, the agency shall record a copy of the order
20 of ~~the court shall be recorded~~ necessity within 30 days in the office of the clerk
21 of each town in which the land affected lies.

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

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

13 Sec. 61. 19 V.S.A. § 511 is amended to read:

14 § 511. HEARING TO DETERMINE AMOUNT OF COMPENSATION

15 (a) Following a determination of the necessity of the taking as above
16 provided, when an owner of land or rights and the agency ~~of transportation~~ are
17 unable to agree on the amount of compensation to be paid, and if the agency ~~of~~
18 ~~transportation~~ desires to proceed with the taking, the ~~transportation~~ board shall
19 appoint a time and place in the county where the land is situated for examining
20 the premises and hearing parties interested, giving at least 10 days' notice in
21 writing to the person owning the land or having an interest in the land. At that

1 time and place, a member or members of the ~~transportation~~ board shall hear
2 any person having an interest in the land and desiring to be heard.

3 (b) If the land proposed to be acquired extends into two or more counties,
4 the board may hold a single hearing in one of the counties to determine
5 compensation. In fixing the place for hearing, the ~~transportation~~ board shall
6 take into consideration the needs of the parties.

7 Sec. 62. 19 V.S.A. § 512 is amended to read:

8 § 512. ORDER FIXING COMPENSATION; INVERSE CONDEMNATION;
9 RELOCATION ASSISTANCE

10 (a) Within ~~45~~ 30 days after the compensation hearing, the ~~transportation~~
11 board shall by its order fix the compensation to be paid to each person from
12 whom land or rights are taken, ~~and~~. Within 30 days of the board's order, the
13 agency ~~of transportation~~ shall file and record the order in the office of the clerk
14 of the town where the land is situated, ~~and shall~~ deliver to each person ~~or~~
15 ~~persons~~ a copy of that portion of the order directly affecting the person ~~or~~
16 ~~persons~~ and ~~shall~~ pay or tender the award to each person entitled ~~which~~. A
17 person to whom a compensation award is paid or tendered under this
18 subsection may be accepted, retained and disposed accept, retain, and dispose
19 of the award to his or her own use without prejudice to the person's right of
20 appeal, as provided in section 513 of this title. Upon the payment or tender of

1 the award as above provided, the agency of ~~transportation~~ may proceed with
2 the work for which the land is taken.

3 * * *

4 * * * Effective Dates * * *

5 Sec. 63. EFFECTIVE DATES

6 (a) The following sections of this act shall take effect on passage:

7 (1) Sec. 7 (ARRA maintenance of effort – appropriation transfers).

8 (2) Sec. 11 (TIB bond reserves end FY10).

9 (3) Sec. 32 (speed limits).

10 (4) Sec. 33 (traffic committee rulemaking).

11 (5) Sec. 37 (replacement of gasoline dispensers). Notwithstanding

12 1 V.S.A. § 214, Sec. 37 shall apply retroactively to gasoline dispensers

13 installed at an existing gasoline dispensing facility after May 1, 2009.

14 (b) All other sections of this act not specifically enumerated in subsection

15 (a) of this section shall take effect on July 1, 2010.