

House Calendar

Tuesday, March 16, 2010

71st DAY OF ADJOURNED SESSION

House Convenes at 10:00 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until March 16, 2010

Favorable with Amendment

S. 280

An act relating to prohibiting texting while operating on a highway

Rep. Grad of Moretown, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act shall be known as and may be cited as the “Highway Traffic Safety Act of 2010.”

* * * Legislative Findings * * *

Sec. 2. LEGISLATIVE FINDINGS

The general assembly finds that:

* * * General Findings * * *

(1) In December 2006, the governor transmitted to the Division Administrator of the Federal Highway Administration the Strategic Highway Plan for Vermont that stated “The first half of 2006 was trending toward a near record-breaking year for highway deaths and incapacitating injuries.” In response to this trend, the Strategic Highway Safety Plan for Vermont was created with the mission to “minimize the occurrence and severity of crashes, related human suffering, and economic losses on the Vermont transportation network.”

(2) According to the governor’s highway safety office, traffic crashes cost the nation about \$230 billion each year in medical expenses, lost productivity, property damage, and related costs. Vermont pays \$221 million of those costs. In 2008, workplace traffic crash injuries cost Vermonters more than \$39 million.

(3) According to the governor’s highway safety program, each highway fatality cost the state of Vermont more than \$900,000.00.

(4) In recognition of the terrible toll in terms of human suffering and financial loss resulting from motor vehicle crashes, on July 6, 2006, the Vermont department of health’s injury prevention program hosted the 2006

Symposium on Preventing Crashes Among Young Drivers at the Inn at Essex, Vermont. The symposium brought together key leaders in highway safety, transportation, public health, and youth development for an in-depth multidisciplinary exploration of the causes of crashes among young drivers and opportunities for prevention.

* * * Teen Driving Safety * * *

(1) The Strategic Highway Safety Plan for Vermont of 2006, signed by the governor and endorsed by state agencies, stated that “new language” should be added to the existing graduated driver license legislation to achieve:

(A) Restrictions on passengers in cars driven by young drivers.

(B) Nighttime limitations for young drivers.

(C) Primary safety belt enforcement to the age of 18.

(D) No cell phone or electronic device use by junior operators.

(2) From a public health perspective, “motor vehicle crashes are among the most serious problems facing teenagers.” (Anatomy of Crashes Involving Young Drivers–Preventing Teen Motor Crashes.) According to the Centers for Disease Control and Prevention, highway injuries and deaths constitute the largest reason for youth injuries and deaths, and therefore constitute a public health risk warranting remedial action.

(3) According to these sources, the 2002 cost of crashes involving drivers ages 20 through 25 was \$40.8 billion (National Center for Injury Prevention and Control, 2006).

(4) According to the Vermont Safety Education Center (VSEC), junior operator passenger restrictions are essential components of graduated licensing. Crash risks for teenage drivers increase incrementally with one, two, three, or more passengers. With three or more passengers, fatal crash risk is about three times higher than if a beginner were driving alone.

(5) According to VSEC, the presence of passengers is a major contributor to the teenage death toll. About two-thirds of all crash deaths of teens that involve 16-year-old drivers occur when the beginners were driving with teen passengers. Studies indicate that passenger restrictions can reduce this problem.

(6) According to VSEC, four out of every 10 deaths of teens in motor vehicles occur between 9:00 p.m. and 6:00 a.m. Nighttime is one of the riskiest times of day for junior operators due to DUI, darkness, and sleep deprivation in teens. Midnight to 2:00 a.m. is the most dangerous nighttime period.

* * * Cell Phones and Electronic Devices * * *

(1) The National Highway Traffic Safety Administration policy on cell phones states, “The primary responsibility of the driver is to operate a motor vehicle safely. The task of driving requires full attention and focus. Cell phone use can distract drivers from this task, risking harm to themselves and others. Therefore, the safest course of action is to refrain from using a cell phone while driving.”

(2) Teens, driving, and cell phones are a dangerous mix due to teens’ vulnerability to distractions and accidents (“Most Wanted Transportation Safety Improvements,” National Transportation Safety Board, November 2008).

(3) In 2008, the National Safety Council called for a ban on cell phones while driving, stating that “drivers talking on a cell phone are four times as likely to have an accident as drivers who are not.”

* * * Safety Belts * * *

(1) States with primary enforcement average 10-percent higher usage than states with secondary enforcement.

(2) A crash involving an unrestrained person costs 55 percent more than one involving someone who was restrained.

(3) Approximately 74 percent of the costs associated with crashes are paid for by society; the victim pays the balance.

(4) Traffic crashes are not just an enforcement issue.

* * * Nighttime Restrictions * * *

Sec. 3. 23 V.S.A. § 614(c) and (d) are added to read:

(c) A person operating with a junior operator’s license shall not operate a motor vehicle between midnight and 5:00 a.m. except when accompanied by a parent or guardian or when carrying the signed and dated written permission of a parent or guardian that contains the parent’s or guardian’s home and work addresses and telephone numbers.

(d) A person in violation of subsection (c) of this section shall be allowed to drive home, on a direct route, following issuance of a traffic ticket by a law enforcement officer.

* * * Safety Restriction on the Use of Wireless Telephones and Handheld Electronic Devices * * *

Sec. 4. 23 V.S.A. § 1095a is added to read:

§ 1095a. USE OF WIRELESS TELEPHONES AND HANDHELD ELECTRONIC DEVICES

(a)(1) For the purposes of this section, “wireless telephone” shall mean a telephone that is:

(A) capable of sending or receiving telephone communications without being physically connected to a telephone wire or cord; and

(B) used pursuant to a subscription with a commercial entity that provides wireless telephone service.

(2) “Wireless telephone” shall not be construed to include:

(A) a two-way radio that is operated by using a push-to-talk feature and does not require proximity to the ear of the user; or

(B) a communication feature of a voice-activated global positioning or navigation system that is affixed within the passenger compartment of a motor vehicle.

(b) For the purposes of this section, “hands-free use” shall refer to the use of a mobile telephone or electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of the mobile telephone or electronic communication device, by which a user engages in a conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone or device.

(c) Subject to the exceptions set forth in subsection (b) of this section, for the purposes of this section, the term “use,” when referring to the utilization of a wireless telephone or handheld electronic device, shall include telephone calls, texting, and all other functions.

(d) A person under 18 years of age shall not use any wireless telephone or handheld electronic device while operating a moving motor vehicle on a highway. This prohibition shall not apply if it is necessary to place an emergency 911 call.

(e) A person 18 years of age or older shall not use a wireless telephone or electronic communication device while operating a moving motor vehicle on a highway. This prohibition shall not apply to:

(1) hands-free use;

(2) placement of an emergency 911 call; or

(3) use by the following persons for the purpose of and during the course of performing their official duties:

(A) law enforcement officers;

(B) firefighters;

(C) operators of authorized emergency vehicles as defined in section 4 of this title; and

(D) state or municipal employees and their contractors who are actively engaged in road maintenance activities.

Sec. 5. WIRELESS TELEPHONE AND HANDHELD ELECTRONIC DEVICE REPORT

By July 1, 2012, the Vermont League of Cities and Towns, Inc., the Vermont state firefighters association, and the Vermont department of public safety, after consulting with their constituents and other appropriate entities whether or not under their direct control, shall submit to the house committee on judiciary a report regarding their constituents' progress toward utilization of hands-free communications technology in the course of motor vehicle operation.

* * * Texting Prohibition, Penalties, and Educational Campaign * * *

Sec. 6. 23 V.S.A. § 1099 is added to read:

§ 1099. TEXTING PROHIBITED

(a) As used in this section, "texting" means the composing, reading, or sending of electronic communications including text messages, instant messages, or e-mails using a portable electronic device. As used in this section, "portable electronic device" means a portable electronic or computing device including a cellular telephone, personal digital assistant (PDA), or laptop computer.

(b) A person operating a moving motor vehicle, electric personal mobility device, or farm tractor on a highway; or operating a moving snowmobile, all-terrain vehicle (as defined in section 3501 of this title), or all-surface vehicle on or off a highway; or operating a moving motorboat (as defined in section 3302 of this title) shall not engage in texting.

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a penalty of \$100.00 upon adjudication of a first violation and \$250.00 upon adjudication of a second or subsequent violation within any two-year period.

Sec. 7. 23 V.S.A. § 607a is amended to read:

§ 607a. RECALL OF LEARNER'S PERMIT OR JUNIOR OPERATOR'S LICENSE

(a) A learner's permit or junior operator's license shall contain an admonition that it is recallable and that the later procurement of an operator's license is conditional on the establishment of a record which is satisfactory to the commissioner and showing compliance with the motor vehicle laws of this and other states. The commissioner may recall any license issued to a minor whenever he or she is satisfied, from information provided by a credible person and upon investigation, that the operator is mentally or physically unfit or, because of his or her habits or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. On recommendation of a diversion or reparative board, the commissioner may recall the learner's permit or junior operator's license of a person in a diversion or reparative program for up to 30 days. The commissioner shall also recall any learner's permit or junior operator's license for 30 days when an operator is adjudicated of a single texting violation under section 1099 of this title, 90 days following adjudication of a single speeding violation resulting in a three-point assessment ~~or, 90 days~~ when a total of six points has been accumulated, or 90 days when an operator is ~~convicted for~~ adjudicated of a violation of section 678 of this title. When a learner's permit or junior operator's license is so recalled, it shall be reinstated upon expiration of a specific term, and, if required by the commissioner, when the person has passed a reexamination approved by the commissioner.

* * *

Sec. 8. 23 V.S.A. § 2502 are amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(LL)	§ 1095.	Operating with television set installed;
<u>(MM)</u>	<u>§ 1099.</u>	<u>Texting prohibited—first offense;</u>
(MM) (NN)	§ 1113.	Illegal backing;
(NN) (OO)	§ 1114.	Illegal riding on motorcycles;
(OO) (PP)	§ 1115.	Illegal operation of motorcycles on roadways laned for traffic;

(PP) <u>(QQ)</u>	§ 1116.	Clinging to other vehicles;
(QQ) <u>(RR)</u>	§ 1117.	Illegal footrests and handlebars;
(RR) <u>(SS)</u>	§ 1118.	Obstructing the driver's view;
(SS) <u>(TT)</u>	§ 1119.	Improper opening and closing vehicle doors;
(TT) <u>(UU)</u>	§ 1121.	Coasting prohibited;
(UU) <u>(VV)</u>	§ 1122.	Following fire apparatus prohibited;
(VV) <u>(WW)</u>	§ 1123.	Driving over fire hose;
(WW) <u>(XX)</u>	§ 1124.	Position of operator;
(XX) <u>(YY)</u>	§ 1127.	Unsafe control in presence of horses and cattle;
(YY) <u>(ZZ)</u>	§ 1131.	Failure to give warning signal;
(ZZ) <u>(AAA)</u>	§ 1132.	Illegal driving on sidewalk;
(AAA) <u>(BBB)</u>	§ 1243.	Lighting requirements;
(BBB) <u>(CCC)</u>	§ 1256.	Motorcycle headgear;
(CCC) <u>(DDD)</u>	§ 1257.	Face protection;
(DDD) <u>(EEE)</u>	§ 800.	Operating without financial responsibility;
(EEE) <u>(FFF)</u>		All other moving violations which have no specified points;
		* * *

(4) Five points assessed for:

(A)	§ 1050.	Failure to yield to emergency vehicles;
(B)	§ 1075.	Illegal passing of school bus;
(C)	§ <u>1099.</u>	<u>Texting prohibited—second and subsequent offenses;</u>
(C) <u>(D)</u>	§ 676.	Operating after suspension, revocation or refusal—civil violation;
		* * *

Sec. 9. EDUCATIONAL CAMPAIGN

The commissioner of motor vehicles, in consultation with the commissioner of education, shall formulate a plan to educate operators as to the dangers of operating while texting and the penalties that may be imposed pursuant to this act.

* * * Primary Enforcement of Safety Belt Law; Federal Funds * * *

Sec. 10. REPEAL; PRIMARY ENFORCEMENT OF SAFETY BELT LAW;
ACCEPTANCE OF FEDERAL FUNDS

(a) 23 V.S.A. § 1259(e) (secondary enforcement of safety belt law) is repealed.

(b) The state is authorized to accept any additional funding available from the federal government attributable to the passage of this section.

* * * Operation by a Junior Operator after Recall is a Civil Violation * * *

Sec. 11. 23 V.S.A. § 676 is amended to read:

§ 676. OPERATION AFTER SUSPENSION, REVOCATION, ~~OR~~
REFUSAL, OR RECALL - CIVIL VIOLATION

(a) A person whose license or privilege to operate a motor vehicle has been revoked, suspended ~~or~~, refused, or recalled by the commissioner of motor vehicles for any reason other than a violation of sections 1091(b), 1094(b), 1128(b) or (c), or 1201 or a suspension under section 1205 of this title and who operates or attempts to operate a motor vehicle upon a public highway before the license or privilege of the person to operate a motor vehicle has been reinstated by the commissioner commits a civil traffic violation.

(b) In establishing a prima facie case against a person accused of violating this section, the judicial bureau shall accept as evidence, a printout attested to by the law enforcement officer as the person's motor vehicle record showing convictions and resulting license suspensions. The admitted motor vehicle record shall establish a permissive inference that the person was under suspension or had his or her license revoked or recalled on the dates and time periods set forth in the record. The judicial bureau shall not require a certified copy of the person's motor vehicle record from the department of motor vehicles to establish the permissive inference.

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2010.

and that after passage, the title of the bill be amended to read: “An act relating to the operation of motor vehicles by junior operators, operating with wireless or handheld devices, prohibiting texting, and primary safety belt enforcement”

(**Committee Vote: 10-0-1**)

ACTION CALENDAR

Third Reading

H. 555

An act relating to youth hunting

Amendment to be offered by Rep. Marcotte of Coventry to H. 555

By adding Sec 5a to read as follows:

Sec. 5a. FISH AND WILDLIFE BOARD REPORT ON YOUTH DEER

HUNTING LIMITS

On or before January 15, 2011, the fish and wildlife board shall submit to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy a recommendation as to whether a youth that hunts deer under 10 V.S.A. § 4742a should be limited to the taking of one deer prior to the youth turning 16 years of age.

H. 600

An act relating to permitted investments by the state treasurer

Amendment to be offered by Rep. Bissonnette of Winooski to H. 600

First: In Sec.1, 32 V.S.A. § 433(a)(2), by striking “section 30101 of this title” and inserting in lieu thereof “8 V.S.A. § 30101”.

Second: By striking Sec. 2 in its entirety, and renumbering Sec. 3 to be Sec. 2.

Favorable with amendment

H. 132

An act relating to residential electrical installations

Rep. Stevens of Waterbury, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. § 894 is amended to read:

§ 894. ENERGIZING INSTALLATIONS; REENERGIZING AFTER

EMERGENCY DISCONNECTION

(a) A new electrical installation in or on a complex structure; or an electrical installation used for the testing or construction of a complex structure shall not be connected or caused to be connected, to a source of electrical energy unless prior to ~~such~~ connection, either a temporary or a permanent energizing permit is issued for that installation by the commissioner or an electrical inspector.

(b) An existing electrical installation in any structure, including a single-family owner-occupied freestanding residence, that was disconnected as the result of an emergency that affects the internal electrical circuits, shall not be reconnected to a source of electrical energy until the electrical installation has been inspected and determined to be safe by a licensed journeyman or licensed master electrician.

(c) This section shall not be construed to limit or interfere with a contractor's right to receive payment for electrical work for which a certificate of completion has been granted.

Sec. 2. 26 V.S.A. § 904(a) is amended to read:

(a) To be eligible for licensure as a type-S journeyman an applicant shall:

(1) complete an accredited training and experience program recognized by the board; or

(2) have had training and experience, within or without this state, acceptable to the board; and

(3) pass an examination to the satisfaction of the board in one or more of the following fields:

(A) Automatic gas or oil heating;

(B) Outdoor advertising;

(C) Refrigeration or air conditioning;

(D) Appliance and motor repairs;

(E) Well pumps;

(F) Farm equipment;

(G) Renewable energy systems for one- and two-family dwellings;

(H) Any miscellaneous specified area of specialized competence.

Sec. 3. 26 V.S.A. § 910 is amended to read:

§ 910. LICENSE NOT REQUIRED

A license shall not be required for the following types of work:

(1) Any electrical work, including construction, installation, operation, maintenance, and repair of electrical installations in, on or about equipment or premises, which are owned or leased by the operator of any industrial or manufacturing plant, if the work is done under the supervision of an electrical engineer or master electrician in the employ of the operator;

(2) Installation in laboratories of exposed electrical wiring for experimental purposes only;

(3) Any electrical work by ~~an~~ the owner or his or her regular employees in the owner's owner-occupied freestanding single unit residence, ~~in~~ and outbuildings accessory to ~~such~~ the freestanding single unit residence or any structure on owner-occupied farms;

(4) Electrical installations performed as a part of a training project of a vocational school or other educational institution. However, the installation shall be inspected if the building in which the installation is made, is to be used as a "complex structure";

(5) Electrical work performed by an electrician's helper under the direct supervision of a person who holds an appropriate license issued under this chapter;

(6) ~~Any electrical work in a building used for dwelling or residential purposes which contains no more than two dwelling units~~ Installation of solar electric modules and racking and erection of residential wind turbines and towers to the point of connection to field-fabricated wiring.

Sec. 4. EFFECTIVE DATE; TRANSITIONAL PROVISIONS

(a) This act shall take effect on passage.

(b) In order to provide time for the electrical licensing board to develop and conduct a test for a type-S journeyman's license for renewable energy installation and for renewable energy installers to complete the licensing requirements, a license shall not be required for renewable energy installations until 12 months after the electrical licensing board adopts this test and licensing procedure.

(Committee Vote: 8-0-0)

H. 408

An act relating to improving nutrition programs

Rep. Mrowicki of Putney, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FEDERAL OPTIONS IN THE SUPPLEMENTAL NUTRITION PROGRAM

(a)(1) It is the intent of the general assembly that the department for children and families will implement the federal options described in this subsection by July 1, 2012.

(2) The department for children and families may implement federal options in 3SquaresVT or seek federal waivers in the supplemental nutrition program to:

(A) expand participation in 3SquaresVT by individuals applying for and receiving Supplemental Security Income (SSI), such as through the combined application project (CAP), through direct communication with potentially eligible individuals known to the department, or through other methods designed to simplify the application process or facilitate access to the program; and

(B) increase participation in 3SquaresVT by individuals age 60 or older through a simplified application process.

(b) Annually, by March 1, the department for children and families shall provide a progress report through testimony to the house committee on human services and the senate committee on health and welfare on implementation of any federal options or waivers that would simplify the administration of 3SquaresVT, simplify the application or recertification process, or increase enrollment in the program. The department's progress report shall include an explanation of any legislative, administrative, or technical challenges encountered that may affect timely implementation.

Sec. 2. AFTER-SCHOOL SNACK PROGRAM

(a) By October 1, 2010, the department of education shall require that every after-school program funded in whole or in part by a grant under the 21st Century Community Learning Center program create an after-school snack program using federal funds from the national school lunch after-school snack program or the child and adult care food program.

(b) By October 1, 2010, the department of education shall require that one or more schools in districts with organizations receiving a grant under the 21st

Century Community Learning Center program for an after-school snack program provide fiscal sponsorship of the national school lunch

after-school snack program for these organizations. The department shall only require the school to provide fiscal sponsorship if requested by the organization in the district providing an after-school snack program.

(c) The school board or the after-school program may apply to the department of education for a waiver of the requirements in this section. The commissioner shall grant the requested waiver if he or she finds that it is unduly difficult for the school district or after-school program to provide a snack, and if he or she finds that the school district or after-school program has exercised due diligence in its efforts to avoid the situation that gives rise to the need for the requested waiver. In no event shall the waiver extend for a period to exceed a school year.

Sec. 3. AFTER-SCHOOL SNACK PROGRAM; WORKGROUP

(a) By July 1, 2010, the interagency council on hunger established by Executive Order No. 11-09 shall convene a meeting, including interested parties, in order to create a plan to maximize the availability of after-school snack programs using federal funds from the national school lunch after-school snack program or the child and adult care food program. The council shall focus its efforts to expand after-school snack programs in areas where at least 50 percent of the students in a school were eligible for free or reduced-price meals under 16 V.S.A. § 1264 for at least one month in the preceding academic year.

(b) The council shall report to the house committees on education and on human services and the senate committees on education and on health and welfare on January 15, 2011, on its progress in expanding availability of after-school snack programs.

Sec. 4. 16 V.S.A. § 1264 is amended to read:

§ 1264. FOOD PROGRAM

(a)(1) Each school board ~~actually~~ operating a public school shall cause to operate within the school district a food program ~~which that~~ makes available a school lunch, as provided in the National School Lunch Act as amended, and a school breakfast, as provided in the National Child Nutrition Act as amended, to each attending pupil every school day.

(2) Each school board operating a public school shall offer a summer snack or meals program funded by the Summer Food Service program or the National School Lunch Program for participants in a summer educational or recreational program or camp if:

(A) At least 50 percent of the students in a school were eligible for free or reduced-price meals under subdivision (1) of this subsection for at least one month in the preceding academic year;

(B) The district operates or funds the summer educational or recreational program or camp; and

(C) The summer educational or recreational program or camp is offered 15 or more hours per week.

(b) In the event of an emergency, the school board may apply to the department for a temporary waiver of ~~this daily operating requirement~~ the requirements in subsection (a) of this section. The commissioner shall grant the requested waiver if he or she finds that it is unduly difficult for the school district to ~~serve~~ provide a school lunch ~~or~~, breakfast, or ~~both~~ summer meals program, or any combination of the three, and if he or she finds that the school district has exercised due diligence in its efforts to avoid the emergency situation ~~which~~ that gives rise to the need for the requested waiver. In no event shall the waiver extend for a period to exceed 20 school days or, in the case of a summer meals program, the remainder of the summer vacation.

~~(b)~~(c) The state shall be responsible for the student share of the cost of breakfasts provided to all students eligible for a reduced price breakfast under the federal school breakfast program.

Sec. 5. DIRECT CERTIFICATION FOR SCHOOL MEALS PROGRAMS

The department for children and families and the department of education shall continue to improve the monthly direct certification process through the use of automated data matches in order to certify children receiving 3SquaresVT as eligible for school breakfast, lunch, and summer meals programs.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-1)

Rep. Zenie of Colchester, for the Committee on **Education**, recommends the bill ought to pass when amended as recommended by the Committee on **Human Services**.

(Committee Vote: 10-0-1)

H. 648

An act relating to harassment and hazing policies at independent colleges

Rep. Kilmartin of Newport City, for the Committee on **Education**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 178 is added to read:

§ 178. HARASSMENT AND HAZING PREVENTION POLICIES;
POSTSECONDARY SCHOOLS

(a) The board of trustees or other governing body of each postsecondary school, as defined in subdivision 140a(1) of this title, operating in Vermont shall adopt and ensure enforcement of a policy establishing that harassment as defined in subdivision 11(a)(26) of this title is a form of unlawful discrimination and therefore prohibited. The board shall also require the establishment of procedures to address complaints of discriminatory harassment and to initiate educational programs designed to prevent such conduct.

(b) The board of trustees or other governing body of each postsecondary school, as defined in subdivision 140a(1) of this title, operating in Vermont shall adopt and ensure enforcement of a policy prohibiting hazing, which shall define hazing in a manner that is at least as stringent as the definition contained in subdivision 11(a)(30) of this title. The policy shall include penalties or sanctions or both for organizations that or individuals who engage in hazing; 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; and clear delineation of circumstances under which hazing will be reported to a law enforcement agency. A summary of the policy shall be distributed to all students at least annually.

Sec. 2. 16 V.S.A. § 178a is added to read:

§ 178a. POSTSECONDARY SCHOOLS; HARASSMENT, HAZING, AND
BULLYING; STATE POLICY

It is the policy of the state of Vermont that all Vermont postsecondary schools 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 postsecondary student should feel threatened or be discriminated against while enrolled in a Vermont postsecondary school.

Sec. 3. 16 V.S.A. § 565(b) is amended to read:

(b) 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 and hazing prevention policies which shall be at least as stringent as model policies developed by the commissioner. In this section, the definitions of ~~educational institution~~, organization, pledging, and student shall be the same as those in ~~section 140a~~ subdivisions 140a(2), (3), and (4) of this title. In this section, educational institution means public schools and independent schools as defined in section 11 of this title.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage. Independent postsecondary schools shall develop and adopt the policies and procedures required by this act no later than July 1, 2010.

(**Committee Vote: 10-0-1**)

Action Postponed Until May 28, 2010

Governors Veto

H. 436

An act relating to decommissioning funds of nuclear energy generation plants.

Pending Question: Shall the House sustain the Governor's veto?

NOTICE CALENDAR

Committee Bill for Second Reading

H. 772

An act relating to alcoholic beverage tastings and other liquor licensing issues.

(Rep. Baker of West Rutland will speak for the Committee on General, Housing and Military Affairs.)

Favorable with Amendment

H. 243

An act relating to the creation of an apprentice hunting license

Rep. Adams of Hartland, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4256 is added to read:

§ 4256. MENTORED HUNTING LICENSES

(a) An individual who holds a mentored hunting license shall be entitled to hunt only when accompanied by an individual, 21 years of age or older, who holds a valid hunting license under subsection 4254(b) of this title. A resident or nonresident mentored hunting license may be issued to any person who has not taken a hunter safety course as required under subdivisions 4254(b)(1) and (2) of this title, provided that:

(1) A mentored hunting license shall only be issued twice to any one individual, and each license shall last until December 31 of the year for which the license was issued.

(2) A mentored hunting license shall not be issued to any individual who has held a valid hunting license under subsection 4254(b) of this title or an equivalent license in any other state.

(3) The mentored hunting license shall not be issued to a person under 16 years of age without the written consent of the applicant's parent or legal guardian given in the presence of the agent issuing the license.

(b) Having held a valid mentored hunting license does not exempt an individual from meeting all the requirements for a hunting license under subsection 4254(b) of this title.

(c) At the time of licensing, the department shall provide each mentored hunter a document to explain the details of the mentored hunting license program and to educate the mentored hunter about hunting safety and responsibility. The applicant shall certify, according to department procedure, that he or she has read the document. The department shall provide copies of this document to all locations authorized to sell licenses pursuant to subsection 4254(e) of this title.

(d) For the purposes of this section, "accompany," "accompanied," or "accompanying" means direct control and supervision, including the ability to see and communicate with the mentored hunter without the aid of artificial devices such as radios or binoculars, except for medically necessary devices such as hearing aids or eyeglasses. While hunting, an individual who holds a valid hunting license under subsection 4254(b) of this title shall accompany only one mentored hunter at a time. The individual accompanying the mentored hunter while hunting shall sign and date the license of the mentored hunter.

(e) An individual who holds a mentored hunting license is not eligible to hunt moose pursuant to subsection 4254(b) of this title.

(f) An individual who holds a mentored hunting license shall be subject to

Sec. 4. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

(1) Five points shall be assessed for any violation of statutes or rules adopted under this part except those listed in subdivisions (2) and (3) of this subsection.

(2) Ten points shall be assessed for:

* * *

~~(CC) Appendix § 22E. Turkey reporting~~

* * *

(II) Appendix § 37, as it ~~applied~~ applies to annual deer limits

(JJ) § 4256. Mentored hunting license, and the points shall be assessed against the licensed adult who is accompanying the individual holding the mentored hunting license.

* * *

and that upon passage, the title of the bill be amended to read:

“An act relating to the creation of a mentored hunting license”

(**Committee Vote: 8-1-0**)

Rep. Branagan of Georgia, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources**.

(**Committee Vote: 11-0-0**)

H. 462

An act relating to encroachments on public waters

Rep. Bohi of Hartford, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 29 V.S.A. § 401 is amended to read:

§ 401. POLICY

Lakes and ponds which are public waters of Vermont and the lands lying thereunder are a public trust, and it is the policy of the state that these waters and lands shall be managed to serve the public good, as defined by section 405

of this title, to the extent authorized by statute. For the purposes of this chapter, the exercise of this management shall be limited to encroachments subject to section 403 of this title. The management of these waters and lands shall be exercised by the department of environmental conservation in accordance with this chapter and the rules of the board. For the purposes of this chapter, jurisdiction of the department shall be construed as extending to all lakes and ponds which are public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the state, as such mean water level is determined by the board. For the purposes of this chapter, jurisdiction shall include encroachments of docks and piers on the boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and encroachments of docks and piers on the Connecticut River impoundments and boatable tributaries of such impounds upstream to the first barrier to navigation. No provision of this chapter shall be construed to permit trespass on private lands without the permission of the owner.

Sec. 2. 29 V.S.A. § 403 is amended to read:

§ 403. ENCROACHMENT PROHIBITED

(a)(1) Except as provided in subsection (b) of this section, no person shall encroach on any of those waters and lands of lakes and ponds under the jurisdiction of the board without first obtaining a permit under this chapter.

(2) Except as provided in subsection (b) of this section, no person shall encroach on the following waters with a dock or pier without first obtaining a permit under this chapter:

(A) boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation; and

(B) Connecticut River impoundments and boatable tributaries of such impoundments upstream to the first barrier to navigation.

(3) No permit shall be granted if the encroachment adversely affects the public good.

(b) A permit shall not be required for the following uses provided that navigation or boating is not unreasonably impeded:

(1) Wooden or metal docks for noncommercial use mounted on piles or floats provided that:

(A) the combined horizontal distance of the proposed encroachment and any existing encroachments located within 100 feet thereof which are owned or controlled by the applicant do not exceed 50 feet and their aggregate surface areas do not exceed 500 square feet; and

(B) concrete, masonry, earth or rock fill, sheet piling, bulkheading, cribwork, or similar construction does not form a part of the encroachment;

(2) A water intake pipe not exceeding two inches inside diameter;

(3) Temporary extensions of existing structures added for a period not to exceed six months, if required by low water;

(4) Ordinary repairs and maintenance to existing commercial and noncommercial structures;

(5) Duck blinds, floats, rafts, and buoys.

(c) Existing encroachments shall not be enlarged, extended, or added to without first obtaining a permit under this chapter, except as provided in subsection (b) of this section.

(d) This chapter shall not apply to encroachments subject to the provisions of chapter 43 of Title 10, concerning dams, or regulations adopted under the provisions of 10 V.S.A. § 1424 concerning public waters.

(e) This section shall not apply to the installation on lake bottoms of small filtering devices not exceeding nine square feet of disturbed area on the end of water intake pipes less than two inches in diameter for the purpose of zebra mussel control.

(**Committee Vote: 9-0-0**)

H. 470

An act relating to restructuring of the judiciary

Rep. Lippert of Hinesburg, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 1 is amended to read:

§ 1. ~~SUPREME COURT~~ UNIFIED COURT SYSTEM ESTABLISHED

~~There shall be a supreme court for the state, which shall be held at the times and places appointed by law. The judiciary shall be a unified court system under the administrative control of the supreme court. It shall consist of an appellate division, which shall be the supreme court, and a trial division, which shall consist of a trial court of general jurisdiction to be known as the superior court, and a judicial bureau.~~

Sec. 2. 4 V.S.A. § 2 is amended to read:

§ 2. SUPREME COURT ESTABLISHED; JURISDICTION

(a) The supreme court shall have exclusive jurisdiction of appeals from judgments, rulings, and orders of the superior court, ~~the district court and all other courts~~, administrative agencies, boards, commissions, and officers unless otherwise provided by law.

* * *

Sec. 3. 4 V.S.A. § 21a is amended to read:

§ 21a. DUTIES OF THE ADMINISTRATIVE JUDGE

(a) The administrative judge shall assign and specially assign superior ~~and district~~ judges, including himself or herself, and environmental judges to the superior, ~~environmental, district, and family courts~~ court. ~~If the administrative judge determines that additional judicial time is needed to address cases filed in environmental court, the judge may assign or specially assign up to four judges on a part time basis to the environmental court. When assigning or specially assigning judges to the environmental court, the administrative judge shall give consideration to experience and expertise in environmental and zoning law, and shall assign or specially assign judges in a manner to provide appropriate attention to all geographic areas of the state. All superior judges except environmental judges shall be subject to the requirements of rotation as ordered by the supreme court. Assignments made pursuant to the rotation schedule shall be subject to the approval of the supreme court.~~

(b) In making any assignment under this section, the administrative judge shall give consideration to the experience, temperament, and training of a judge and the needs of the court. In making an assignment to the environmental ~~court~~ division, the administrative judge shall give consideration to experience and expertise in environmental and land use law and shall assign or specially assign judges in a manner to provide appropriate attention to all geographic areas of the state.

(c) In making any assignments to the environmental ~~court~~ division under this section, the administrative judge shall regularly assign ~~both environmental judges through August 2008 and a minimum of two judges thereafter~~, at least one of whom shall be an environmental judge. An environmental judge may be assigned to ~~another~~ other divisions in the superior court only with the judge's consent and for a period of time not exceeding two years. When assigned to other divisions in the superior court, the environmental judge shall have all the powers and responsibilities of a superior judge.

Sec. 4. 4 V.S.A. § 22(a) and (b) are amended to read:

(a) The chief justice may appoint and assign a retired justice or judge with his or her consent or a superior judge ~~or district judge~~ to a special assignment

on the supreme court. The chief justice may appoint, and the administrative judge shall assign, an active or retired justice or a retired judge, with his or her consent, to any special assignment in the ~~district, family, environmental or superior courts~~ court or the judicial bureau. The administrative judge shall assign a judge to any special assignment in the ~~district, family, environmental or superior court~~. ~~Preference shall be given to superior judges to sit in superior courts. Preference shall be given to district judges to sit in district courts.~~

(b) The administrative judge may appoint and assign a member of the Vermont bar residing within the state of Vermont to serve temporarily as:

- (1) an acting judge in a ~~district, family, environmental, or superior court~~;
- (2) an acting magistrate; or
- (3) an acting hearing officer to hear cases in the judicial bureau.

Sec. 5. 4 V.S.A. § 25(c) is amended to read:

(c) The supreme court may allow supreme court justices, superior ~~court~~ judges, ~~district court~~ judges, environmental ~~court~~ judges, magistrates, hearing officers, probate ~~court~~ judges, superior court clerks, or any ~~state compensated~~ state-compensated employees of the judicial branch not covered by a collective bargaining agreement to take an administrative leave of absence without pay, or with pay if the person is called to active duty in support of an extended national or state military operation. These judicial officers and state employees shall be entitled to be compensated in the same manner as judicial branch employees covered by a collective bargaining agreement called to active duty. The court administrator, at the direction of the supreme court, shall include provisions in the personnel rules of the judiciary to administer these leaves of absence.

Sec. 6. 4 V.S.A. § 26 is amended to read:

§ 26. HALF-TIME JUDGES

Of the superior ~~and district~~ judge positions authorized by this title, up to two may be shared, each by two half-time judges. Of the magistrate positions authorized by this title, one may be shared by two half-time magistrates. Of the hearing officer positions authorized by this title, one may be shared by two half-time hearing officers. Half-time superior ~~and district~~ judges, magistrates, and hearing officers shall be paid proportionally and shall receive the same benefits as state employees who share a job. Half-time judges, magistrates, and hearing officers shall not engage in the active practice of law for remuneration.

Sec. 7. 4 V.S.A. § 30 is added to read:

§ 30. SUPERIOR COURT

(a)(1) A superior court having statewide jurisdiction is created. The superior court shall have the following divisions:

(A) A civil division, which shall have jurisdiction over the matters described in section 31 of this title. The Vermont Rules of Civil Procedure shall apply in the civil division.

(B) A criminal division, which shall have jurisdiction over the matters described in section 32 of this title. The Vermont Rules of Criminal Procedure shall apply to criminal matters in the criminal division, and the Vermont Rules of Civil Procedure shall apply to civil matters in the criminal division.

(C) A family division, which shall have jurisdiction over the matters described in section 33 of this title. The Vermont Rules of Family Procedure shall apply in the family division.

(D) An environmental division, which shall have jurisdiction over the matters described in section 34 of this title. The Vermont Rules for Environmental Proceedings shall apply in the environmental division.

(2) The supreme court shall promulgate rules, subject to review by the legislative committee on judicial rules under chapter 1 of Title 12, which establish criteria for the transfer of cases between divisions.

(b) The supreme court shall by rule divide the superior court into 14 geographical units which shall follow county lines, except that, subject to the venue requirements of subsection 1001(e) of this title, the environmental division shall be a court of statewide jurisdiction and shall not be otherwise divided into geographical units. The superior court shall be held in each unit of the state.

(c) Terms of the superior court shall be stated by administrative orders of the supreme court. The court administrator shall provide appropriate security services for each court in the state.

* * * Delayed Effective Date * * *

Sec. 7a. 4 V.S.A. § 30 is amended to read:

§ 30. SUPERIOR COURT

(a)(1) A superior court having statewide jurisdiction is created. The superior court shall have the following divisions:

* * *

(E) A probate division, which shall have jurisdiction over the matters

described in section 35 of this title. The Vermont Rules of Probate Procedure shall apply in the probate division.

* * *

Sec. 7b. 4 V.S.A. § 31 is added to read:

§ 31. JURISDICTION; CIVIL DIVISION

The civil division shall have:

(1) original and exclusive jurisdiction of all original civil actions, except as otherwise provided in sections 2, 32, 33, 34, 35, and 1102 of this title;

(2) appellate jurisdiction of causes, civil and criminal, appealable to the court; and

(3) original jurisdiction, concurrent with the supreme court, of proceedings in certiorari, mandamus, prohibition, and quo warranto;

(4) exclusive jurisdiction to hear and dispose of any requests to modify or enforce orders in civil cases previously issued by the superior or district court other than orders relating to those actions listed in sections 437 and 454 of this title; and

(5) any other matter brought before the court pursuant to law that is not subject to the jurisdiction of another division.

Sec. 7c. 4 V.S.A. § 32 is added to read:

§ 32. JURISDICTION; CRIMINAL DIVISION

(a) The criminal division shall have jurisdiction to try, render judgment, and pass sentence in prosecutions for felonies and misdemeanors.

(b) The criminal division shall have jurisdiction to try and finally determine prosecutions for violations of bylaws or ordinances of a village, town, or city except as otherwise provided.

(c) The criminal division shall have jurisdiction of the following civil actions:

(1) Appeals of final decisions of the judicial bureau.

(2) DUI license suspension hearings filed pursuant to chapter 24 of Title 23.

(3) Extradition proceedings filed pursuant to chapter 159 of Title 13.

(4) Drug forfeiture proceedings under subchapter 2 of chapter 84 of Title 18.

(5) Fish and wildlife forfeiture proceedings under chapter 109 of Title 10.

(6) Liquor forfeiture proceedings under chapter 19 of Title 7.

(7) Hearings relating to refusal to provide a DNA sample pursuant to 20 V.S.A. § 1935.

(8) Automobile forfeiture and immobilization proceedings under chapters 9 and 13 of Title 23.

(9) Sex offender proceedings pursuant to 13 V.S.A. §§ 5411(e) and 5411d(f).

(10) Restitution modification proceedings pursuant to 13 V.S.A. § 7043(h).

(11) Municipal parking violation proceedings pursuant to 24 V.S.A. § 1974a(e), if the municipality has established an administrative procedure enabling a person to contest the violation, and the person has exhausted the administrative procedure.

(12) Proceedings to enforce chapter 74 of Title 9, relating to energy efficiency standards for appliances and equipment.

(13) Proceedings to enforce 21 V.S.A. § 268, relating to commercial building energy standards.

Sec. 7d. 4 V.S.A. § 33 is added to read:

§ 33. JURISDICTION; FAMILY DIVISION

Notwithstanding any other provision of law to the contrary, the family division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

(1) All desertion and support proceedings and all parentage actions filed pursuant to chapter 5 of Title 15.

(2) All rights of married women proceedings filed pursuant to chapter 3 of Title 15.

(3) All enforcement of support proceedings filed pursuant to Title 15B.

(4) All annulment and divorce proceedings filed pursuant to chapter 11 of Title 15.

(5) All parent and child proceedings filed pursuant to chapter 15 of Title 15.

(6) All grandparents' visitation proceedings filed pursuant to chapter 18 of Title 15.

(7) All uniform child custody proceedings filed pursuant to chapter 19 of Title 15.

(8) All juvenile proceedings filed pursuant to chapters 51, 52, and 53 of Title 33, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281 whether the matter originated in the district or the family court.

(9) All enforcement of support proceedings filed pursuant to chapter 39 of Title 33.

(10) All protective services for developmentally disabled persons proceedings filed pursuant to chapter 215 of Title 18.

(11) All mental health proceedings filed pursuant to chapters 179, 181, and 185 of Title 18.

(12) All involuntary sterilization proceedings filed pursuant to chapter 204 of Title 18.

(13) All care for mentally retarded persons proceedings filed pursuant to chapter 206 of Title 18.

(14) All abuse prevention proceedings filed pursuant to chapter 21 of Title 15. Any superior judge may issue orders for emergency relief pursuant to 15 V.S.A. § 1104.

(15) All abuse and exploitation proceedings filed pursuant to subchapter 2 of chapter 69 of Title 33.

(16) All proceedings relating to the dissolution of a civil union.

(17) All requests to modify or enforce orders previously issued by the district or superior court relating to any of the proceedings identified in subdivisions (1)–(16) of this section.

Sec. 7e. 4 V.S.A. § 34 is added to read:

§ 34. JURISDICTION; ENVIRONMENTAL DIVISION

The environmental division shall have:

(1) jurisdiction of matters arising under chapters 201 and 220 of Title 10;

(2) jurisdiction of matters arising under chapter 117 and subchapter 12 of chapter 61 of Title 24; and

(3) original jurisdiction to revoke permits under chapter 151 of Title 10.

Sec. 7f. 4 V.S.A. § 35 is added to read:

§ 35. JURISDICTION; PROBATE DIVISION

The probate division shall have jurisdiction of:

- (1) the probate of wills;
- (2) the settlement of estates;
- (3) the administration of trusts created by will pursuant to Title 14A;
- (4) trusts of absent persons' estates;
- (5) charitable, cemetery, and philanthropic trusts;
- (6) irrevocable trusts created by inter vivos agreements solely for the purpose of removal and replacement of trustees pursuant to 14 V.S.A. § 2314(c);
- (7) the appointment of guardians, and of the powers, duties, and rights of guardians and wards;
- (8) proceedings concerning chapter 231 of Title 18;
- (9) accountings of attorneys-in-fact where no guardian has been appointed and the agent has reason to believe the principal is incompetent;
- (10) adoptions and relinquishment for adoption;
- (11) uniform gifts to minors;
- (12) changes of name;
- (13) issuance of new birth certificates and amendment of birth certificates;
- (14) correction or amendment of civil marriage certificates and death certificates;
- (15) emergency waiver of premarital medical certificates;
- (16) proceedings relating to cemetery lots;
- (17) trusts relating to community mausoleums or columbaria;
- (18) civil actions brought under subchapter 3 of chapter 107 of Title 18, relating to disposition of remains;
- (19) proceedings relating to the conveyance of a homestead interest of a spouse under a legal disability;
- (20) the issuance of declaratory judgments;

(21) issuance of certificates of public good authorizing the civil marriage of persons under 16 years of age;

(22) appointment of administrators to discharge mortgages held by deceased mortgagees;

(23) appointment of trustees for persons confined under sentences of imprisonment;

(24) fixation of compensation and expenses of boards of arbitrators of death taxes of Vermont domiciliaries;

(25) emancipation of minors proceedings filed pursuant to chapter 217 of Title 12; and

(26) other matters as provided by law.

Sec. 8. 4 V.S.A. § 36 is added to read:

§ 36. COMPOSITION OF THE COURT

Unless otherwise specified by law, the superior court is composed of one superior judge sitting alone.

Sec. 9. 4 V.S.A. § 37 is added to read:

§ 37. VENUE

(a) The venue for all actions filed in the superior court, whether heard in the civil, criminal, family, environmental, or probate division, shall be as provided in law.

(b) Notwithstanding any other provision of law, the supreme court may promulgate venue rules, subject to review by the legislative committee on judicial rules under chapter 1 of Title 12, which are consistent with the following policies:

(1) Proceedings involving a case should be heard in the unit in which the case was brought, subject to the following exceptions:

(A) when the parties have agreed otherwise;

(B) status conferences, minor hearings, or other nonevidentiary proceedings; or

(C) when a change in venue is necessary to ensure access to justice for the parties or required for the fair and efficient administration of justice.

(2) The electronic filing of cases on a statewide basis should be facilitated, and the court is authorized to promulgate rules establishing an electronic case filing system.

(3) The use of technology to ease travel burdens on citizens and the courts should be promoted. For example, venue requirements should be deemed satisfied for some court proceedings when a person, including a judge, makes an appearance via video technology, even if the judge is not physically present in the same location as the person making the appearance.

Sec. 10. 4 V.S.A. § 71(a) and (e) are amended to read:

(a) There shall be ~~15~~ 32 superior judges, whose terms of office shall, except in the case of an appointment to fill a vacancy or unexpired term, begin on April 1 in the year of their appointment or retention, and continue for six years.

(e) The supreme court shall designate one of the superior ~~or district~~ judges to serve as administrative judge. The administrative judge shall serve at the pleasure of the supreme court.

Sec. 11. 4 V.S.A. § 73 is amended to read:

§ 73. ASSIGNMENT

(a) ~~The supreme court may establish no more than three geographic divisions for the assignment of superior judges. In accordance with the direction of the supreme court, the administrative judge shall assign the superior judges among the geographic units and divisions and shall establish a rotation schedule, both within and outside the division to which the judges are regularly assigned. The rotation schedule shall be on file in the office of the clerk of each superior court, and copies shall be furnished upon request of the superior court. The administrative judge shall assign a presiding judge to each unit and may assign a judge to preside in more than one unit. Only in In a case where a superior judge is disqualified or unable to attend any term of court or part thereof to which he or she has been assigned may, the administrative judge may assign another superior judge to act as presiding judge at that term or part thereof and only for that period during which the assigned judge is disqualified or unable to attend. If during a term of the superior court the court in a unit is unable to complete all or part of the work before it in a reasonable time, the administrative judge, with the approval of the supreme court, may modify judge assignments to reduce delays in that unit.~~

(b) Pursuant to section 21a of this title, the administrative judge shall ~~specialy~~ assign superior judges to hear and determine family court matters. The administrative judge shall insure that such hearings are held promptly. Any contested divorce case which has been pending for more than one year shall be advanced for prompt hearing upon the request of any party.

(c) ~~Notwithstanding subsection (b) of this section, the administrative judge~~

~~may, pursuant to section 21a of this title, specially assign a district court judge to family court to hear matters specified in subsection (b). As necessary to ensure the efficient operation of the superior court, the presiding judge of the unit may specially assign a superior judge assigned to a division in the unit, including the presiding judge, to preside over one or more cases in a different division. As the administrative judge determines necessary for the operation of the superior court throughout the state, and with the approval of the supreme court, the administrative judge may additionally assign for a specified period of time a superior judge to preside over a particular type of case, or over a particular type of motion or other judicial proceeding, in all or part of the units in the state.~~

Sec. 12. 4 V.S.A. § 75 is amended to read:

§ 75. POWERS OF JUSTICE; ~~OR SUPERIOR JUDGE OR DISTRICT JUDGE~~ AFTER EXPIRATION OF TERM OR VACATION OF OFFICE

~~Whenever the term of office of a justice, superior judge or district judge, environmental judge, magistrate, or hearing officer expires or he or she otherwise vacates the office, he the justice, judge, magistrate, or hearing officer shall have the same authority to conclude causes he or she has partly or fully heard before him that he or she would have had if he had remained remaining in that office. He The justice, judge, magistrate, or hearing officer may make and sign findings and orders for judgments or decrees in causes pending before him and or her, may make interlocutory orders and decrees. He, and shall be paid compensation commensurate with that paid specially assigned judicial officers as provided by section 23 of this title.~~

Sec. 13. 4 V.S.A. § 111 is amended to read:

§ 111. SUPERIOR COURT SESSIONS

~~(a) A superior court shall be held in each county at the times and places appointed by law.~~

~~(b) When the business of a superior court cannot otherwise be disposed of with reasonable dispatch, by direction of the administrative judge there may be held additional sessions of that superior court simultaneously with the regular session consisting of a presiding judge and one or more assistant judges, if available.~~

~~(c) A superior court may be temporarily recessed or adjourned from the place designated for holding a regular term or session to another place in the county having adequate facilities, when the regular facilities at the county designated courthouse are not adequate.~~

~~(d) A superior court may be temporarily recessed or adjourned from the place designated for holding a regular term or session to another place outside the county having adequate facilities, when the regular facilities at the county courthouse are not adequate and when the court and all litigants in the case agree to said transfer.~~

~~(e) The administrative judge may assign assistant judges, with their consent, to a special assignment in a court where they have jurisdiction in another county when assistant judges of that county are unavailable or the business of the courts so require.~~

Sec. 14. 4 V.S.A. § 112 is amended to read:

§ 112. COMPOSITION OF COURT CASES INVOLVING BOTH LEGAL AND EQUITABLE CLAIMS

~~(a) The superior court shall consist of one presiding judge and two assistant judges, if available.~~

~~(b) Questions of law and fact. In all proceedings, questions of law shall be decided by the presiding judge. In cases not tried before a jury, questions of fact shall be decided by the court. Mixed questions of law and fact shall be deemed to be questions of law. The presiding judge alone shall decide which are questions of law, questions of fact, and mixed questions of law and fact. Written or oral stipulations of fact submitted by the parties shall establish the facts related therein, except that the presiding judge, in his discretion, may order a hearing on any such stipulated fact. Neither the decision of the presiding judge under this subsection nor participation by an assistant judge in a ruling of law shall be grounds for reversal unless a party makes a timely objection and raises the issue on appeal.~~

~~(c) Availability of assistant judges. If two assistant judges are not available, the court shall consist of one presiding judge and one assistant judge. In the event that court is being held by the presiding judge and one assistant judge, and they do not agree on a decision, a mistrial shall be declared. If neither assistant judge is available, the court shall consist of the presiding judge alone, and the unavailability of an assistant judge shall not constitute reversible error.~~

~~(d) Method of determining availability. Before commencing a hearing in any matter in which the court by law may consist of the presiding judge and assistant judges, the assistant judges physically present in the courthouse shall determine whether they are available for the case. If two or more cases are being heard at one time, and assistant judges may by law participate in either, each assistant judge may determine in which case he will participate.~~

~~(e) Duty to complete hearing or trial. After an assistant judge has decided to participate in a hearing or trial, he shall not withdraw therefrom except for cause. However, if he is not available for a scheduled hearing or trial or becomes unavailable during trial, the matter may continue without his participation, and he may not return to participate.~~

~~(f) Emergency relief. A presiding judge may hear a petition for emergency relief when the court is not sitting, and may issue temporary orders as necessary.~~

~~(g) Jury trial. In order to preserve the right to trial by jury, when the claims of one party sound in equity and the claims of the opposing party sound in law, the latter party may demand that the claims be tried separately. Where a party has a right to trial by jury, that party does not waive the right by also seeking temporary or preliminary injunctive relief in the same action issues sounding in law and in equity are presented in the same action, the supreme court shall provide by rule for trial by jury, when demanded, of issues sounding in law.~~

Sec. 15. 4 V.S.A. § 115 is amended to read:

§ 115. STATED TERMS OF SUPERIOR COURT

~~Terms of the superior court shall be stated by the administrative orders of the supreme court. The superior court shall operate continuously irrespective of the term in which events occur. Terms are designated for purposes of determining the rotation schedule of superior judges and the responsibility of a superior judge once a term has expired. When at the expiration of a term a superior judge is no longer assigned to a specified unit, the judge shall complete any matters that have been heard or taken under advisement for that unit. The administrative judge, pursuant to rules of the supreme court, may specially assign a superior judge to continue to preside over one or more cases even though the judge is no longer assigned to the unit of origin of the case or cases. In the absence of such a direction or of an assignment made pursuant to subsection 73(c) of this title, a judge who at the end of a term is no longer assigned to a unit shall have no further responsibility for cases in that unit.~~

Sec. 16. 4 V.S.A. § 219 is amended to read:

§ 219. POWERS OF CHANCELLOR

The powers and jurisdiction of the courts that were heretofore vested in the courts of chancery are vested in the superior court. District Superior, environmental, and probate judges have the powers of a chancellor in passing upon all civil matters which may come before them.

Sec. 17. 4 V.S.A. § 272 is added to read:

§ 272. PROBATE DISTRICTS; PROBATE JUDGES

(a) For the purpose of the election of probate judges, the state is divided into eight probate districts: the northeastern district, the northwestern district, the central district, the Chittenden district, the Addison district, the Rutland district, the eastern district, and the southern district. The northeastern district shall contain the counties of Caledonia, Essex, and Orleans. The northwestern district shall contain the counties of Franklin and Grand Isle. The central district shall contain the counties of Lamoille and Washington. The Chittenden district shall contain the county of Chittenden. The Addison district shall contain the county of Addison. The Rutland district shall contain the county of Rutland. The eastern district shall contain the counties of Orange and Windsor. The southern district shall contain the counties of Bennington and Windham.

(b) Each of the probate judges shall be elected from districts as provided in subsection (a) of this section.

(c) To hold the position of probate judge, a person shall be admitted by the supreme court to practice law. This subsection shall not apply to any person who holds the office of probate judge on July 1, 2010.

(d) The administrative judge may specially assign a probate judge to hear a case in a geographical district other than the district for which the probate judge was elected, and may specially assign a probate judge to hear small claims cases under chapter 187 of Title 12.

Sec. 18. DELETED

Sec. 18a. 4 V.S.A. § 311a is amended to read:

§ 311a. VENUE GENERALLY

For proceedings authorized to ~~the probate courts~~ division of superior court, venue shall lie as provided in Title 14A for the administration of trusts, and otherwise in a probate district of the court as follows:

* * *

(26) Declaratory judgments (unless otherwise provided in Title 14A for proceedings relating to the administration of trusts):

(A) if any related proceeding is then pending in any probate division of the superior court, in that district;

(B) if no proceeding is pending:

(i) in the district where the petitioner resides; or

(ii) if a decedent's estate, a guardian or ward, or trust governed by Title 14 is the subject of the proceeding, in any district where venue lies for a

proceeding thereon.

(27) Issuance of certificates of public good authorizing the civil marriage of persons under 16 years of age: in the district or ~~county~~ unit where either applicant resides, if either is a resident of the state; otherwise in the district or ~~county~~ unit in which the civil marriage is sought to be consummated.

(28) Appointment of a trustee for a person confined under a sentence of imprisonment: in the district or ~~county~~ unit in which the person resided at the time of sentence, or in the district or ~~county~~ unit in which the sentence was imposed.

* * *

Sec. 19. 4 V.S.A. § 354 is amended to read:

§ 354. DISQUALIFICATION OF JUDGE OR REGISTER; PENALTY

A probate judge or register shall not act as guardian, executor, administrator, trustee, or in any other fiduciary capacity or as attorney in any probate matter pending in any court in the state while holding either office. A judge or register who violates a provision of this section shall be imprisoned not more than six months, or fined not more than \$500.00, or both.

Sec. 20. 4 V.S.A. § 355 is amended to read:

§ 355. DISQUALIFICATION OR DISABILITY OF JUDGE

When a probate judge is incapacitated for the duties of ~~his~~ office by absence, removal from the district, resignation, sickness, death, or otherwise or if ~~he, his wife~~ the judge or the judge's spouse or child is heir or legatee under a will filed in ~~his~~ the judge's district, or if ~~he~~ the judge is executor or administrator of the estate of a deceased person in his or her district, or is interested as a creditor or otherwise in a question to be decided by the court, he or she shall not act as judge. ~~His~~ The judge's duties shall be performed by ~~the register, if not disqualified, or a judge of another district or an assistant judge of the superior court of the county in which such district is situated. The register or judge shall have jurisdiction to act while such disqualification, incapacity or vacancy exists~~ a superior judge assigned by the presiding judge of the unit.

Sec. 21. 4 V.S.A. § 356 is amended to read:

§ 356. AUTHORITY OF JUDGE AFTER END OF TERM

(a) A probate judge whose term of office has expired, or who has vacated such office, shall have authority to act in the capacity of probate judge to conclude causes and proceedings partly or fully heard before ~~him~~ the judge as probate judge as fully and effectively as he or she could ~~had~~ if he or she

remained in such office. He or she may make, sign, and enter findings, decisions, orders, and decrees in causes or proceedings so pending before him or her as probate judge, and all such acts so performed by ~~him~~ the judge shall have as full force and effect as they would have had if he or she had remained in office.

(b) The jurisdiction conferred by subsection (a) of this section shall not be exercised ~~unless the successor to the retiring judge shall file and cause to be recorded in such cause or proceeding within 30 days from the time of assuming office a certificate stating that such cause or proceeding was partly or fully heard before such retiring judge and that jurisdiction thereof shall be retained by such retiring judge~~ if the presiding judge of the unit determines that the successor to the probate judge will assume jurisdiction for all or part of the cases.

(c) A probate judge who exercises the jurisdiction conferred by subsection (a) of this section shall receive compensation at a rate fixed by the ~~successor judge, and the compensation and necessary expenses allowed by the successor judge shall be paid by the state~~ court administrator.

Sec. 22. 4 V.S.A. § 357 is amended to read:

§ 357. REGISTERS OF PROBATE; APPOINTMENT AND REMOVAL; COMPENSATION; CLERKS

~~(a) The probate judge shall appoint and remove registers of probate and clerical assistants for the probate courts, who shall be paid by the state and shall be state employees and shall be entitled to all fringe benefits and compensation accorded classified state employees who are similarly situated, as determined by the court administrator subject to any applicable statutory limits, unless otherwise covered by the provisions of a collective bargaining agreement setting forth the terms and conditions of employment, negotiated pursuant to chapter 28 of Title 3~~ court administrator shall appoint a register of probate for each unit. The register of probate, subject to the approval of the court administrator, may designate one or more staff persons as additional registers.

~~(b) Subject to the approval of the court administrator, more than one register of probate may be appointed in any probate district as the business of the court requires.~~

Sec. 23. 4 V.S.A. § 362 is amended to read:

§ 362. OATHS

A probate judge or register may administer oaths ~~necessary in the transaction of business before the probate court and oaths required to be~~

~~administered to persons executing trusts under the appointment of such court.~~

Sec. 24. 4 V.S.A. § 364 is amended to read:

§ 364. COMMITMENT TO ENFORCE ORDERS

If a person does not comply with an order, sentence, or decree of the probate division of the superior court in a proceeding formerly within the jurisdiction of the probate court, the court may issue a warrant committing the person to the custody of the commissioner of corrections until compliance is given.

Sec. 25. 4 V.S.A. § 369 is amended to read:

§ 369. NONRESIDENT'S ESTATE; NOTICE TO COMMISSIONER OF TAXES; INFORMATION TO BANKS

(a) When an executor or administrator is appointed to administer within this state an estate of a deceased person who resided in another state or country at the time of his or her death, the judge of ~~probate so appointing~~ who issued the appointment shall forthwith ~~in writing forthwith~~ notify the commissioner of taxes in writing of ~~such the~~ such the appointment, giving the name and residence of ~~such the~~ such the deceased person at the time of his or her death, the name and residence of the executor or administrator, the date of his or her appointment, and ~~identifying the probate court making such the~~ such the appointment.

(b) The commissioner shall keep a full record in each case and upon inquiry made of him or her by any savings bank or savings institution in the state shall at once notify ~~such the~~ such the bank or institution whether, as shown by his or her record, an executor or administrator has been appointed by any ~~probate~~ probate court in the state to administer the estate of the deceased person named in ~~such the~~ such the inquiry. If there has been such an appointment, the commissioner shall furnish the above information to ~~such the~~ such the bank or institution forthwith.

Sec. 26. DELETED

Sec. 27. 4 V.S.A. § 436a is amended to read:

§ 436a. —SPECIAL CIRCUIT AT WATERBURY

There is hereby established a special unit of the ~~district~~ family division of the superior court to hold sessions in the town of Waterbury for the sole purpose of exercising jurisdiction over applications for treatment of mentally ill individuals under Title 18. That unit shall have exclusive jurisdiction of any application for involuntary hospitalization arising under the provisions of 18 V.S.A. §§ 7801, 7803, and 8001 where the proposed patient is confined to the Vermont State Hospital at Waterbury. The special unit shall not exercise any other civil or criminal jurisdiction otherwise exercised by the ~~district court~~

~~created under section 436 of this title superior court. A district superior judge shall be assigned by the administrative judge to the special unit, who need not be a resident of the town of Waterbury or of the territorial unit in which the town of Waterbury is otherwise located. The district judge assigned to the special unit may be assigned by the administrative judge to serve temporarily in another unit where he may exercise the same jurisdiction as any district judge. If another district judge is assigned to the special unit temporarily, he shall exercise only the jurisdiction conferred on that unit.~~

Sec. 28. DELETED

Sec. 28a. 4 V.S.A. § 455 is amended to read:

§ 455. TRANSFER OF PROBATE PROCEEDINGS

(a) Any guardianship action filed in the probate division of the superior court pursuant to chapter 111, subchapter 2, article 1 of Title 14 and any adoption action filed in the probate court division pursuant to chapter 9 of Title 15 may be transferred to the family division of the superior court as provided in this section.

(b) The family ~~court~~ division shall order the transfer of the proceeding on motion of a party or on its own motion if it finds that the identity of the parties, issues, and evidence are so similar in nature to the parties, issues, and evidence in a proceeding pending in the family court division that transfer of the probate action to the family court division would expedite resolution of the issues or would best serve the interests of justice.

Sec. 29. 4 V.S.A. § 461 is amended to read:

§ 461. OFFICE OF MAGISTRATE; JURISDICTION; SELECTION; TERM

(a) The office of magistrate is created within the family division of the superior court. Except as provided in section 463 of this title, the office of magistrate shall have nonexclusive jurisdiction concurrent with the family court to hear and dispose of the following cases and proceedings:

- (1) Proceedings for the establishment, modification, and enforcement of child support.
- (2) Cases arising under the Uniform Interstate Family Support Act.
- (3) Child support in parentage cases after parentage has been determined.
- (4) Cases arising under ~~section 33 V.S.A. § 5533 of Title 33~~, when delegated by ~~the family~~ a presiding judge of the superior court.
- (5) Proceedings to establish, modify, or enforce temporary orders for

spousal maintenance in accordance with ~~sections~~ 15 V.S.A. §§ 594a and 752 of Title 15.

(6) Proceedings to modify or enforce temporary or final parent-child contact orders issued pursuant to this title.

(7) Proceedings to establish parentage.

(8) Proceedings to establish temporary rights and responsibilities and parent-child contact.

(b) A magistrate shall be an attorney admitted to practice in Vermont with at least four years of general law practice. Magistrates shall be nominated, appointed, and confirmed in the manner of superior judges.

~~(c) The term of office of a magistrate shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A magistrate may be reappointed by the governor under this section without review by the judicial nominating board, but a reappointment shall require the consent of the senate.~~

(1) Terms of office of magistrates, except in the case of an appointment to fill a vacancy or unexpired term, shall be for a term of six years from and including September 30 in the year of their appointment or retention. A magistrate shall remain in office until a successor is appointed and qualified, unless sooner removed for cause or unless he or she resigns.

(2) A magistrate may file in the office of the secretary of state, on or before September 1 of the year during the expiration of the term for which he or she was appointed or retained, a declaration that he or she will be a candidate to succeed himself or herself. However, a magistrate appointed and having taken the oath of office after September 1 of the year preceding the expiration of the term of office shall automatically be a candidate for retention without filing notice. When a magistrate files such a declaration his or her name shall be submitted to the general assembly for a vote on retention. The general assembly shall vote upon one ballot on the question: "Shall the following magistrates be retained in office?" The names of the magistrates shall be listed followed by "Yes No ." If a majority of those voting on the question vote against retaining a magistrate in office, upon the expiration of the term a vacancy shall exist which shall be filled in accordance with the constitution and chapter 15 of this title. If the majority vote is in favor of retention, the magistrate shall, unless removed for cause, remain in office for another term, and at its end, shall be eligible for retention in office in the manner herein prescribed.

(3) The court administrator shall notify the secretary of state whenever a

magistrate is appointed and takes the oath of office after September 1 of the year preceding the expiration of the term of office to which the magistrate has succeeded, thereby resulting in automatic notification of an intention to continue in office. Whenever a magistrate files a declaration under subsection (a) of this section or when notification occurs automatically, the secretary of state shall notify the president of the senate, the speaker of the house, and the legislative council forthwith.

(d) Magistrates shall be exempt employees of the judicial branch, subject to the Code of Judicial Conduct, and, except as provided in section 26 of this title, shall devote full time to their duties. The supreme court shall prescribe training requirements for magistrates.

(e) A magistrate shall have received training on the subject of parent-child contact before being assigned to hear and determine motions filed pursuant to subdivision (a)(6) of this section.

(f) [Repealed.]

Sec. 30. 4 V.S.A. § 462 is amended to read:

§ 462. FINDINGS; ORDERS; STIPULATIONS

(a) The magistrate shall make findings of fact, conclusions, and a decision and shall issue an order. An order issued by a magistrate may be enforced by the family division of the superior court in the county unit in which the magistrate hearing was held. ~~A motion for contempt of a magistrate's order shall be heard as expeditiously as possible by the family court judge upon motion of either party or upon motion of the family court judge or magistrate.~~

(b) A magistrate may issue an order based on a stipulation regarding any preliminary matter necessary to issue a child support order.

(c) If the stipulation of the parties regarding child support includes matters other than preliminary matters necessary to issue a child support order, the stipulation may be accepted and approved by the magistrate in respect to those preliminary matters and signed by the magistrate as an order of the family division of the superior court.

(d) A magistrate shall issue an order for child support based upon the actual physical living arrangements of the children during the prior three months if the parties have not stipulated concerning parental rights and responsibilities. If parental rights and responsibilities are contested, the family division of the superior court shall make an order allocating parental rights and responsibilities.

Sec. 31. 4 V.S.A. § 463 is amended to read:

§ 463. JURISDICTION OF FAMILY DIVISION OF SUPERIOR COURT
OVER CHILD SUPPORT

Upon motion of either party, upon motion of the magistrate, or upon the ~~family~~ court's own motion, a judge of the family division of the superior court may hear and determine the issue of child support, provided there is a prior existing support order in effect or an interim or temporary order and the court finds one of the following:

* * *

(4) Such good and substantial cause as the ~~family~~ court may find, consistent with the principle that support cases shall be heard in a timely manner.

Sec. 32. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

(a) A judicial nominating board is created for the nomination of supreme court justices, ~~and superior and district judges,~~ magistrates, the chair of the public service board, and members of the public service board.

* * *

(d) The judicial nominating board shall adopt rules under chapter 25 of Title 3 which shall establish criteria and standards for the nomination of qualified candidates for ~~judicial appointment including~~ justices of the supreme court, superior judges, magistrates, the chair of the public service board, and members of the public service board. The criteria and standards shall include, but not be limited to, such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness, and public service.

* * *

Sec. 33. 4 V.S.A. § 602 is amended to read:

§ 602. —DUTIES

(a) Prior to submission of names of qualified candidates for justices of the supreme court, superior judges ~~and district judges,~~ magistrates, the chair of the public service board, and members of the public service board to the governor ~~or general assembly as set forth in subsection (b) of this section,~~ the board shall submit to the court administrator of the supreme court a list of all candidates, and ~~he~~ the administrator shall disclose to the board information solely about professional disciplinary action taken or pending concerning any candidate. From the list of candidates presented, the judicial nominating board shall select

by majority vote, provided that a quorum is present, qualified candidates ~~as set forth in subsection (b)~~ for the position to be filled.

(b) Whenever a vacancy occurs in the office of a supreme court justice, ~~or~~ a superior ~~or district~~ judge, or when an incumbent does not declare that he ~~or she~~ will be a candidate to succeed himself ~~or herself~~, the judicial nominating board shall submit to the governor the names of as many persons as it deems qualified to be appointed to the office. There shall be included in the qualifications for appointment that the person shall be an attorney at law who has been engaged in the practice of law or a judge in the state of Vermont for a period of at least five out of the ten years preceding ~~his~~ appointment, and with respect to a candidate for superior ~~or district~~ judge particular consideration shall be given to the nature and extent of ~~his~~ the candidate's trial practice.

* * *

Sec. 34. 4 V.S.A. § 603 is amended to read:

§ 603. ~~JUDGES; APPOINTMENT OF JUSTICES, JUDGES,~~

MAGISTRATES, PUBLIC SERVICE BOARD CHAIRS AND

MEMBERS

Whenever the governor appoints a supreme court justice ~~or~~ a superior ~~or district~~ judge, a magistrate, a chair of the public service board, or a member of the public service board, he ~~shall do so~~ or she shall select from the list of names of qualified persons submitted ~~to him~~ by the judicial nominating board pursuant to law. The names of candidates submitted and not selected shall remain confidential.

Sec. 35. 4 V.S.A. § 605 is amended to read:

§ 605. POLITICAL ACTIVITY BY JUDGES PROHIBITED

Superior ~~and district~~ judges shall not make any contribution to or hold any office in a political party or organization or take part in any political campaign.

Sec. 36. 4 V.S.A. § 608 is amended to read:

§ 608. FUNCTIONS

(a) Declarations submitted to the general assembly by a supreme court justice under subsection 4(c) of this title, by a superior court judge under subsection 71(b) of this title, ~~or by a district court judge under subsection 604(a) of this title~~ magistrate under subsection 461(c) of this title shall be referred immediately to the joint committee on judicial retention. The declarations shall be accompanied by a supporting statement by the judge ~~or~~ the justice, or the magistrate seeking retention. In the case of a ~~district or~~

superior court judge or magistrate, the declaration shall also be accompanied by information on the next succeeding rotation schedule for the judge seeking retention.

(b) The joint committee responsible for the recommendation of retention shall review the candidacies of those justices, superior judges, ~~and district judges~~ magistrates desiring to succeed themselves. In conducting its review the committee shall evaluate judicial performance, including but not limited to such factors as integrity, judicial temperament, impartiality, health, diligence, legal knowledge and ability, and administrative and communicative skills.

* * *

(d) A judge ~~or a justice, or a magistrate~~ seeking retention has the right to present oral or written testimony to the committee relative to his or her retention, may be represented by counsel, and may present witnesses to testify in his or her behalf. Copies of written comments received by the committee shall be forwarded to the judge ~~or the justice, or the magistrate~~. A judge ~~or a justice, or a magistrate~~ seeking retention has the right to a reasonable time period to prepare and present to the committee a response to any testimony or written complaint adverse to his or her retention and has the right to be present during any public hearing conducted by the committee.

* * *

(g) The votes on retention under subsections 4(c), 71(b), and ~~604(a)~~ 461(c) of this title shall be conducted in one joint assembly of the general assembly, except that in the event that the joint committee reports to the general assembly that it is not able to make its recommendation on a particular justice, ~~or judge,~~ or magistrate under subsection (b) of this section on or before the date set for such joint assembly, the vote on such individual or individuals shall be deferred to a subsequent joint assembly, and separate ballots shall be used despite any other statutory provisions relating to the votes on retention.

Sec. 37. 4 V.S.A. § 651 is amended to read:

§ 651. ~~COUNTY CLERK AS CLERK~~ CLERKS OF COURTS

~~Each county clerk shall be clerk of the superior court for the county.~~ The court administrator shall act as clerk of the supreme court as provided in section 8 of this title. The court administrator shall appoint a superior court clerk for each unit. The court administrator may appoint the same person to be clerk in more than one unit. With approval of the court administrator, the clerk shall hire office staff. The clerk shall have the powers and responsibilities formerly held by the clerk of the district court or the family court or the register of the probate court and may delegate specific powers and

responsibilities to assigned staff. Unless so designated by the assistant judges of a specific county, with the approval of the court administrator, a superior court clerk shall not also serve as a county clerk.

Sec. 38. 4 V.S.A. § 652 is amended to read:

§ 652. RECORDS OF JUDGMENTS AND OTHER PROCEEDINGS;
DOCKETS; CERTIFIED COPIES

The clerk shall:

* * *

(4) Except as provided in section 454 of Title 22, ~~he shall~~ keep on file and preserve all process, pleadings, and papers relating to causes in superior court which together with the records of the court, ~~he or she~~ shall give to any person, on demand and tender of the legal fees, certified copies of any of the records, proceedings or minutes in his or her office, and all proper certificates, under the seal of the court. However, the clerk shall not disclose the filing of an action or release any records, proceedings, or minutes pertaining to it until service of process has been completed; nor shall ~~he~~ the clerk disclose any materials or information required by law to be kept confidential. Original court records shall be maintained for two years after final court action and thereafter may be maintained on microfilm or electronic media.

Sec. 39. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the court clerk's office become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, by an order in writing recorded in the court clerk's office, the court administrator shall direct the court clerk to provide suitable books and transcribe such records therein. At the end of a transcript of record so made, ~~he~~ the clerk shall certify under ~~his~~ official signature and the seal of the court that the same is a true transcript of the original record. Such transcript or a duly certified copy thereof shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript shall be paid by the ~~county~~ state.

Sec. 40. 4 V.S.A. § 658 is amended to read:

§ 658. SUPREME COURT RECORDS

Whenever the records of the supreme court are transcribed by the ~~county~~ superior court clerk, ~~he~~ the clerk shall forthwith transmit the original of such record to the court administrator for safekeeping, together with a certified copy thereof. The ~~county~~ superior court clerk shall keep on file an additional

certified copy of such transcription in place of the original so transmitted. A copy of such original record certified by the court administrator from the original or a copy certified by the ~~county~~ superior court clerk from the transcript retained on file ~~by him~~ shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript and of transmittal of the original record shall be paid by the state.

Sec. 41. 4 V.S.A. § 659 is amended to read:

§ 659. ~~MICROFILMING~~ PRESERVATION OF COURT RECORDS

(a) The supreme court by administrative order may provide for permanent preservation of all court records by ~~microfilming, or by any other~~ photographic or electronic process which will provide compact records in reduced size, in accordance with standards established by the ~~department of buildings and general services of the Vermont agency of administration~~ secretary of state which take into account the quality and security of the ~~microphotographed~~ records, and ready access to the ~~micrographic~~ record of any cause so recorded.

(b) After ~~microfilming~~ preservation in accordance with subsection (a) of this section, the supreme court by administrative order may provide for the disposition of original court records by destruction or in cases where the original court record may have historical or intrinsic value by transfer to ~~an appropriate institutional facility such as the archives of the secretary of state, the department of buildings and general services of the agency of administration, the Vermont historical society, or the university~~ University of Vermont.

Sec. 42. 4 V.S.A. § 691 is amended to read:

§ 691. CLERKS AND ASSISTANTS; APPOINTMENT; COMPENSATION

The superior court clerk, with the approval of the court administrator, ~~with the advice of the district judge concerned,~~ may appoint hire and remove ~~clerks and assistant clerks~~ staff for the ~~district~~ superior court subject to the terms of any applicable collective bargaining agreement. The clerks and ~~assistant clerks~~ staff shall be state employees and shall be entitled to all fringe benefits and compensation accorded classified state employees who are similarly situated, subject to any applicable statutory limits, unless covered by a collective bargaining agreement that sets forth the terms and conditions of employment negotiated pursuant to the provisions of chapter 28 of Title 3.

Sec. 43. 4 V.S.A. § 740 is amended to read:

§ 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

The supreme court by administrative order shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all

family court records and the provision, subject to confidentiality requirements of ~~chapter 55 of Title 33~~ law or court rules, of certified copies of those records to persons requesting them.

Sec. 44. 4 V.S.A. § 798 is amended to read:

§ 798. PROBATIVE FORCE OF TRANSCRIPTS

All transcripts of evidence or proceedings in a cause or hearing tried in superior court, ~~probate court or district court~~ or before an auditor, referee, or commissioner, ordered to be reported by ~~the presiding judge,~~ a probate or ~~district superior~~ judge, and made by or under the direction of the reporter and duly certified by him or her to be a verbatim transcript of ~~his~~ the verbatim stenographic notes of such evidence or proceedings, shall be received as evidence in any action, civil or criminal, if relevant thereto.

Sec. 45. 4 V.S.A. § 803(a) and (b) are amended to read:

(a) Subject to any rules prescribed by the supreme court pursuant to law, electronic sound or sound and video recording equipment may be used for the recording of any civil, criminal, or probate proceedings, testimony, objections, rulings, exceptions, arraignments, pleas, sentences, statements, and remarks made by any attorney or judge, oral instructions given by the judge, and any other judicial proceedings to the same extent as any recording by a stenographer or reporter permitted or required under existing statutes.

(b) For the purpose of operating ~~the sound~~ recording equipment, the judge may appoint or designate the official reporter of that court, a special reporter, the clerk of the court, any ~~assistant clerks~~ staff of the court, the court officer, or any other designated court personnel. The person operating ~~the sound~~ recording equipment shall subscribe to an oath that the operator will well and truly operate it to record all matters and proceedings.

Sec. 46. 4 V.S.A. § 952(a) is amended to read:

(a) The court administrator, subject to the approval of the supreme court, shall make rules regarding the qualifications, lists, and selection of all jurors and prepare questionnaires for prospective jurors. Each ~~jury commission~~ superior court clerk shall, in conformity with said rules, prepare a list of jurors from residents of its ~~county~~ unit. The rules shall be designed to assure that the list of jurors prepared by the jury commission shall be representative of the citizens of its ~~county~~ unit in terms of age, sex, occupation, economic status, and geographical distribution.

Sec. 47. 4 V.S.A. § 953(a), (b), and (e) are amended to read:

(a) The ~~jury commission~~ clerk, in order to ascertain names of persons eligible as jurors, may consult the latest census enumeration, the latest

published city, town, or village telephone or other directory, the listers' records, the elections records, and any other general source of names.

(b) Notwithstanding any law to the contrary, the court administrator may obtain the names, addresses, and dates of birth of persons which are contained in the records of the department of motor vehicles, the department of labor, the department of taxes, the department of health, and the department for children and families. The court administrator may also obtain the names of voters from the secretary of state. After the names have been obtained, the court administrator shall compile them and provide the names, addresses, and dates of birth to the ~~jury commission clerk~~ in a form that will not reveal the source of the names. The ~~jury commission clerk~~ shall include the names provided by the court administrator in the list of potential jurors.

(e) All public officers shall, on request, furnish the ~~jury commission clerk~~ or the court administrator without charge, any information it may require to enable it to select eligible persons, ascertain their qualifications, or determine the number needed.

Sec. 48. 4 V.S.A. § 954 is amended to read:

§ 954. DEPOSIT OF LIST

Prior to the first day of July in each biennial year, the ~~jury commission clerk~~ shall prepare and file a current master list of jurors ~~in the office of the county clerk~~ and certify its completion and filing to the court administrator. The current master lists shall contain the number of names necessary adequately to serve the needs of the courts involved for a two-year period beginning July 1.

Sec. 49. 4 V.S.A. § 955 is amended to read:

§ 955. QUESTIONNAIRE

The ~~jury commission clerk~~ shall send a jury questionnaire prepared by the court administrator to each person selected. When returned, it shall be retained in the county superior court clerk's office, ~~except that those questionnaires submitted by prospective jurors for service in the district court of Vermont shall be deposited with the clerk of the district court concerned.~~ The questionnaire shall at all times during business hours be open to inspection by the court and attorneys of record of the state of Vermont.

Sec. 50. 4 V.S.A. § 957 is amended to read:

§ 957. DRAWING AND SUMMONING JURORS

The manner of drawing and summoning jurors from the lists provided shall be in accordance with the rules of the court in which they are called to serve and all applicable statutes, including section 952 of this title, requiring that the

panel shall be representative of the citizens of the ~~county~~ unit in terms of age, sex, occupation, economic status, and geographical distribution.

Sec. 51. 4 V.S.A. § 959 is amended to read:

§ 959. GRAND JURORS; VENIRE

The ~~jury commission~~ clerk, as directed by the judges of each superior court, shall summon 18 judicious persons within the ~~county~~ unit to appear at any stated or special term of that court to serve as grand jurors of the ~~county~~ unit. The clerk of the court shall issue a venire accordingly.

Sec. 52. 4 V.S.A. § 961(a) is amended to read:

(a) Any person who fails to return a completed questionnaire within ten days of its receipt may be summoned by the ~~county~~ superior court clerk ~~forthwith~~ to appear forthwith before the clerk to fill out a jury questionnaire. Any person so summoned who fails to appear as directed shall be ordered forthwith by the presiding judge to appear and show cause for his or her failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance may be found in contempt of court and shall be subject to the penalties for contempt.

Sec. 53. 4 V.S.A. § 1001 is amended to read:

§ 1001. ENVIRONMENTAL COURT DIVISION

(a) ~~An environmental court having statewide jurisdiction is created as a court of record subject to the authority granted to the supreme court. The environmental court~~ division shall consist of two judges, each sitting alone.

(b) Two environmental judges shall be appointed ~~within the judicial branch who shall~~ to hear matters arising under 10 V.S.A. chapters 201 and 220 and matters arising under 24 V.S.A. chapter 117 and chapter 61, subchapter 12. ~~In addition, the judges shall have original jurisdiction to revoke permits under 10 V.S.A. chapter 151 in the environmental division and to hear other matters in the superior court when so assigned by the administrative judge pursuant to 4 V.S.A. § 21a(c).~~

(c) An environmental judge shall be an attorney admitted to practice before the Vermont supreme court. An environmental judge shall be nominated, appointed, confirmed, paid, and retained, and shall receive all benefits in the manner of a superior ~~court~~ judge.

(d) An environmental judge shall be appointed on April 1, for a term of six years or the unexpired portion thereof.

(e) Evidentiary proceedings in the environmental ~~court~~ division shall be held in the county in which all or a portion of the land which is the subject of

the appeal is located or where the violation is alleged to have occurred, unless the parties agree to another location; provided, however, that the environmental judge shall offer expeditious evidentiary hearings so that no such proceedings are moved to another county to obtain an earlier hearing. Unless otherwise ordered by the court, all nonevidentiary hearings may be conducted by telephone using an audio or video record. If a party objects to a telephone hearing, the court may require a personal appearance for good cause.

~~(f) The environmental court shall be provided with a dedicated minimum of one court manager, two law clerks, one case manager, and two docket clerk-courtroom operators. These positions shall not be subject to any rotation with other courts. The environmental court shall receive the same funding and provisions for security as provided to county courthouses. [Repealed.]~~

(g) The supreme court may enact rules and develop procedures consistent with this chapter to govern the operation of the environmental ~~court~~ division and proceedings in ~~the court~~ it. In adopting these rules, the supreme court shall ensure that the rules provide for:

(1) expeditious proceedings that give due consideration to the needs of pro se litigants;

(2) the ability of the judge to hold pretrial conferences by telephone;

(3) the use of scheduling orders under the Vermont Rules of Civil Procedure in order to limit discovery to that which is necessary for a full and fair determination of the proceeding; and

(4) the appropriate use of site visits by the presiding judge to assist the court in rendering a decision.

Sec. 53a. 4 V.S.A. § 1002 is amended to read:

§ 1002. CONDUCT OF HEARINGS

Hearings before the environmental ~~court~~ division shall be conducted in an impartial manner subject to rules of the supreme court providing for a summary, expedited proceeding.

Sec. 53b. 4 V.S.A. § 1004 is amended to read:

§ 1004. ACCESS TO INFORMATION

(a) In connection with any proceedings under chapter 201 of Title 10, each party shall provide all other parties with all written statements and information in the possession, custody, or control of the party relative to the violation, including any technical studies, tests and reports, maps, architectural and engineering plans and specifications, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained, the

names and addresses of the party's witnesses, and any other information which the environmental ~~court~~ division deems necessary, in its sole discretion, to a fair and full determination of the proceeding.

(b) No other discovery or depositions, written interrogatories or requests to admit shall be permitted except that which is necessary for a full and fair determination of the proceeding.

Sec. 53c. 10 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

* * *

(12) “Environmental court” means the environmental division of the superior court established by 4 V.S.A. § 30.

Sec. 53d. 10 V.S.A. § 8221 is amended to read:

§ 8221. CIVIL ENFORCEMENT

(a) The secretary, or the land use panel of the natural resources board with respect to matters relating to land use permits under chapter 151 of this title only, may bring an action in the civil division of the superior court to enforce the provisions of law specified in subsection 8003(a) of this title, to ensure compliance, and to obtain penalties in the amounts described in subsection (b) of this section. The action shall be brought by the attorney general in the name of the state.

* * *

Sec. 53e. 10 V.S.A. § 8502 is amended to read:

§ 8502. DEFINITIONS

As used in this chapter:

* * *

(3) “Environmental court” means the environmental ~~court~~ established under 4 V.S.A. ~~chapter 27~~ division of the superior court established by 4 V.S.A. § 30.

* * *

Sec. 54. 4 V.S.A. § 1103 is amended to read:

§ 1103. VENUE

Venue for violation hearings in the judicial bureau shall be in the unit of the ~~district~~ superior court where the violation is alleged to have occurred.

Sec. 55. 4 V.S.A. § 1104 is amended to read:

§ 1104. APPOINTMENT OF HEARING OFFICERS

The administrative judge shall appoint members of the Vermont bar to serve as hearing officers to hear cases. Hearing officers shall be subject to the Code of Judicial Conduct. ~~At least one hearing officer shall reside in each territorial unit of the district court.~~

Sec. 55a. 4 V.S.A. § 1108 is amended to read:

§ 1108. ~~CIVIL ORDINANCE AND~~ TRAFFIC VIOLATIONS;
JURISDICTION OF ASSISTANT JUDGES

(a) Subject to the limits of this section and notwithstanding any provision of law to the contrary, an assistant judge sitting alone shall have the same jurisdiction, powers, and duties to hear and decide ~~civil ordinance and~~ traffic violations as a hearing officer has under the provisions of this chapter.

(b)(1) ~~An assistant judge who elects to~~ All assistant judges shall hear and decide ~~civil ordinance and~~ traffic violations. Prior to hearing traffic violations pursuant to this subsection, an assistant judge shall:

(A) ~~have served in that office for a minimum of two years;~~
[Repealed.]

(B) have successfully completed ~~at least 40 hours~~ a course of training ~~which shall be provided by the bureau court administrator's office;~~ and

(C) annually complete eight hours of continuing education ~~every year supervised by the court administrator's office~~ relating to jurisdiction exercised under this section.

(2) ~~Training shall be paid for by the county, which expenditure is hereby authorized. Law clerk assistance shall be available to the assistant judges.~~
[Repealed].

(c) The administrative judge may assign or direct assignment of an assistant judge ~~with his or her consent~~ to hear a ~~civil ordinance or~~ traffic violation ~~ease~~ cases within the county in which the assistant judge presides or in a county other than the county in which the assistant judge presides ~~if the assistant judge has elected to hear and decide civil ordinance and traffic violations under this section.~~

Sec. 56. 5 V.S.A. § 43 is amended to read:

§ 43. REVIEW BY SUPERIOR COURT

A party to a cause who feels aggrieved by the final order, judgment, or

decree of the board may appeal to a superior court under Rule 74 of the Vermont Rules of Civil Procedure. However, the board, before final judgment, may permit an appeal to be taken by any party to a superior court for determination of questions of law in the same manner as the supreme court may by rule provide for appeals before final judgment from a superior court ~~or a district court~~. Notwithstanding the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as provided in this section, shall operate as a stay of enforcement of an order of the board unless the board or a superior court grants a stay under the provisions of section 44 of this title.

Sec. 57. 5 V.S.A. § 3535 is amended to read:

§ 3535. RIGHT OF ACTION ON NONPAYMENT OF DAMAGES

When a railroad corporation has entered upon and used land and real estate for the construction and accommodation of its railroad, and has, by its engineers, agents, or servants, entered upon land contiguous to the railroad or the works connected therewith, and taken materials to use in the construction of its road, and has not paid the owner therefor, nor, within two years from such entry, had the damages appraised by commissioners, and an award made and delivered, a person claiming damages, within six years after such entry, may bring an action therefor before a ~~district~~ superior court, ~~if the claim is not over \$200.00, otherwise in the superior court~~. An answer justifying the entry under the act incorporating the company shall not bar the action, but the plaintiff shall recover only his or her actual damages.

Sec. 58. 6 V.S.A. § 484(b) is amended to read:

(b) The secretary or his or her inspector may enter upon the premises of a licensed dealer or processor, at reasonable times, for purposes of inspecting the premises, records, equipment, and inventory in a reasonable manner to determine whether the provisions of this chapter and the rules adopted hereunder are being observed. If entry is refused, the secretary may apply to a superior ~~or district~~ court judge for an administrative search warrant.

Sec. 59. 6 V.S.A. § 3316(b) is amended to read:

(b) ~~Washington County superior court, or any other~~ The superior court, has legal and equitable jurisdiction to enforce, prevent, and restrain violations of this chapter and has legal and equitable jurisdiction in all other cases arising under this chapter. The superior ~~and district~~ courts are granted jurisdiction to handle criminal matters arising under this chapter and rules.

Sec. 60. 9 V.S.A. § 2154 is amended to read:

§ 2154. ASSIGNEE'S BOND

The assignee shall execute to the superior court for the ~~county~~ unit in which the assignor resides a bond with sureties to the satisfaction of such court and conditioned for the faithful performance of such trust. The assignee shall execute such bond at the time of making such assignment, and the same may be prosecuted by parties aggrieved as provided in chapter 101 of Title 14, relative to bonds ~~taken to the probate court governed by that chapter.~~

Sec. 61. 10 V.S.A. § 497 is amended to read:

§ 497. REMOVAL OF SIGNS

The owner of a sign which is not licensed under this chapter and which is not a legal on-premise or exempt sign meeting the requirements set forth in this chapter, other than a sign which was lawfully erected and maintained prior to March 23, 1968, shall be in violation of this chapter until it is removed. The travel information council, or the secretary of transportation or his designee pursuant to authority delegated by the council, may, upon failure of the owner to remove such sign, order its removal by the agency of transportation, and the agency of transportation shall thereupon remove the sign without notice or further proceeding, at the expense of the owner. The expense may be recovered by the state in an action on this statute, which shall be instituted in the superior court ~~or Vermont district court having jurisdiction~~ in the unit for the area in which the sign is located. A copy of the notice of removal shall be sent by certified mail to the owner at the last known address. If an illegal sign is re-erected after the initial removal notice is executed, the agency of transportation shall have the authority to remove that illegal sign without additional prior notice to the owner. The agency of transportation or the legislative body of a municipality shall have the authority to remove or relocate, or both, without prior notice, any sign, device, or display which is temporary in nature and not affixed to a substantive structure which is erected within 24.75 feet of the actual centerline of any highway under its jurisdiction and within the public highway right-of-way.

Sec. 62. 10 V.S.A. § 6205(c) is amended to read:

(c) A leaseholder may bring an action against the park owner for a violation of sections 6236–6243 of this title. The action shall be filed in ~~district~~ superior court for the ~~district~~ unit in which the alleged violation occurred. ~~If the leaseholder's claim against the owner exceeds the jurisdictional limit of the district court, an action may be brought in superior court in the county in which the alleged violation occurred.~~ No action may be commenced by the leaseholder unless the leaseholder has first notified the park owner of the violation by certified mail at least 30 days prior to bringing the

action. During the pendency of an action brought by a leaseholder, the leaseholder shall pay rent in an amount designated in the lease, or as provided by law, which rental amount shall be deposited in an escrow account as directed by the court.

Sec. 63. 10 V.S.A. § 8014(a) and (b) are amended to read:

(a) The secretary may seek enforcement of a final administrative order or a landfill extension order in the civil, criminal, or environmental division of the superior or district court or before the environmental court.

(b) If a penalty is assessed and the respondent fails to pay the assessed penalty within the time prescribed, the secretary may bring a collection action in any civil or criminal division of the superior or district court. In addition, when a respondent, except for a municipality, fails to pay an assessed penalty or fails to pay a contribution under subdivision 8007(b)(2) of this title within the prescribed time period, the secretary or the land use panel shall stay the effective date or the processing of any pending permit application or renewal application in which the respondent is involved until payment in full of all outstanding penalties has been received. When a municipality fails to pay an assessed penalty or fails to pay a contribution under subdivision 8007(b)(2) of this title within the prescribed time period, the secretary or the land use panel may stay the effective date or the processing of any pending permit application or renewal application in which the municipality is involved until payment in full of all outstanding penalties has been received. For purposes of this subsection, "municipality" shall mean a city, town, or village. The secretary or the land use panel may collect interest on an assessed penalty that a respondent fails to pay within the prescribed time. The secretary or the land use panel shall collect interest on a contribution under subdivision 8007(b)(2) of this title that a respondent fails to pay within the prescribed time.

Sec. 64. 11 V.S.A. § 441 is amended to read:

§ 441. CORPORATION TO PRODUCE BOOKS ON NOTICE

(a) A corporation doing business within this state, whether organized under the laws of this or any other state or country, when notice therefor is served upon it according to the provisions of section 442 of this title, shall produce before any court, magistrate, grand jury, tribunal, or commission, acting under the authority of this state, all books, documents, correspondence, memoranda, papers, and data which may contain any information concerning any suit, proceedings, action, charge, or subject of inquiry pending before or to be determined by the court, magistrate, grand jury, tribunal, or commission, except a civil action in a superior court ~~or the district court~~, and which have been made or kept at any time within this state, and are in the custody or

control of the corporation in this state or elsewhere at the time of service of the notice upon it.

(b) When notice therefor is served upon it according to the provisions of section 442 of this title, the corporation shall produce before any court, magistrate, grand jury, tribunal, or commission acting under the authority of this state, all books, documents, correspondence, memoranda, papers, and data which may contain any information concerning any suit, proceedings, action, charge, or subject of inquiry pending before or to be determined by the court, magistrate, grand jury, tribunal, or commission, except a civil action in a superior court ~~or the district court~~, and which in any way relate to or contain entries, data, or memoranda concerning any transaction within this state or with any party residing or having a place of business within this state, and which are in the custody or control of the corporation in this state or elsewhere at the time of service of notice upon it.

Sec. 65. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The court shall not permit public access via the Internet to criminal or family case records ~~or family court case records~~. The court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

(b) This section shall not be construed to prohibit the court from providing electronic access to:

(1) court schedules of the ~~district or family~~ superior court, or opinions of the ~~district~~ criminal division of the superior court; or

(2) state agencies in accordance with data dissemination contracts entered into under Rule 6 of the Vermont Rules of Electronic Access to Court Records.

Sec. 66. 12 V.S.A. § 122 is amended to read:

§ 122. SUPERIOR JUDGE; OR SUPERIOR COURT ~~AND DISTRICT COURT~~

When a party violates an order made against him or her in a cause brought to or pending before a superior judge or a superior court ~~or the district court~~ after service of the order upon that party, contempt proceedings may be instituted against him or her before the court or any superior judge. When, in a cause no longer on the docket of the court, the proceedings are brought before a superior judge, that judge forthwith shall order ~~forthwith~~ the cause to be brought forward on the docket of the court and may issue concurrently with the

order a summons or capias against the party. The issuing of the summons or capias and any further proceedings thereon shall be minuted on the docket.

Sec. 67. 12 V.S.A. § 402 is amended to read:

§ 402. SUPERIOR COURT ACTIONS, VENUE GENERALLY;
RAILROADS

(a) An action before a superior court shall be brought in the county unit in which one of the parties resides, if either resides in the state; otherwise, on motion, the complaint shall be dismissed. If neither party resides in the state, the action may be brought in any county unit. Actions concerning real estate shall be brought in the county unit in which the lands, or some part thereof, lie.

(b) An action brought by a domestic railroad corporation to the superior court may be brought either in the county unit in which the corporation has its principal office for the transaction of business, or in the county unit in which a defendant resides. An action or suit brought to the superior court, in which the corporation is defendant, may be brought in any county unit in which a road owned or operated by the corporation is located.

Sec. 67a. 12 V.S.A. § 403 is amended to read:

§ 403. PATENT RIGHTS

An action to recover a debt or demand, arising from the sale of or license to use a patent right, whether such demand is in the form of a promissory note or otherwise, shall be brought and tried in the county unit where the defendant resides or where such patent right was sold when such note or obligation purports to be given for a patent right, unless otherwise provided by law.

Sec. 68. 12 V.S.A. § 404 is amended to read:

§ 404. REMOVAL TO ANOTHER COUNTY UNIT

(a) When it appears to a presiding judge of a superior court that there is reason to believe that a civil action pending in such court cannot be impartially tried in the county unit where it is pending, on petition of either party, such judge shall order the cause removed to the superior court in another county unit for trial.

~~(b) Such petition shall be verified by affidavit and served upon the adverse party like a writ of summons, at least twelve days before the time of hearing. If the adverse party resides without the state, it may be served upon his attorney of record in the cause.~~

~~(c) When an order is made to remove a cause from one superior court to another and such order is filed with the clerk of the court in which the cause is pending, he shall forthwith transmit to the clerk of the court to which such~~

~~cause is removed, the original papers with a certified copy of the docket entries therein and of the order of removal. He shall thereupon enter the same upon the docket and further proceedings shall be had as if the cause had been originally brought to and entered in such court.~~

(d) Attachments, recognizances, bonds, and orders in such cause, made before such removal, shall have the same validity as if the cause had continued in the court to which it was originally brought.

Sec. 69. 12 V.S.A. § 654(b) is amended to read:

(b) The signing of original writs is a ministerial act and may be done in advance of issuance. The signature of an attorney, except when he or she is the plaintiff, to a writ, pleading, notice of appeal, or other form, constitutes and shall be deemed security, by way of recognizance, for the issuance of such writ or the filing of such pleading, notice of appeal, or other form, and such attorney shall be liable to each defendant ~~in the sum of \$10.00 for writs returnable before the district court and~~ in the sum of \$50.00 for writs returnable to a superior court.

Sec. 70. 12 V.S.A. § 1644 is amended to read:

§ 1644. WITNESSES MAY BE EXAMINED SEPARATELY

On the trial of a civil cause, in its discretion, upon the application of either party, the superior court ~~or district court~~ may order the witnesses of the adverse party examined separately and apart from each other.

Sec. 71. 12 V.S.A. § 1691(a) is amended to read:

(a) In the trial of actions at law, and on motion and due notice ~~thereof given,~~ supreme, and superior ~~and district~~ courts may require the parties to produce any books or writings in their possession or power, which contain evidence pertinent to the issue or relative to the action, and if the party fails to comply with the order, the court may render judgment against such party by nonsuit or default.

Sec. 72. 12 V.S.A. § 2136 is amended to read:

§ 2136. COSTS IN SUPREME, COUNTY, AND ~~DISTRICT~~ SUPERIOR COURTS WHEN NOMINAL DAMAGES ARE RECOVERED

When the plaintiff in an action in ~~district,~~ superior or supreme court recovers judgment for a nominal sum for debt or damages, in its discretion, the court may make such order in respect to plaintiff's costs as is equitable, but not to exceed his or her taxable costs.

Sec. 73. 12 V.S.A. § 2357 is amended to read:

§ 2357. APPEALS FROM PROBATE COURT IN PROBATE PROCEEDINGS—FRAUD, ACCIDENT, OR MISTAKE

When the petitioner has been prevented from taking or entering an appeal in a probate proceeding by fraud, accident, or mistake, on petition and proof thereof, the supreme or superior court in its discretion may grant leave to file a notice of appeal from an order, sentence, decree, or denial of ~~a~~ the probate division of the superior court or from a determination of commissioners on the estate of a deceased person in those cases which are by law appealable.

Sec. 74. 12 V.S.A. § 2386 is amended to read:

§ 2386. PASSING CAUSES BEFORE FINAL JUDGMENT

(a) Before final judgment in civil actions or proceedings in the superior courts, or the probate courts, ~~or the district court~~, an appeal to the supreme court for the determination of questions of law may be taken in such manner and under such conditions as the supreme court may by rule provide.

(b) In its discretion and before final judgment, a superior court ~~or the district court~~ may permit an appeal to be taken by the respondent or the state in a criminal cause to the supreme court for determination of questions of law. The supreme court shall hear and determine the questions and render final judgment thereon or remand the proceedings as justice and the state of the cause may require.

Sec. 74a. 12 V.S.A. § 2386 is amended to read:

§ 2386. PASSING CAUSES BEFORE FINAL JUDGMENT

(a) Before final judgment in civil actions or proceedings in the superior courts ~~or the probate courts~~, an appeal to the supreme court for the determination of questions of law may be taken in such manner and under such conditions as the supreme court may by rule provide.

* * *

Sec. 75. 12 V.S.A. § 2551 is amended to read:

§ 2551. SUPREME COURT JURISDICTION OF PROBATE PROCEEDINGS IN SUPERIOR ~~AND PROBATE~~ COURTS

The supreme court shall have jurisdiction of questions of law arising in the course of the proceedings of the superior ~~and probate~~ courts in probate matters, as in other causes.

Sec. 76. 12 V.S.A. § 2556(a) is amended to read:

(a) In the two following cases, an executor, administrator, or creditor may appeal to the superior court from the decision and report of the commissioners,

if notice of appeal is filed with the clerk of the superior court appealed to ~~and the register of the probate court~~ within ~~thirty~~ 30 days after the return of the commissioner's report:

* * *

Sec. 77. 12 V.S.A. § 3011 is amended to read:

§ 3011. ACTIONS

Trustee process may be used in any civil action commenced in a superior court ~~or the district court~~ except in actions for malicious prosecution, libel, slander, or alienation of affections.

Sec. 78. 12 V.S.A. § 3087 is amended to read:

§ 3087. —RECOGNIZANCE FOR TRUSTEE'S COSTS

The plaintiff in a trustee process shall give security for costs to the trustee by way of recognizance by some person other than the plaintiff. The security shall be ~~in the sum of \$10.00 for a summons returnable before the district court~~ ~~and~~ in the sum of \$50.00 for a summons returnable to a superior court. If trustee process issues without a minute of the recognizance, with the name of the surety and the sum in which he or she is bound, signed by the clerk, thereon, the trustee shall be discharged.

Sec. 79. 12 V.S.A. § 3151 is amended to read:

§ 3151. —TRUSTEE MAY FILE BOND AND SELL PROPERTY

When such action is pending in the supreme, or superior, ~~or district~~ court, the trustee may sell the property, and the purchaser shall hold the same released from the mortgage and attachment, if such trustee files with the clerk of such ~~the~~ court ~~or with the judge of such district court~~:

* * *

Sec. 80. 12 V.S.A. § 4251 is amended to read:

§ 4251. ACTIONS FOR ACCOUNTING—JURY

The superior ~~courts~~ court shall have original jurisdiction, ~~exclusive of the district court~~, in actions for an accounting other than accountings involved in the administration of trusts under Title 14A. When the defendant in such an action brought in one of the following ways pleads in defense an answer which, if true, makes him or her not liable to account, the issue thus raised may be tried to a jury:

* * *

Sec. 81. 12 V.S.A. § 4711 is amended to read:

§ 4711. DECLARATORY JUDGMENT; SCOPE

Superior courts ~~and probate courts~~ within their ~~respective~~ jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. An action or proceeding shall not be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect. Such declarations shall have the force and effect of a final judgment or decree.

Sec. 82. 12 V.S.A. § 5136(c) is amended to read:

(c) The office of the court administrator shall ensure that the superior court ~~and the district court have~~ has procedures in place so that the contents of orders and pendency of other proceedings can be known to ~~both~~ all courts for cases in which an order against stalking or sexual assault proceeding is related to a criminal proceeding.

Sec. 83. 12 V.S.A. § 5531(c) is amended to read:

(c) ~~In small claims actions where the plaintiff makes a claim for relief greater than \$3,500.00, the defendant shall have the right to request a special assignment of a judicial officer. Upon making this request, a superior judge, a district judge, or a member of the Vermont bar appointed pursuant to 4 V.S.A. § 22(b) shall be assigned to hear the action. [Repealed.]~~

Sec. 84. 12 V.S.A. § 5538 is amended to read:

§ 5538. APPEALS

Any party may appeal from a small claims judgment to superior court. The administrative judge shall assign the appeal to a district or superior judge who shall not have participated in any way in the decision being appealed. The appeal shall be heard and decided, based on the record made in the small claims ~~court~~ procedure. No appeal as of right exists to the supreme court. On motion made to the supreme court by a party to the action, the supreme court may allow an appeal from the superior court.

Sec. 85. 12 V.S.A. § 5541 is amended to read:

§ 5541. COMPOSITION OF ~~SMALL CLAIMS COURT~~ IN SMALL CLAIMS CASES

For the purposes of this chapter, the superior court shall consist of the presiding judge sitting alone, ~~an assistant judge sitting alone pursuant to section 5540 of this chapter, or an acting judge assigned pursuant to section 22(b) of Title 4 V.S.A. § 22(b), or a probate judge assigned pursuant to 4 V.S.A. § 272(d).~~

Sec. 86. 12 V.S.A. § 5702 is amended to read:

§ 5702. JURISDICTION AND VENUE

The Vermont ~~district~~ superior court shall have exclusive jurisdiction over proceedings under this chapter, any provision of any statute, municipal charter, or ordinance to the contrary notwithstanding, except as provided in chapter 24 of Title 23. Venue for adjudicating offenses prosecuted by use of the uniform snowmobile/boating complaint shall be in the unit of the ~~district~~ superior court having jurisdiction over the geographical area where the offense is alleged to have occurred.

Sec. 87. 12 V.S.A. § 5705(b) and (d) are amended to read:

(b) Three ~~district~~ superior court judges appointed by the court administrator shall establish schedules, within the limits prescribed by law, of the amounts of fines to be imposed. The court administrator shall appoint three persons who shall meet with the ~~district~~ superior judges and recommend a fine schedule. One person appointed shall be a member of the department of public safety, one shall be a delegate from the Vermont association of snow travelers, and one shall be a member of the general public who has an interest in boating and boating safety.

(d) If a defendant fails to answer or appear as directed on a uniform snowmobile/boating complaint or by the ~~district~~ superior court judge, or fails to pay the fine imposed after judgment, the court may proceed under section 5704 of this title.

Sec. 88. 12 V.S.A. § 5852 is amended to read:

§ 5852. OATHS OF OFFICE; BY WHOM ADMINISTERED

When other provision is not made by law, oaths of office may be administered by any justice of the supreme court, superior judge, assistant judge, justice of the peace, ~~judge of the district court~~, notary public, or the presiding officer, secretary, or clerk of either house of the general assembly, or by the governor.

Sec. 89. 12 V.S.A. § 7105 is amended to read:

§ 7105. RULES OF PROCEDURE

Windsor county court diversion, in conjunction with the Windsor county youth court advisory board established pursuant to section 7109 of this title, and after consultation with the youth court officers, the Windsor county state's attorney, the office of the public defender for Windsor county, and the presiding judges in ~~Windsor family and district courts~~ the unit of the superior court that includes Windsor County, shall adopt rules of procedure for the

youth court prior to its first hearing.

Sec. 90. 12 V.S.A. § 7109(a) is amended to read:

(a) The Windsor ~~county~~ County youth court advisory board is created. The board shall consist of the presiding ~~family court~~ superior judge in for the unit that includes Windsor ~~county~~ County or designee, the Windsor ~~county~~ County state's attorney or designee, the superintendents of the Hartford, Springfield, and Windsor southeast supervisory union school districts or their designees, three youth court officers, three persons to be appointed by the Vermont supreme court, and the chair of the Windsor county court diversion or designee. ~~All members of the board shall be appointed or designated by August 15, 1995, for terms expiring on June 30, 1999.~~ The supreme court appointees shall each be licensed to practice law in this state, and at least one of the supreme court appointees shall have at least three years' experience in representing delinquent children. The members of the board shall serve on a voluntary basis without compensation.

Sec. 91. 12 V.S.A. § 7152 is amended to read:

§ 7152. JURISDICTION

The probate division of the superior court shall have exclusive jurisdiction over all proceedings concerning the emancipation of minors.

Sec. 92. 12 V.S.A. § 7153(a) is amended to read:

(a) A minor may petition the probate division of the superior court in the probate district in which the minor resides at the time of the filing for an order of emancipation. The petition shall state:

- (1) The minor's name and date of birth.
- (2) The minor's address.
- (3) The names and addresses, if known, of the minor's parents.

(4) The names and addresses of any guardians or custodians, including the commissioner of social and rehabilitation services, appointed for the minor, if appropriate.

(5) Specific facts in support of the emancipation criteria in section 7151(b) of this chapter.

- (6) Specific facts as to the reasons why emancipation is sought.

Sec. 93. 12 V.S.A. § 7155(d) is amended to read:

(d) Any order of guardianship or custody shall be vacated before the court may issue an order of emancipation. Other orders of any division of the family

~~or probate~~ superior court may be vacated, modified, or continued in this proceeding if such action is necessary to effectuate the order of emancipation. Child support orders relating to the support of the minor shall be vacated, except for the duty to make past-due payments for child support, which, under all circumstances, shall remain enforceable.

Sec. 94. 13 V.S.A. § 4 is amended to read:

§ 4. ACCESSORY BEFORE THE FACT

A person who is accessory before the fact by counseling, hiring, or otherwise procuring an offense to be committed may be informed against or indicted, tried, convicted, and punished as if he or she were a principal offender in the criminal division of the superior court in the ~~county or in the district court in the territorial~~ unit where the principal might be prosecuted.

Sec. 95. 13 V.S.A. § 6 is amended to read:

§ 6. —PROSECUTION AND VENUE

~~Such~~ An accessory after the fact may be prosecuted, convicted, and punished whether the principal has or has not been previously convicted, or is or is not amenable to justice, in the criminal division of the superior court in the ~~county or in the district court in the territorial~~ unit where such person became an accessory or where the principal offense is committed.

Sec. 96. 13 V.S.A. § 901 is amended to read:

§ 901. DUTIES OF OFFICERS

A ~~district~~ superior judge, sheriff, deputy sheriff, or constable having notice or knowledge of the unlawful, tumultuous, or riotous assemblage of three or more persons within his or her jurisdiction, among or as near as he or she can safely come to such rioters, shall command them in the name of the state of Vermont immediately and peaceably to disperse. If after such command ~~such~~ the rioters do not disperse, such officer or magistrate and ~~such~~ any other person as he or she commands to assist him or her shall apprehend and forthwith take them before a ~~district~~ criminal division of a superior court.

Sec. 97. 13 V.S.A. § 2502 is amended to read:

§ 2502. PETIT LARCENY

~~Superior and district courts shall have concurrent jurisdiction of the~~ For offenses mentioned in section 2501 of this title where the money or other property stolen does not exceed \$900.00 in value, ~~and the court~~ may sentence the person convicted to imprisonment for not more than one year or to pay a fine of not more than \$1,000.00, or both.

Sec. 98. 13 V.S.A. § 2561(c) is amended to read:

(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 ~~county or in the district court in the territorial~~ unit where the person stealing the property might be prosecuted, although such property is bought, received, or concealed in another county or ~~territorial~~ unit.

Sec. 99. 13 V.S.A. § 3011 is amended to read:

§ 3011. OFFICERS IN CHARGE OF JURY

An officer, sworn to take charge of a jury impaneled by the superior ~~or district~~ court for the trial of a cause, who, after they have been charged by the court, suffers a person to speak to them upon matters submitted to their charge, or speaks to them himself or herself about the same, except to ask if they are agreed upon a verdict, before they deliver their verdict in court, or are discharged, shall be fined not more than \$500.00. The constable or other person having charge of a jury impaneled by a justice, who in like manner offends, shall be fined not more than \$200.00.

Sec. 100. 13 V.S.A. § 3256(a) is amended to read:

(a) The victim of an offense involving a sexual act may obtain an order from the ~~district~~ criminal or family division of the superior court in which the offender was convicted of the offense, or was adjudicated delinquent, requiring that the offender be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually-transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis. If requested by the victim, the state's attorney shall petition the court on behalf of the victim for an order under this section. For the purposes of this section, "offender" includes a juvenile adjudicated a delinquent.

Sec. 101. 13 V.S.A. § 4601 is amended to read:

§ 4601. GENERAL RULE

When not otherwise provided, criminal causes shall be tried in the criminal division of the superior court in the ~~county, or in the district court in the territorial~~ unit, where an offense within the jurisdiction of such court is committed.

Sec. 101a. 13 V.S.A. § 4602 is amended to read:

§ 4602. WHEN ACT IN ONE COUNTY OR ~~TERRITORIAL~~ UNIT
CAUSES DEATH IN ANOTHER

A person feloniously wounding or poisoning a person in one ~~county or~~

~~territorial~~ unit of the ~~district~~ superior court, whose death results therefrom in another ~~county or territorial~~ unit, may be tried in the criminal division of the superior court in either ~~county or in the district court in either territorial~~ unit, if the offense is within the jurisdiction of such court.

Sec. 101b. 13 V.S.A. § 4603 is amended to read:

§ 4603. OFFENSE ON BOUNDARY

If an offense is committed on the boundary of two or more ~~counties or territorial~~ units of the ~~district~~ superior court, or within 100 rods of such boundary, such offense may be alleged in the information or indictment to have been committed and may be prosecuted in the criminal division of the superior court in any of such counties or in the ~~district~~ criminal division of the superior court in any of such ~~territorial~~ units, if the offense is within the jurisdiction of such court.

Sec. 102. 13 V.S.A. § 4631 is amended to read:

§ 4631. AUTHORITY

The supreme court may by rule provide for change of venue in criminal prosecutions ~~in the superior and district courts~~ upon motion, for the prevention of prejudice to the defendant or for the convenience of parties and witnesses and in the interests of justice. The court to which a prosecution is transferred shall thereby have jurisdiction of the cause, and the same proceedings shall be had therein as though ~~such court were in the county or territorial unit in which the offense was committed~~ the venue had not been changed.

Sec. 103. 13 V.S.A. § 4635 is amended to read:

§ 4635. ORDER FOR REMOVAL OF DEFENDANT

When a motion for change of venue has been granted and the defendant is in custody, the judge granting the motion shall issue an order in writing to the officer having the defendant in custody, commanding him or her to deliver the defendant to the keeper of the jail serving the ~~county or territorial~~ unit of the ~~district court~~ in which the ~~trial is~~ further proceedings are ordered to be had.

Sec. 104. 13 V.S.A. § 4638 is amended to read:

§ 4638. WHICH STATE'S ATTORNEY TO PROSECUTE

The state's attorney of the county in which the respondent is informed or complained against or indicted shall appear in behalf of the state ~~at the trial of the respondent~~ in the court to which the ~~trial~~ case is removed, and in proceedings relating thereto he or she shall have the same powers and be subject to the same duties and liabilities as though the trial were had in the county for which he or she is ~~such~~ the attorney.

Sec. 105. 13 V.S.A. § 4903 is amended to read:

§ 4903. TRANSPORTING PRISONER THROUGH STATE

Whenever an offender is apprehended in a neighboring state, and it may be necessary to transport him or her through this state to the place where the offense was committed, ~~the superior court, a presiding judge thereof, a superior judge or a judge of a district court,~~ upon application and proof that lawful process has issued against ~~such~~ the offender, shall issue a warrant under his or her hand and seal, directed to a sheriff or his or her deputy, or to a person by name who shall be sworn to the faithful performance of his or her duty, authorizing such conveyance.

Sec. 106. 13 V.S.A. § 4953 is amended to read:

§ 4953. ARREST PRIOR TO REQUISITION

Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state, and, except in cases arising under section 4946 of this title, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his or her bail, probation, or parole, or whenever complaint shall have been before a superior judge, ~~assistant judge of the superior court, or judge of a district court~~ within this state, setting forth on the affidavit of a credible person in another state that a crime has been committed in such other state and that the accused has been charged in ~~such~~ that state with the commission of a crime, and, except in cases arising under section 4946, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his or her bail, probation, or parole and is believed to have been found in this state, such judge shall issue a warrant ~~directed~~ to any sheriff or constable directing him or her to apprehend the person charged, wherever he or she may be found in this state, and bring him or her before the same or any other superior judge, ~~assistant judge of the superior court or judge of a district court~~ who may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Sec. 107. 13 V.S.A. § 4954 is amended to read:

§ 4954. ARREST WITHOUT A WARRANT

The arrest of a person may be lawfully made by an officer or a private citizen without a warrant upon reasonable information that the accused stands

charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year. When so arrested, the accused shall be taken before a superior judge, ~~assistant judge of the superior court, or judge of a district court~~ as soon as may be, and complaint shall be made against him or her under oath setting forth the ground for the arrest as in section 4953 of this title; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.

Sec. 108. 13 V.S.A. § 5043 is amended to read:

§ 5043. HEARING, COMMITMENT, DISCHARGE

If an arrest is made in this state by an officer of another state in accordance with the provisions of section 5042 of this title, he or she shall without unnecessary delay take the person arrested before a superior judge, ~~assistant judge of the superior court, or a judge of a district court~~ of the county unit in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If ~~such~~ the judge determines that the arrest was lawful, he or she shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state or admit such person to bail pending the issuance of such warrant. If ~~such~~ the judge determines that the arrest was unlawful, he or she shall discharge the person arrested.

Sec. 109. 13 V.S.A. § 5131 is amended to read:

§ 5131. APPLICATION FOR INQUEST

Upon the written application of the state's attorney, a judge of the superior court, ~~or of a district court~~, may institute and conduct an inquest upon any criminal matter under investigation by the state's attorney.

Sec. 109a. 13 V.S.A. § 5317 is amended to read:

§ 5317. GENERAL REQUIREMENTS FOR INFORMATION

(a) The information required to be furnished to victims under this chapter shall be provided upon request of the victim and, unless otherwise specifically provided, may be furnished either orally or in writing.

(b) A person responsible for furnishing information may rely upon the most recent name, address, and telephone number furnished by the victim.

(c) The court, state's attorneys, public defenders, law enforcement agencies, and the departments of corrections and of public safety may develop and implement an automated notification system to deliver the information required to be furnished to victims under this chapter.

Sec. 110. 13 V.S.A. § 6642 is amended to read:

§ 6642. SUMMONING WITNESSES IN THIS STATE TO TESTIFY IN ANOTHER STATE

If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in an action in this state, certifies under the seal of such court that there is ~~such an~~ action pending in ~~such that~~ court, that a person being within this state is a material witness in ~~such the~~ action, and that his or her presence will be required for a specified number of days, upon presentation of ~~such the~~ certificate to any superior judge ~~or a judge of a district court~~ in the ~~county unit~~ in which ~~such the~~ person is, ~~such the~~ judge shall fix a time and place for a hearing in ~~such county the unit~~ and shall notify the witness ~~thereof~~ by an order stating the purpose of the hearing and directing him or her to appear therefor at a time and place certain.

Sec. 111. 13 V.S.A. § 6646 is amended to read:

§ 6646. WITNESS FROM ANOTHER STATE SUMMONED TO TESTIFY IN THIS STATE

If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in an action in this state, is a material witness in ~~such an~~ action pending in a court of record in this state, a superior judge ~~or a judge of a district court~~ may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. ~~Such The~~ certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his or her attendance in this state. ~~Such The~~ certificate shall be presented to a judge of a court of record of the state in which the witness is found.

Sec. 112. 13 V.S.A. § 7004 is amended to read:

§ 7004. RECORD OF CONVICTIONS; REPORT TO COMMISSIONER OF PUBLIC SAFETY

In all cases of felony or misdemeanor in which a conviction or plea of guilty is had in their respective courts, clerks of ~~the superior and district courts~~ court shall forthwith forward to the commissioner of public safety, on quadruplicate forms to be furnished by him or her, for file in the identification and records division of the department of public safety, a certified report of ~~such the~~ conviction, together with the sentence and ~~such any~~ other facts ~~as~~ which may be required by the commissioner. A fee of ~~50 cents~~ \$0.50 for such certified report shall be allowed by the commissioner of finance and management in settlement of the accounts of such courts.

Sec. 113. 13 V.S.A. § 7034 is amended to read:

~~§ 7034. WHEN APPEALS FROM SEVERAL JUSTICE'S JUSTICES'
JUDGMENTS ARE NOT ENTERED~~

~~If such person appeals to the county or district superior court from two or more judgments by the same justice at different times, and fails to enter his or her appeals within the time required, the justice may issue a single mittimus to carry his or her judgments into effect, as provided in section 7033 of this title, and the 24 hours shall commence from the time of signing the mittimus, and such time shall be indorsed thereon. [Repealed.]~~

Sec. 114. 13 V.S.A. § 7043(i) is amended to read:

(i) The restitution unit may bring an action, including a small claims procedure, to enforce a restitution order against an offender in the civil division of the superior or small claims court of the county unit where the offender resides or in the county unit where the order was issued. In an action under this subsection, a restitution order issued by the district criminal division of the superior court shall be enforceable in the civil division of the superior court or in a small claims court procedure in the same manner as a civil judgment. Superior and small claims ~~court~~ filing fees shall be waived for an action under this subsection, and for an action to renew a restitution judgment.

Sec. 115. 13 V.S.A. § 7178 is amended to read:

§ 7178. SUSPENSION OF FINES

A superior ~~or district court~~ judge, in his or her discretion, may suspend all or any part of the fine assessed against a respondent.

Sec. 116. 13 V.S.A. § 7401 is amended to read:

§ 7401. APPEAL

In criminal actions or proceedings ~~in the superior courts or the district court~~, the defendant may appeal to the supreme court as of right all questions of law involved in any judgment of conviction and in any other order or judgment as to which the state has appealed, provided that if the state fails to perfect or prosecute such appeal, the appeal of the defendant shall not be heard.

Sec. 117. 13 V.S.A. § 7403 is amended to read:

§ 7403. APPEAL BY THE STATE

(a) In a prosecution for a misdemeanor, questions of law decided against the state ~~by a superior or district court~~ shall be allowed and placed upon the record before final judgment. The court may pass the same to the supreme court before final judgment. The supreme court shall hear and determine the

questions and render final judgment thereon, or remand the cause to such superior or district court for further trial or other proceedings, as justice and the state of the cause may require.

(b) In a prosecution for a felony, the state shall be allowed to appeal to the supreme court any decision, judgment, or order of a district or superior court dismissing an indictment or information as to one or more counts.

(c) In a prosecution for a felony, the state shall be allowed to appeal to the supreme court from a decision or order of a district or superior court:

* * *

Sec. 118. 13 V.S.A. § 7554(d) and (f) are amended to read:

(d)(1) A person for whom conditions of release are imposed and who is detained as a result of his or her inability to meet the conditions of release or who is ordered released on a condition that he or she return to custody after specified hours shall, within 48 hours of application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any district or superior judge may review such conditions.

(2) A person for whom conditions of release are imposed shall, within five working days of application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any district or superior judge may review such conditions.

(f) The term “judicial officer” as used in this section and section 7556 of this title shall mean a clerk of a superior or district court or a superior or district court judge.

Sec. 119. 13 V.S.A. § 7560a(a) is amended to read:

(a) If a person who has been released on a secured or unsecured appearance bond or a surety bond fails to appear in court as required:

(1) The court may:

(A) issue a warrant for the arrest of the person; and

(B) upon hearing and notice thereof to the bailor or surety, forfeit any bail posted on the person.

(2)(A) The state's attorney may file a motion to forfeit the amount of the bond against the surety in the civil or criminal division of the superior or district court where the bond was executed.

(B) A motion filed under this subdivision shall:

(i) include a copy of the bond;

(ii) state the facts upon which the motion is based; and

(iii) be served upon the surety.

Sec. 120. 14 V.S.A. § 101 is amended to read:

§ 101. WILL NOT EFFECTIVE UNTIL ALLOWED

A will shall not pass either real or personal estate unless it is proved and allowed in the probate division of the superior court, or by appeal in the ~~superior or~~ supreme court.

Sec. 121. 14 V.S.A. § 203 is amended to read:

§ 203. PROBATE PROCEEDINGS ~~WITHIN THE EXCLUSIVE JURISDICTION OF PROBATE COURT~~; SERVICE; JURISDICTION OVER PERSONS

In proceedings within the exclusive jurisdiction of the probate division of the superior court where notice is required, interested persons may be bound by the orders of the court in respect to property in or subject to the laws of this state by notice in conformity with law or the rules of probate procedure. An order is binding as to all who are given notice of the proceeding though less than all interested persons are notified.

Sec. 122. 14 V.S.A. § 1728 is amended to read:

§ 1728. COURT TO DETERMINE QUESTIONS OF ADVANCEMENT

Questions as to an advancement made, or alleged to have been made by the deceased to an heir, may be heard and determined by the probate division of the superior court and shall be specified in the decree assigning the estate. The final decree of the probate ~~court~~ division, or of the ~~superior or~~ supreme court on appeal, shall be binding on the persons interested in the estate.

Sec. 123. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

(a) The family division of the superior court may establish a permanent guardianship at a permanency planning hearing or at any other hearing in which a permanent legal disposition of the child can be made, including a child protection proceeding pursuant to 33 V.S.A. § 5528, or a delinquency proceeding pursuant to 33 V.S.A. § 5529. The court shall also issue an order permitting or denying visitation, contact, or information with the parent at the same time the order of permanent guardianship is issued. Before issuing an order for permanent guardianship, the court shall find by clear and convincing evidence all of the following:

* * *

(c) After the family division of the superior court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate probate court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the probate court. Appeal of any decision by the probate court shall be de novo to the family court.

Sec. 123a. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

* * *

(c) After the family division of the superior court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate probate division of the superior court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the probate court division. ~~Appeal of any decision by the probate court shall be de novo to the family court.~~

Sec. 124. 14 V.S.A. § 2927 is amended to read:

§ 2927. REMEDY, AFTER GUARDIAN'S DISCHARGE,
REEXAMINATION OF ACCOUNTS

After the trust of a guardian is terminated, if the ward or the ward's legal representatives are dissatisfied with the account as allowed by the probate division of the superior court during the continuance of the trust, within two years, and if the ward or the legal representatives do not at the time of the termination of the trust reside in this state, within four years thereafter, they may file a motion to reopen the estate for a reexamination of the account. After notice as provided by the rules of probate procedure, the court shall reexamine accounts previously allowed. A party may appeal from the decision of the probate ~~court~~ division to the ~~superior~~ supreme court. The final allowance of accounts in these proceedings shall be conclusive between the parties.

Sec. 125. 14 V.S.A. § 3062 is amended to read;

§ 3062. JURISDICTION; REVIEW OF GUARDIAN'S ACTIONS

(a) The probate division of the superior court shall have exclusive original jurisdiction over all proceedings brought under the authority of this chapter or pursuant to ~~section 18 V.S.A. § 9718 of Title 18.~~

(b) The probate division of the superior court shall have supervisory authority over guardians. Any interested person may seek review of a guardian's proposed or past actions by filing a motion with the court.

Sec. 126. 15 V.S.A. § 658(d) and (e) are amended to read:

(d) The ~~family~~ superior court judge or magistrate may order a parent who is in default of a child support order, to participate in employment, educational, or training related activities if the court finds that participation in such activities would assist in addressing the causes of the default. The court may also order the parent to participate in substance abuse or other counseling if the court finds that such counseling may assist the parent to achieve stable employment. Activities ordered under this section shall not be inconsistent with any requirements of a state or federal program in which the parent is participating. For the purpose of this subsection, "employment, educational, or training related activities" shall mean:

* * *

(e) A consent to the adoption of a child or the relinquishment of a child, for the purpose of adoption, covered by a child support order shall terminate an obligor's duty to provide future support for the adopted child without further order of the ~~family~~ court. Unpaid support installments accrued prior to adoption are not discharged and are subject to the jurisdiction of the ~~family~~ court. In a case involving a child covered by a Vermont child support order, the probate division of the superior court shall file the consent or relinquishment with the family division of the superior court ~~that issued in the case in which~~ the support order was issued and shall notify the office of child support of any order terminating parental rights and of the final adoption decree. Upon receipt of the consent or relinquishment, the office of child support shall terminate the obligor's duty to provide further support.

Sec. 126a. 15 V.S.A. § 658(e) is amended to read:

* * *

(e) A consent to the adoption of a child or the relinquishment of a child, for the purpose of adoption, covered by a child support order shall terminate an obligor's duty to provide future support for the adopted child without further order of the court. Unpaid support installments accrued prior to adoption are

not discharged and are subject to the jurisdiction of the court. In a case involving a child covered by a Vermont child support order, the probate division of the superior court shall also file the consent or relinquishment with the family division of the superior court in the case in which the support order was issued and shall notify the office of child support of any order terminating parental rights and of the final adoption decree. Upon receipt of the consent or relinquishment, the office of child support shall terminate the obligor's duty to provide further support.

Sec. 127. 15 V.S.A. § 1011(a) is amended to read:

(a) A ~~superior, juvenile or probate~~ court which has considered or is considering the custody or visitation of a minor child may award visitation rights to a grandparent of the child, upon written request of the grandparent filed with the court, if the court finds that to do so would be in the best interest of the child.

Sec. 128. 15 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

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

* * *

(3) A "foreign abuse prevention order" means any protection order issued by the court of any other state that contains provisions similar to relief provisions authorized under this chapter, the Vermont ~~Family Court~~ Rules for Family Proceedings, chapter 69 of Title 33, or chapter 178 of Title 12.

* * *

Sec. 129. 15 V.S.A. § 1102 is amended to read:

§ 1102. JURISDICTION AND VENUE

(a) The family division of the superior court shall have jurisdiction over proceedings under this chapter.

(b) Emergency orders under section 1104 of this title may be issued by a judge of the ~~district, criminal, civil, or family division of the superior or family~~ court.

* * *

Sec. 130. 15 V.S.A. § 1106 is amended to read:

§ 1106. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced

under this chapter shall be in accordance with the ~~family court rules~~ Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) The court administrator shall establish procedures to insure access to relief after regular court hours, or on weekends and holidays. The court administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to ~~district~~, superior ~~and family~~ courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The office of the court administrator shall ensure that the ~~family court and the district~~ superior court ~~have~~ has procedures in place so that the contents of orders and pendency of other proceedings can be known to ~~both~~ all courts for cases in which an abuse prevention proceeding is related to a criminal proceeding.

Sec. 131. 15A V.S.A. § 6-102(c) is amended to read:

(c) Within 30 days after a decree of adoption becomes final, the ~~register clerk~~ of the ~~probate~~ superior court ~~or the clerk of the family court~~ shall send to the registry a copy of any document signed pursuant to section 2-105 of this title.

Sec. 132. 17 V.S.A. § 2103 is amended to read:

§ 2103. DEFINITIONS

As used in this title, unless the context or a specific definition requires a different reading:

* * *

(10) “County officer” means ~~judge of probate~~, assistant judge of the superior court, state’s attorney, sheriff, high bailiff, and justice of the peace.

* * *

(43) “Probate district clerk” means, in a probate district as defined in 4 V.S.A. § 272, the clerk of the county having the largest population in the district.

Sec. 133. 17 V.S.A. § 2323 is amended to read:

§ 2323. PROBATE DISTRICT COMMITTEE

The “probate district committee” of a party shall consist of those members of ~~the~~ each county committee residing in a probate district. Such a committee shall elect its own officers when called upon to meet, but it need not meet unless required to perform some function under this title. The chair of the

county committee in the county having the largest population within the district may call the first meeting by giving at least five days' written notice to all other members; thereafter the committee shall meet at the call of the probate district chair.

Sec. 134. 17 V.S.A. § 2355 is amended to read:

§ 2355. NUMBER OF SIGNATURES REQUIRED

The number of signatures on primary petitions shall be not less than:

- (1) For state and congressional officers, ~~five hundred~~ 500;
- (2) For county officers, probate judges, or state senator, ~~one hundred~~ 100;
- (3) For representative to the general assembly, ~~fifty~~ 50.

Sec. 135. 17 V.S.A. § 2357(a) is amended to read:

(a) Primary petitions and consent forms shall be filed as follows:

- (1) For state and congressional officers, with the secretary of state;
- (2) For county officers with the county clerk;
- (3) For probate judge, with the probate district clerk;
- (4) For state senator, with the senatorial district clerk;
- ~~(4)~~(5) For representative to the general assembly, with the representative district clerk.

Sec. 136. 17 V.S.A. § 2368 is amended to read:

§ 2368. CANVASSING COMMITTEE MEETINGS

After the primary election is conducted, the canvassing committee for state and national offices and statewide public questions shall meet at 10 a.m. one week after the day of the election. The canvassing committee for county offices ~~and, probate judge,~~ countywide public questions, and state senator shall meet at 10 a.m. on the third day following the election. The canvassing committees for local offices and local public questions, including state representative, shall meet at 10 a.m. on the day after the election, except that in the case of canvassing committees for state representative in ~~multi town~~ multitown representative districts, the committees shall meet at 10 a.m. on the third day after the election.

Sec. 137. 17 V.S.A. § 2382 is amended to read:

§ 2382. WHICH COMMITTEE TO NOMINATE

Nominations of party candidates pursuant to this subchapter shall be made

by the following political committee of the party:

- (1) By the state committee in the case of state or congressional officers;
- (2) By the county committee in the case of county officers;
- (3) By the probate district committee in the case of probate judges;
- (4) By the senatorial district committee in the case of the office of state senator;
- ~~(4)~~(5) By the representative district committee in the case of the office of representative to the general assembly;
- ~~(5)~~(6) By the town committee in the case of the office of justice of the peace.

Sec. 138. 17 V.S.A. § 2402(b) is amended to read:

(b)(1) To constitute a valid nomination, a statement shall contain signatures of voters qualified to vote in an election for the office in question, equal in number to at least:

- ~~(1)~~(A) For presidential and vice presidential offices, 1,000;
- ~~(2)~~(B) For state and congressional offices, 500;
- ~~(3)~~(C) For county officers, probate judges, or state senators, 100;
- ~~(4)~~(D) For representative to the general assembly, 50;
- ~~(5)~~(E) For justice of the peace, 30 or one percent of the legal voters of the municipality, whichever is less.

(2) Signatures need not all be contained on one paper.

Sec. 139. 17 V.S.A. § 2592 is amended to read:

§ 2592. CANVASSING COMMITTEES; CANVASS OF VOTES IN
GENERAL OR SPECIAL ELECTIONS

* * *

(c) For probate judge, the probate district clerk and the county chair of each major party in the county having the largest population within the district, or the chair's designee, shall constitute a canvassing committee to receive and tally returns and issue certificates.

(d) For state senator, the senatorial district clerk, and the chair of the county committee of each major political party (or designee) in the county for which the senatorial district clerk is clerk shall constitute a canvassing committee to receive and tally returns and issue certificates.

~~(d)~~(e) For state representative, the representative district clerk, and one other election official from the district shall serve as a canvassing committee to receive and, if necessary, tally returns and issue certificates.

~~(e)~~(f) In the case of the canvassing committees in subsections (b) ~~and (e)~~ through (d) of this section, if there is no party organization or party chair in the county, the state committee ~~chairman~~ chair may designate a person to serve on the appropriate canvassing committee.

~~(f)~~(g) In the case of primary elections, the canvass of votes shall be made as provided in subchapter 1 of chapter 49 of this title.

~~(g)~~(h) In the case of general or special elections, each canvassing committee shall meet at 10:00 a.m. one week after the day of the election and proceed to canvass the votes as provided in subsections ~~(h)~~(i) through ~~(m)~~(n) of this section. The canvassing committee may recess from time to time until it has completed its work.

~~(h)~~(1)(i)(1) The canvassing committee shall declare the person receiving the largest number of votes for each office to be elected, and it shall issue a certificate of election, signed by a majority of the canvassing committee, in substantially the following form:

State of Vermont)
) s.s.
..... County)

At, on the day of 20, a canvassing committee appointed by law completed a canvass of the returns cast at a general election held on the day of, 20 for the office of The committee hereby certifies that of was duly elected to the office by the voters present and voting.

.....
.....

(2) The committee shall send or deliver the certificate to the candidate elected. In the case of representatives to the general assembly, the committee shall also send or deliver a copy of each certificate to the secretary of state.

~~(i)~~(j) In the case of justices of the peace, the town clerk shall send or deliver a certificate signed by the town clerk and one other election official to each candidate elected. The secretary of state shall provide certificate forms for this purpose. The town clerk shall also file with the secretary of state a list

of the names and addresses of justices of the peace and shall notify the secretary of state of any changes in the list as filed.

~~(j)~~(k) The certificate shall be a sufficient credential of such person's election, unless superseded by a court order as provided by subchapter 9 of this chapter.

~~(k)~~(l) In the case of the offices of governor, lieutenant governor, treasurer, secretary of state, attorney general, and auditor of accounts, the canvassing committee shall prepare a certificate of election but shall not sign it. The prepared certificate shall be presented to the official canvassing committee appointed by the general assembly, pursuant to chapter II, section 47 of the Vermont constitution, for their use if they desire.

~~(l)~~(m) In the case of a tie vote, the canvassing committee shall forthwith petition the appropriate superior court for a recount pursuant to section 2602 of this title.

~~(m)~~(n) Each canvassing committee shall file a report of its findings with the secretary of state, who shall preserve the reports as permanent records.

Sec. 140. 17 V.S.A. § 2602(b) is amended to read:

(b) In the case of recounts other than specified in subsection (a) of this section, the following procedure shall apply. A petition for a recount shall be filed within 10 days after the election. The petition shall be filed with the civil division of the superior court, Washington County, in the case of candidates for state or congressional office, or for a presidential election; the petition shall be filed with the superior court in ~~any~~ the county with the largest population in which votes were cast for the office to be recounted, in the case of any other office. The petition shall be supported, if possible, by a certified copy of the certificate of election prepared by the canvassing committee, verifying the total number of votes cast and the number of votes cast for each candidate.

Sec. 141. 17 V.S.A. § 2603(c) is amended to read:

(c) The complaint shall be filed within 15 days after the election in question, or if there is a recount, within 10 days after the court issues its judgment on the recount. In the case of candidates for state or congressional office, for a presidential election, or for a statewide public question, the complaint shall be filed with the civil division of the superior court, Washington ~~county~~ County. In the case of any other candidate or public question, the complaint shall be filed with the superior court in ~~any~~ the county with the largest population in which votes were cast for the office or question being challenged.

Sec. 142. DELETED

Sec. 143. 17 V.S.A. § 2821 is amended to read:

§ 2821. CAMPAIGN REPORTS; COUNTY OFFICE AND PROBATE JUDGE CANDIDATES

(a) Each candidate for county office or probate judge who has made expenditures or accepted contributions of \$500.00 or more shall file campaign finance reports with the officer with whom his or her nomination papers are filed as follows:

(1) 10 days before the primary election;

(2) 10 days before the general election;

(3) further campaign reports shall be filed on the 15th day of July and annually thereafter or until all contributions and expenditures have been accounted for and any indebtedness and surplus have been eliminated.

(b) Within 40 days after the general election, each candidate for county office or probate judge who has made expenditures or accepted contributions of \$500.00 or more shall file a “final report” which lists a complete accounting of all contributions and expenditures, and disposition of surplus, and which shall constitute the termination of his or her campaign activities.

(c) Copies of reports filed under this section shall be forwarded by the officer to the secretary of state within five days of receipt.

Sec. 144. 18 V.S.A. § 1055 is amended to read:

§ 1055. TUBERCULOSIS-COMPULSORY EXAMINATIONS

When the commissioner of health has reasonable cause to believe that any person has tuberculosis in an active stage or in a communicable form, ~~he~~ the commissioner may request the person to undergo an examination at a clinic or hospital approved by the secretary of the agency of human services for that purpose at the expense of the state by a physician qualified in chest diseases. If the person refuses the examination, the commissioner may petition the ~~district~~ superior court for the ~~district~~ unit where the person resides for an order requiring the person to submit to examination. When the court finds that there is reasonable cause to believe that the person has tuberculosis in an active stage or in a communicable form, it may order the person to be examined.

Sec. 145. 18 V.S.A. § 4053(b) is amended to read:

(b) In addition to the other remedies provided in this chapter, the board is hereby authorized through the attorney general or state’s attorneys to apply to the civil or criminal division of any superior ~~or district~~ court ~~to apply for~~, and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any

provision of this chapter, irrespective of whether or not there exists an adequate remedy at law.

Sec. 146. 18 V.S.A. § 4055 is amended to read:

§ 4055. MARKING; NOTICE

(a) Whenever a duly authorized agent of the board finds or has probable cause to believe that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, he or she shall affix to such article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article by sale or otherwise without that permission.

(b) When an article detained or embargoed under subsection (a) has been found by the agent to be adulterated, or misbranded, he or she shall petition the ~~presiding judge~~ civil or criminal division of the superior court ~~or district court~~ in ~~whose jurisdiction~~ the unit where the article is detained or embargoed, for a libel for condemnation of the article. When the agent has found that an article so detained or embargoed is not adulterated or misbranded, he or she shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, the article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of the agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or his or her agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after the costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled or processed, has been executed, may by order direct that the article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the board. The expense of the supervision shall be paid by the claimant. The bond shall be returned to the claimant of the article on representation to the court by the board that the article is no longer in violation of this chapter and that the expenses of supervision have been paid.

* * *

Sec. 147. 18 V.S.A. § 5144(a) is amended to read:

(a) Marriages may be solemnized by a supreme court justice, a superior court judge, a district judge, a judge of probate, an assistant judge, a justice of the peace, an individual who has registered as an officiant with the Vermont secretary of state pursuant to section 5144a of this title, a member of the clergy residing in this state and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference, convention, or other authority of his or her faith or denomination, or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque, or other religious organization lies wholly or in part in this state, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the probate court of the district division of the superior court in the unit within which the marriage is to be solemnized a special authorization, authorizing him or her to certify the marriage if ~~such~~ the probate judge determines that the circumstances make the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia, and the Baha'i Faith may be solemnized in the manner heretofore used in such societies.

Sec. 148. 18 V.S.A. § 5231(a) and (f) are amended to read:

(a) Any individual who is a near relative of the decedent or the custodian of the decedent's remains may file an action in the probate division of the superior court requesting the court to appoint an individual to make decisions regarding the disposition of the decedent's remains or to resolve a dispute regarding the appropriate disposition of remains, including any decisions regarding funeral goods and services. The court or the individual filing the action may move to join any necessary person under the jurisdiction of the court as a party. The agency of human services may also be joined as a party if it is suggested on the record that there will be insufficient financial resources to pay for funeral goods and services.

~~(f) Any appeal from the probate court shall be on the record to the superior court. There shall be no appeal as a matter of right to the supreme court. [Repealed.]~~

Sec. 149. 18 V.S.A. § 5531(c) is amended to read:

(c) The probate division of the superior court shall have jurisdiction to determine all questions arising under the provisions of this section.

Sec. 150. 18 V.S.A. § 7106 is amended to read:

§ 7106. NOTICE OF HOSPITALIZATION AND DISCHARGE

Whenever a patient has been admitted to a hospital ~~or training school~~ other

than upon his or her own application, the head of the hospital ~~or school~~ shall immediately notify the patient's legal guardian, spouse, parent or parents, or nearest known relative or interested party, if known. If the involuntary hospitalization or admission was without court order, notice shall also be given to the ~~district~~ superior court judge for the ~~district~~ unit wherein the hospital is located. If the hospitalization or admission was by order of any court, the head of the hospital ~~or training school~~ admitting or discharging an individual shall forthwith make a report thereof to the commissioner and to the court which entered the order for hospitalization or admission.

Sec. 151. 18 V.S.A. § 8010(b) is amended to read:

(b) In that event and if the head of the hospital determines that the patient is a patient in need of further treatment, the head of the hospital may detain the patient for a period not to exceed four days from receipt of the notice to leave. Before expiration of the four-day period the head of the hospital shall either release the patient or apply to the ~~district~~ superior court in the ~~district~~ unit in which the hospital is located for the involuntary admission of the patient. The patient shall remain in the hospital pending the court's determination of the case.

Sec. 152. 18 V.S.A. § 8845(a) and (b) are amended to read:

(a) A person committed under this subchapter may be discharged from custody by a ~~district~~ superior judge after judicial review as provided herein or by administrative order of the commissioner.

(b) Procedures for judicial review of persons committed under this subchapter shall be as provided in section 8834 of this title except that proceedings shall be brought in the ~~district~~ superior court in the unit in which the person resides or, if the person resides out of state, in the unit which issued the original commitment order.

Sec. 153. 18 V.S.A. § 9052 is amended to read:

§ 9052. TRANSFER OF PATIENTS

The compact administrator shall consult with the immediate family of any person whom he or she proposes to transfer from a state institution to an institution in another state which is a party to this compact and shall take final action as to the transfer of such person only with the approval of the ~~district~~ superior court of the ~~district~~ unit of original commitment.

Sec. 154. 18 V.S.A. § 9303 is amended to read:

§ 9303. JURISDICTION AND VENUE

(a) The family division of the superior court shall have exclusive

jurisdiction over all proceedings brought under the authority of this chapter. Proceedings under this chapter shall be commenced in the family division of the superior court for the county in which the person with developmental disabilities is residing.

* * *

Sec. 154a. 18 V.S.A. § 9303 is amended to read:

§ 9303. JURISDICTION AND VENUE

(a) The superior court shall have exclusive jurisdiction over all proceedings brought under the authority of this chapter. Proceedings under this chapter shall be commenced in the superior court for the ~~county~~ unit in which the person with developmental disabilities is residing.

(b)(1) The probate division of the superior court shall have concurrent jurisdiction to appoint the commissioner to serve as a temporary guardian for a person in need of guardianship when:

(A) a petition has been filed pursuant to ~~section~~ 14 V.S.A. § 3063 of Title 14;

(B) the probate division of the superior court finds that the respondent is a person in need of guardianship as defined in subdivision 9302(5) of this title; and

(C) no suitable private guardian can be located.

(2) Within 60 days after appointment as a temporary guardian, the commissioner shall file a petition in the family division of the superior court for appointment under this chapter and for modification or termination of the probate ~~court~~ division order.

Sec. 155. 18 V.S.A. § 9316(a) and (b) are amended to read:

(a) The commissioner shall provide guardianship services in accordance with the order of the probate or family division of the superior court until termination or modification thereof by the court.

(b) The commissioner, the person with developmental disabilities, or any interested person may petition the appointing court, if it exists, or the ~~family superior~~ superior court for the ~~district~~ unit where the person resides to modify or terminate the judgment pursuant to which the commissioner is providing guardianship. The petitioner, or the commissioner as petitioner, and the respondent shall be the parties to a petition to modify or terminate guardianship.

Sec. 155a. 18 V.S.A. § 9316(a) is amended to read:

(a) The commissioner shall provide guardianship services in accordance with the order of the ~~probate or~~ superior court until termination or modification thereof by the court.

Sec. 156. 20 V.S.A. § 26 is amended to read:

§ 26. CHANGE OF VENUE BECAUSE OF ENEMY ATTACK

In the event that the place where a civil action or a criminal prosecution is required by law to be brought, has become and remains unsafe because of an attack upon the United States or Canada, such action or prosecution may be brought in or, if already pending, may be transferred to the superior ~~or district~~ court ~~as appropriate~~ in an unaffected ~~county or territorial~~ unit and there tried in the place provided by law for such court.

Sec. 157. 20 V.S.A. § 1882 is amended to read:

§ 1882. SUBPOENAS

In connection with any investigation into the internal affairs of the department, the commissioner may request subpoenas for the testimony of witnesses or the production of evidence. The fees for travel and attendance of witnesses shall be the same as for witnesses and officers before a ~~district~~ superior court. The fees in connection with subpoenas issued on behalf of the commissioner or the department shall be paid by the state, upon presentation of proper bills of costs to the commissioner. Notwithstanding 3 V.S.A. §§ 809a and 809b, subpoenas requested by the commissioner shall be issued and enforced by the ~~district superior~~ court of the ~~district~~ unit in which the person subpoenaed resides in accordance with the Vermont ~~District Court Civil Rules~~ of Civil Procedure.

Sec. 158. 20 V.S.A. § 1935 is amended to read:

§ 1935. PROCEDURE IF PERSON REFUSES TO GIVE SAMPLE

(a) If a person who is required to provide a DNA sample under this subchapter refuses to provide the sample, the commissioner of the department of corrections or public safety shall file a motion in the ~~district~~ superior court for an order requiring the person to provide the sample.

* * *

(f) Venue for proceedings under this section shall be in the territorial unit of the ~~district~~ superior court where the conviction occurred. Hearings under this section shall be conducted by the ~~district superior~~ court without a jury and shall be subject to the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure as consistent with this section. The state has the burden of proof by a preponderance of the evidence. Affidavits of witnesses shall be admissible

evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five days prior to the hearing.

(g) A decision of the ~~district~~ superior court under this section may be appealed as a matter of right to the supreme court. The court's order shall not be stayed pending appeal unless the respondent is reasonably likely to prevail on appeal.

Sec. 159. 20 V.S.A. § 2056 is amended to read:

§ 2056. CERTIFIED RECORDS

Upon the request of a superior ~~or district court~~ judge, the attorney general, or a state's attorney, the center shall prepare the record of arrests, convictions, or sentences of a person. The record, when duly certified by the commissioner of public safety or the director of the center, shall be competent evidence in the courts of this state. Such other information as is contained in the center may be made public only with the express approval of the commissioner of public safety.

Sec. 160. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the supreme court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time, and location of the ~~district~~ criminal division of the superior court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

* * *

(3) If you wish to request a hearing before the ~~district~~ superior court, you must mail or deliver your request for a hearing within seven (7) days after (date of notice).

* * *

(f) Review by ~~district~~ superior court. Within seven days following receipt of a notice of intention to suspend and of suspension, a person may make a request for a hearing before the ~~district~~ superior court by mailing or delivering the form provided with the notice. The request shall be mailed or delivered to the commissioner of motor vehicles, who shall then notify the ~~district~~ criminal division of the superior court that a hearing has been requested and ~~who shall~~

~~then~~ provide the state's attorney with a copy of the notice of intention to suspend and of suspension and the officer's affidavit.

* * *

(h) Final hearing.

* * *

(2) No less than seven days before the final hearing, and subject to the requirements of ~~District Court Civil Rule~~ Vermont Rule of Civil Procedure 11, the defendant shall provide to the state and file with the court a list of the issues (limited to the issues set forth in this subsection) that the defendant intends to raise. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.

* * *

(j) Venue and conduct of hearings. Venue for proceedings under this section shall be in the territorial unit of the ~~district~~ superior court where the offense is alleged to have occurred. Hearings under this section shall be summary proceedings conducted by the ~~district~~ criminal division of the superior court without a jury and shall be subject to the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure only as consistent with this section. The state has the burden of proof by a preponderance of the evidence. Affidavits of law enforcement officers, chemists of either party, or expert witnesses of either party shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five days prior to the hearing.

(k) Appeal. A decision of the ~~district~~ criminal division of the superior court under this section may be appealed as a matter of right to the supreme court. The suspension shall not be stayed pending appeal unless the defendant is reasonably likely to prevail on appeal.

* * *

Sec. 161. 23 V.S.A. § 1213c(c) is amended to read:

(c) Service of notice. The notice of hearing shall be served as provided for in the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure on the registered owner or owners and any lienholders as shown on the certificate of title for the vehicle as shown in the records of the department of motor vehicles in the state in which the vehicle is registered or titled.

Sec. 162. 23 V.S.A. § 3021(b) and (d) are amended to read:

(b) In addition to the powers specifically granted to the commissioner in this chapter, he or she may:

* * *

(5) compel the attendance of witnesses and order the production of any relevant books, records, papers, vouchers, accounts, or other documents of any person the commissioner has reason to believe is liable for the payment of a tax or of any person believed to have information pertinent to any matter under investigation by the commissioner at any hearing held under this chapter. The fees for travel and attendance of witnesses summoned or used by the commissioner and fees for officers shall be the same as for witnesses and officers before ~~a district~~ the criminal division of the superior court and shall be paid by the state upon presentation of proper bills of cost to the commissioner of finance and management, but no fees or expenses shall be payable to a witness charged with a use tax liability.

(d) Any superior ~~or district~~ judge upon application of the commissioner may compel the attendance of witnesses, the giving of testimony, and the production of any books, records, papers, vouchers, accounts, or documents before the commissioner in the same manner, to the same extent, and subject to the same penalties as if before a superior ~~or district~~ court.

Sec. 163. 24 V.S.A. § 71a is amended to read:

§ 71a. COURTHOUSES

(a) Except as provided herein, each county shall provide and own a suitable courthouse, pay all utility and custodial services, and keep such courthouse suitably furnished and equipped for use by the superior court and probate court, together with suitable offices for the county clerk, assistant judges, and probate judges. Office space for the probate court may be provided elsewhere by the county. ~~Each county shall provide fireproof safes or vaults for the safekeeping of the official files and records required to be kept by county officials, including the files and records of a justice of the peace who has vacated his or her office. Use of the county courthouse by the supreme court, district court, family court or the judicial bureau may be permitted by the assistant judges when such use does not conflict with the use of the building by the superior court, provided that the office of court administrator shall pay the cost of any such use should the assistant judges choose not to pay the cost by use of county funds. The county shall provide at least the facilities for judicial operations, including staff, that it provided on July 1, 2009.~~

(b) ~~If the state provides a building in which the superior court is held~~ all judicial operations in a county are contained in one court building owned by the state, the county clerk and assistant judges may also be located in the same

building. The ~~assistant judges, the~~ court administrator and the commissioner of buildings and general services shall be the superintendents of the building. They shall make decisions regarding building construction, space allocations, and use of the facility after consulting with the ~~district court and the~~ superior court presiding judges judge and the ~~probate judge if housed in the building~~ assistant judges. The county shall no longer be required to maintain a courthouse.

(c) The court administrator, in consultation with the presiding judge of the superior court, shall determine what judicial operations will occur in the county courthouse.

Sec. 163a. 24 V.S.A. § 71a is amended to read:

§ 71a. COURTHOUSES

(a) Except as provided herein, each county shall provide and own a suitable courthouse, pay all utility and custodial services, and keep such courthouse suitably furnished and equipped for use by the superior court ~~and probate court~~, together with suitable offices for the county clerk, assistant judges and probate judges. Office space for the probate division of the superior court may be provided elsewhere by the county. The county shall provide at least the facilities for judicial operations, ~~including staff~~, that it provided on July 1, 2009.

* * *

Sec. 164. 24 V.S.A. § 72 is amended to read:

§ 72. —EXPENSES OF THE SUPERIOR COURT

~~(a)~~ The expenses connected with the superior court, unless otherwise provided, shall be paid by the state.

~~(b) All filing fees in small claims actions, including postjudgment fees, shall be held by the county in which they are filed.~~

Sec. 165. 24 V.S.A. § 75 is amended to read:

§ 75. TELEPHONE

Each county shall provide adequate telephone service for the county courthouse, the offices of the county clerk, ~~probate judge or register thereof~~, and the sheriff.

Sec. 166. 24 V.S.A. § 77 is amended to read:

§ 77. COUNTY LANDS; PURCHASE; CONDEMNATION

(a) Each county may acquire and own such lands and rights in lands as in

the opinion of the assistant judges are needful for county purposes.

(b) A county may condemn land in situations similar to those in which a municipality may condemn under section 2805 of this title by complying with the procedures established in sections 2805 through 2812 of this title, with the assistant judges performing the duties assigned by those sections to the selectmen.

~~(c) In any proceeding brought by a county under subsection (b) of this section, the assistant judges shall be disqualified, and the proceeding shall be heard by the presiding judge, sitting alone.~~

Sec. 167. 24 V.S.A. § 131 is amended to read:

§ 131. POWERS AND DUTIES

The assistant judges ~~of the superior court~~ shall have the care and superintendence of county property, may take deeds and leases of real estate to the county, rent or sell and convey unused lands belonging to the county, keep the courthouse, jail, and other county buildings insured, and make needed repairs and improvements in and around the same.

Sec. 168. 24 V.S.A. § 137 is amended to read:

§ 137. JURISDICTION

~~District and superior~~ Superior courts, within their respective jurisdictions, may take cognizance of actions in favor of or against the county.

Sec. 169. 24 V.S.A. § 171 is amended to read:

§ 171. APPOINTMENT

The assistant judges ~~of the superior court, with the concurrence of the presiding judge of such court,~~ shall appoint a county clerk who shall be sworn and hold his or her office during the pleasure of such judges and until his or her successor is appointed and has qualified.

Sec. 170. 24 V.S.A. § 175 is amended to read:

§ 175. BOND TO COUNTY

Before entering upon the duties of his or her office, a county clerk shall become bound to the county in the sum of \$3,000.00, with sufficient sureties, by way of recognizance, before ~~two of the judges of the superior court~~ the assistant judges, or give a bond to the county executed by principal and sureties in like sum to be approved by ~~two of the judges of the superior court~~ the assistant judges, conditioned for the faithful performance of his or her duties. Such bonds of county clerks shall be taken biennially in the month of February and recorded in the office of the county clerk.

Sec. 171. 24 V.S.A. § 176 is amended to read:

§ 176. DEPUTY CLERK

A county clerk may, subject to the approval of the assistant judges, appoint one or more deputies who may perform the duties of clerk for whose acts he or she shall be responsible and whose deputations he or she may revoke at pleasure. A record of the appointments shall be made in the office of the clerk. In case of the death of the clerk or his or her inability to act, the deputy or deputies in order of appointment shall perform the duties of the office until a clerk is appointed. In case of the suspension of the clerk's duties as a condition of release pending trial for violating 13 V.S.A. § 2537, the assistant judges of the county shall appoint a person to perform the duties of the office until the charge of violating 13 V.S.A. § 2537 is resolved. ~~If the assistant judges cannot agree upon appointing a person, the judge of the superior court of the county shall make the appointment.~~ The compensation for the clerk and deputy clerk shall be fixed by the assistant judges and paid for by the county. Such compensation may include such employment benefits as are presently provided to state employees, including, ~~but not limited to,~~ health insurance, life insurance, and pension plan, the expense for which shall be borne by the county and the employees.

Sec. 172. 24 V.S.A. § 178 is amended to read:

§ 178. RECORD OF SHERIFF'S COMMISSION; COPIES; EVIDENCE

~~Such~~ The county clerk shall record, in a book kept for that purpose, sheriffs' commissions with the oath of office indorsed thereon, ~~and recognizances taken by the judges of the superior court, out of court, for the appearance of criminals confined in jail.~~ In case of loss or destruction of an original commission or recognizance, a certified copy of the record may be used in court as evidence of the facts therein contained.

Sec. 173. 24 V.S.A. § 183 is amended to read:

§ 183. CERTIFICATE OF APPOINTMENT OF NOTARY PUBLIC
~~OR MASTER~~

Immediately after the appointment of a notary public ~~or master~~, the county clerk shall send to the secretary of state a certificate of such appointment, on blanks furnished by ~~such~~ the secretary, containing the name, signature, and legal residence of the appointee, and the term of office of each notary public. ~~Such~~ The secretary shall cause such certificates to be bound in suitable volumes and to be indexed. Upon request, ~~such~~ the secretary may certify the appointment, qualification and signature of ~~such~~ a notary public ~~or master~~ on tender of his or her legal fees.

Sec. 174. 24 V.S.A. § 211 is amended to read:

§ 211. APPOINTMENT; VACANCY

Biennially, on February 1, the assistant judges ~~of the superior court~~ shall appoint a treasurer for the county who shall hold office for two years and until his or her successor is appointed and qualified. If ~~such the~~ treasurer dies or in the opinion of the assistant judges becomes disqualified, they may appoint a treasurer for the unexpired term. If the treasurer has his or her duties suspended as a condition of release pending trial for violating 13 V.S.A. § 2537, the assistant judges of the county shall appoint a person to perform the duties of the treasurer until the charge of violating 13 V.S.A. § 2537 is resolved. If the assistant judges cannot agree upon whom to appoint, the auditor of accounts shall make the appointment.

Sec. 175. 24 V.S.A. § 212 is amended to read:

§ 212. BOND

Before entering upon the duties of his or her office, a county treasurer shall become bound to the county in the sum of \$5,000.00, with sufficient sureties, by way of recognizance, before ~~two of the judges of the superior court~~ the assistant judges, or give a bond to the county executed by principal and sureties in like sum to be approved by ~~two of the judges of the superior court~~ the assistant judges, conditioned for the faithful performance of his or her duties. ~~Such The~~ recognizance or bond shall be lodged with and recorded by the county clerk. ~~Such bond shall be~~ and renewed annually in the month of February.

Sec. 176. 24 V.S.A. § 291 is amended to read:

§ 291. BOND; OATH

Before entering upon the duties of his or her office, a sheriff shall become bound to the treasurer of the county in the sum of \$100,000.00, with two or more sufficient sureties by way of recognizance, before ~~a justice of the supreme court~~ or the two assistant judges ~~of the superior court~~ in such county, or give a bond to the treasurer executed by such sheriff with sufficient sureties in like sum to be approved by ~~a justice of the supreme court~~ or by the two assistant judges ~~of the superior court~~, conditioned for the faithful performance of his or her duties and shall take the oath of office before one of ~~such the~~ judges, who shall certify the same on the sheriff's commission. Such recognizance or bond and the commission shall be forthwith recorded in the office of the county clerk.

Sec. 177. 24 V.S.A. § 294 is amended to read:

§ 294. SHERIFF IMPRISONED

If a sheriff is confined in prison by legal process, his or her functions as sheriff shall be suspended. When ~~he~~ the sheriff is released from imprisonment during his or her term of office, he or she shall file a certificate of his or her discharge signed by one of the judges of the superior court, in the office of the county clerk, and deliver a like certificate to the high bailiff. Thereupon he or she shall resume the powers and execute the duties of sheriff.

Sec. 178. 24 V.S.A. § 361(a) is amended to read:

(a) A state's attorney shall prosecute for offenses committed within his or her county, and all matters and causes cognizable by the supreme, and superior ~~and district~~ courts in behalf of the state; file informations and prepare bills of indictment, deliver executions in favor of the state to an officer for collection immediately after final judgment, taking duplicate receipts therefor, one of which shall be sent to the commissioner of finance and management, and take measures to collect fines and other demands or sums of money due to the state or county.

Sec. 179. 24 V.S.A. § 441 is amended to read:

§ 441. APPOINTMENT; JURISDICTION; EX OFFICIO NOTARIES; APPLICATION

(a) The assistant judges ~~of the superior court~~ may appoint as many notaries public for the county as the public good requires, ~~to hold~~. Notaries public so appointed shall hold office until ten days after the expiration of the term of office of such judges, ~~whose~~ and their jurisdiction shall extend throughout the state.

(b) The clerk of the supreme court, county clerks, ~~district~~ superior court clerks, ~~family~~ deputy superior court clerks, justices of the peace, and town clerks and their assistants shall be ex officio notaries public.

(c) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the county clerk ~~of the superior court~~ stating that the applicant is a resident of the county and has reached the age of majority, giving his or her business or home address and providing a handwritten specimen of the applicant's official signature.

(d) An ex officio notary public shall cease to be a notary public when he or she vacates the office on which his or her status as a notary public depends.

Sec. 180. 24 V.S.A. § 441a is amended to read:

§ 441a. NONRESIDENT NOTARY PUBLIC

A nonresident may be appointed as a notary public, provided the individual resides in a state adjoining this state and maintains, or is regularly employed in,

a place of business in this state. Before a nonresident may be appointed as a notary public, the individual shall file with the assistant judges of the superior court in the county where the individual's place of employment is located an application setting forth the individual's residence and the place of employment in this state. A nonresident notary public shall notify the assistant judges of the superior court, in writing, of any change of residence or of place of employment in this state.

Sec. 181. 24 V.S.A. § 442 is amended to read:

§ 442. OATH; CERTIFICATE OF APPOINTMENT RECORDED; FORM

(a) A person appointed as notary public shall cause the certificate of his or her appointment to be filed and recorded in the office of the county clerk where issued. Before entering upon the duties of ~~his~~ office, he or she, as well as an ex officio notary, shall take the oath prescribed by the constitution, and shall duly subscribe the same with his or her correct signature, which oath thus subscribed shall be kept on file by the county clerk as a part of the records of such county.

(b) The certificate of appointment shall be substantially in the following form:

STATE OF VERMONT, ss.

_____ County

This is to certify that A.B. of _____ in such county, was, on the _____ day of _____, 20 _____, appointed by the assistant judges of the superior court for such county a notary public for the term ending on February 10, 20 _____.

_____ Assistant Judges of the superior court.

And at _____ in such county, on this _____ day of _____, 20 _____ personally appeared A.B. _____ and took oath of office prescribed in the constitution.

Before me,

C. D. _____

(Designation of the officer administering the oath).

Sec. 182. 24 V.S.A. § 1974(c) is amended to read:

(c) Prosecutions of criminal ordinances shall be brought before the district superior court pursuant to ~~section 4 V.S.A. § 441 of Title 4.~~

Sec. 183. 24 V.S.A. § 3117 is amended to read:

§ 3117. APPEAL FROM ORDER

An owner or person interested who is aggrieved by such order may appeal as provided in the case of a person aggrieved by an order of a building inspector. However, the provisions of this section shall not prevent ~~such the~~ municipality from recovering the forfeiture provided in section 3116 of this title from the date of the service of the original notice, unless ~~such the~~ order is annulled by the board of arbitration, ~~district court~~ or a superior judge, as the case may be.

Sec. 184. 24 V.S.A. § 3808 is amended to read:

§ 3808. LIABILITY OF PERSON BOUND TO BUILD FENCE

When a person bound to support a portion of the division fence does not make or maintain his or her portion, he or she shall be liable for damages done to or suffered by the opposite party in consequence of such neglect. An owner or occupant of adjoining lands, after 10 days from the time notice is given to the opposite party, may make or put in repair the fence and recover from the opposite party damages arising from the neglect, with the expense of building or repairing the fence. ~~Actions under this section may be brought before a district court when the amount claimed does not exceed \$200.00.~~

Sec. 185. 28 V.S.A. § 103 is amended to read:

§ 103. INQUIRIES AND INVESTIGATIONS INTO THE
ADMINISTRATION OF THE DEPARTMENT

* * *

(c) In any inquiry or investigation conducted by the commissioner, he or she shall have the same powers as are possessed by ~~district court~~ or superior judges in chambers, and which shall include the power to:

- (1) Administer oaths;
- (2) Compel the attendance of witnesses;
- (3) Compel the production of documentary evidence.

(d) If any person disobeys any lawful order or subpoena issued by the commissioner pursuant to this section or refuses to testify to any matter regarding which he or she may be questioned lawfully, any ~~district court~~ or superior judge, upon application by the commissioner, shall order the obedience of the person in the same manner as if the person had disobeyed an order or subpoena of the ~~district court~~ or superior judge.

(e) The fees and traveling expenses of witnesses shall be the same as are

allowed witnesses in the ~~district or~~ superior courts of the state and shall be reimbursed by the commissioner out of any appropriation or funds at the disposal of the department.

Sec. 186. 28 V.S.A. § 1531 is amended to read:

§ 1531. APPROPRIATE COURT

The phrase “appropriate court” as used in the agreement on detainers, with reference to the courts of this state, means the superior court where the Vermont charge is pending ~~or the district court~~.

Sec. 187. 29 V.S.A. § 1158 is amended to read:

§ 1158. —ACTS AND RESOLVES; VERMONT STATUTES ANNOTATED; DISTRIBUTION

(a) The state librarian shall deliver the acts and resolves as follows: to the secretary of state, six copies; to the clerk of the United States supreme court for the use of the court, one copy; to the governor’s office and to the governor and lieutenant governor, one copy each; to the ~~library~~ Library of Congress, four copies; to each county clerk, three copies; one to each of the following officers and institutions: each department of the United States government and upon request to federal libraries, elective and appointive state officers, the clerk of each state board or commission, superintendent of each state institution, the library of the ~~university~~ University of Vermont, the libraries of Castleton, Johnson, and Lyndon ~~state colleges~~ State Colleges, Vermont ~~technical college~~ Technical College, Middlebury ~~college~~ College, Norwich ~~university~~ University, St. Michael’s ~~college~~ College, senators and representatives of this state in Congress, members of the general assembly during the session at which such laws were adopted, the secretary and assistant secretary of the senate, clerk and assistant clerks of the house of representatives, the judges, attorney, marshall, and clerk of the United States district court in this state, the judge of the second circuit United States court of appeals from Vermont, justices and ex-justices of the supreme court, superior judges, ~~district court judges~~, the reporter of decisions, judges and registers of probate, sheriffs, state’s attorneys, town clerks; one each, upon request and as the available supply permits, to assistant judges ~~of the superior court~~, justices of the peace, chairman of the legislative body of each municipality and town treasurers; one within the state, to the Vermont historical society, to each county or regional bar law library, and one copy to each state or territorial library or supreme court library, and foreign library which makes available to Vermont its comparable publication, provided that if any of these officials hold more than one of the offices named, that official shall be entitled to only one copy.

(b) The state librarian shall distribute the copies of Vermont Statutes

Annotated and cumulative pocket part supplements thereto, when issued, as follows: one each to the governor, lieutenant governor, speaker of the house of representatives, the state treasurer, secretary of state, auditor of accounts, adjutant general, commissioner of buildings and general services, commissioner of taxes, sergeant at arms, and the head of each administrative department; four copies to the attorney general; one to each town clerk, three to each county clerk; one to each probate judge and two to the clerk of the supreme court; one to each ex-justice and justice of the supreme court, each superior judge, ~~district judge,~~ and state's attorney; two to the judge of the second circuit United States court of appeals from Vermont and four to the United States district judges for the district of Vermont. One copy shall be given to each state institution, each county or regional bar law library, each university, college, and public library, as requested, and as many sets as are needed to effect exchange with state libraries and state law libraries. Current copies of the Vermont Statutes Annotated and supplements shall be kept for use in the offices of the officers and institutions mentioned. One copy shall be given to each member of the commission established by chapter 3 of Title 1 and counsel therefor, unless they are authorized to receive one in another capacity, and one to each of the ~~fifteen~~ 15 members of the joint special committee on revision of the laws authorized by No. 86 of the Acts of 1959. Additional copies may be sold to parties identified in this subsection at a price to be fixed by the state librarian.

Sec. 188. 30 V.S.A. § 12 is amended to read:

§ 12. REVIEW BY SUPREME COURT

A party to a cause who feels ~~himself or herself~~ aggrieved by the final order, judgment, or decree of the board may appeal to the supreme court. However, the board, in its discretion and before final judgment, may permit an appeal to be taken by any party to the supreme court for determination of questions of law in such manner as the supreme court may by rule provide for appeals before final judgment from a superior court ~~or the district court.~~ Notwithstanding the provisions of the Vermont ~~rules of civil procedure~~ Rules of Civil Procedure or the Vermont ~~rules of appellate procedure~~ Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as provided herein, shall operate as a stay of enforcement of an order of the board unless the board or the supreme court grants a stay under the provisions of section 14 of this title.

Sec. 189. 32 V.S.A. § 467 is amended to read:

§ 467. ACCOUNTS WITH ~~COUNTY~~ SUPERIOR COURT CLERKS

The commissioner of finance and management shall issue ~~his or her~~ a

warrant in favor of each ~~county~~ superior court clerk when ~~such~~ the clerk requires money for election or court expenses, and the state treasurer shall charge the same to the clerk. The clerk shall be credited for moneys properly disbursed by him or her, and the balance shall be paid by the clerk into the treasury.

Sec. 190. 32 V.S.A. § 469 is amended to read:

§ 469. REQUISITION FOR COURT EXPENSES

With the approval of the court administrator, the supreme court, ~~the environmental court~~, the judicial bureau, ~~the probate court~~, and the superior court, ~~the district court and the family court~~ may requisition money from the state to pay fees and expenses related to grand and petit jurors, fees and expenses of witnesses approved by the judge, expenses of guardians ad litem, expenses of elections, and other expenses of court operations. The cash advances shall be administered under the provisions of section 466 of this title.

Sec. 191. 32 V.S.A. § 503 is amended to read:

§ 503. PAYMENT OF MONEYS INTO TREASURY

Quarterly and oftener if the commissioner of finance and management so directs, ~~county~~ superior court clerks and other collectors and receivers of public money, except justices, shall pay all such money collected or held by them into the state treasury.

Sec. 192. 32 V.S.A. § 504 is amended to read:

§ 504. FINES PAID ~~COUNTY~~ SUPERIOR COURT CLERK

Damages and costs received in actions to which the state is a party, and fines and the amount of bonds and recognizances to the state taken in any county, shall be paid to the ~~county~~ superior clerk. His or her receipt shall be the only valid discharge thereof and he or she shall pay the same into the state treasury.

Sec. 193. 32 V.S.A. § 506 is amended to read:

§ 506. FAILURE OF ~~COUNTY~~ SUPERIOR COURT CLERK TO PAY OVER

If a ~~county~~ superior court clerk neglects to make a return or pay into the state treasury any money as provided in this chapter, the commissioner of finance and management shall forthwith notify the state's attorney, who shall immediately prosecute the clerk and the sureties on his or her official bond.

Sec. 194. 32 V.S.A. § 508 is amended to read:

§ 508. RECEIPTS GIVEN BY STATE OFFICERS

State officers, except ~~county~~ superior court clerks and ~~district~~ superior judges, and every person in the employ of the state under salary or per diem established by statute, receiving money belonging to or for the use of the state, shall give the person paying such money a receipt therefor in such form as shall be prescribed by the state treasurer.

Sec. 195. 32 V.S.A. § 541 is amended to read:

§ 541. COLLECTION OF FINES AND COSTS

All fines, costs, including costs taxed as state's attorneys' and court fees, bail, and unclaimed fees collected by judges ~~of district courts~~ shall be paid into the proper treasury.

Sec. 196. 32 V.S.A. § 581 is amended to read:

§ 581. UNCLAIMED COSTS TO REVERT TO STATE

Fees allowed in a bill of costs to a ~~justice or~~ judge which are not demanded by the party to whom such fees are due within six months after such bill is allowed, shall revert to the use of the state ~~and, in the case of a justice, shall be paid by the justice to the county clerk within 30 days from the expiration of such period of six months;~~ and such ~~justice or~~ the judge, after the expiration of six months, shall be relieved from all liability to parties to whom ~~such~~ the fees were due.

Sec. 197. 32 V.S.A. § 809 is amended to read:

§ 809. AUDITING OF COURT CLERK ACCOUNTS OF PROBATE
JUDGES

The auditor shall examine the accounts of the ~~judges of probate~~ superior court clerks and ascertain whether their fees are properly and uniformly charged and rendered, and if ~~he or she~~ the auditor finds they are not, he or she shall direct the proper corrections to be made. ~~He or she~~ The auditor shall endeavor to obtain a uniform practice in the ~~probate~~ superior courts in that respect.

Sec. 198. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES ~~OF SUPERIOR COURTS~~

(a) The compensation of each assistant judge of the superior court, which shall be paid by the state, shall be ~~\$136.28 a day as of July 9, 2006 and~~ \$142.04 a day as of July 8, 2007 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 half-day minimum and hourly thereafter.

~~(b) Assistant judges of the superior court shall receive pay for such days as they attend court when it is in actual session, or during a court recess when engaged in the special performance of official duties.~~

Sec. 199. 32 V.S.A. § 1142 is amended to read:

§ 1142. ~~JUDGES OF PROBATE~~ JUDGES

(a) The annual salaries of the ~~judges of 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:

	Annual Salary	
	as of	
	July 8, 2007	
(1) Addison	\$59,321	
(2) Bennington/ <u>Windham</u>	59,321	<u>91,402</u>
(3) Caledonia/ <u>Essex/Orleans</u>	59,321	<u>91,402</u>
(4) Chittenden	91,402	
(5) Essex	28,853	
(6) Fair Haven	43,594	
(7) (5) Franklin/ <u>Grand Isle</u>	59,321	
(8) Grand Isle	28,853	
(9) Hartford	59,321	
(10) (6) Lamoille/ <u>Washington</u>	53,594	<u>91,402</u>
(11) Marlboro	51,559	
(12) (7) Orange/ <u>Windsor</u>	51,559	<u>91,402</u>
(13) Orleans	51,559	
(14) (8) Rutland	75,859	<u>91,402</u>
(15) Washington	75,859	
(16) Westminster	43,594	
(17) Windsor	51,559	

(b) ~~Judges of probate~~ Probate judges shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees.

Sec. 200. 32 V.S.A. § 1143 is amended to read:

§ 1143. –COMPENSATION OF APPOINTEES

Persons acting under the authority of the probate division of the superior court shall be paid as follows:

(1) For each day's attendance by executor, administrator, trustee, agent, or guardian, on the business of their appointment, \$4.00;

(2) For each day's attendance of commissioners, appraisers, or committee, \$4.00; and

(3) The probate division of the superior court may allow in cases of unusual difficulty or responsibility, such further sum as it judges reasonable.

Sec. 201. 32 V.S.A. § 1144 is amended to read:

~~§ 1144. —COMPENSATION OF APPRAISERS~~

~~An appraiser appointed in accordance with the provisions of chapters 181 and 183 of this title shall receive \$4.00 a day and his or her necessary expenses shall be paid by the state on the certificate of the judge of probate. But in cases requiring the appointment of an expert, the judge of probate may allow such further sum as he or she deems reasonable. [Repealed.]~~

Sec. 202. 32 V.S.A. § 1145 is amended to read:

§ 1145. —ILLEGAL FEES

A probate judge or register of probate who directly or indirectly accepts or receives, under color of his or her office, money or other valuable thing, by way of fees, remuneration, or compensation for the performance of an act as such judge or register, except as provided in this title, shall be fined not more than \$500.00 nor less than \$200.00.

Sec. 203. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME, AND SUPERIOR, ~~DISTRICT, FAMILY, AND ENVIRONMENTAL~~ COURTS

(a) Prior to the entry of any cause in the supreme court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$250.00 in lieu of all other fees not otherwise set forth in this section.

(b)(1) ~~Prior~~ Except as provided in subdivisions (2)–(5) of this subsection, prior to the entry of any cause in the superior court ~~or environmental court,~~ there shall be paid to the clerk of the court for the benefit of the state a fee of \$250.00 in lieu of all other fees not otherwise set forth in this section.

(2) Prior to the entry of any divorce or annulment proceeding in the

family superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$250.00 in lieu of all other fees not otherwise set forth in this section; however, if the divorce or annulment complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be \$75.00.

(3) Prior to the entry of any parentage or desertion and support proceeding brought under chapter 5 of Title 15 in the family superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$100.00 in lieu of all other fees not otherwise set forth in this section; however, if the parentage or desertion and support complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be \$25.00.

(4) Prior to the entry of any motion or petition to enforce an order for parental rights and responsibilities, parent-child contact, or maintenance in the family superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$75.00 in lieu of all other fees not otherwise set forth in this section. Prior to the entry of any motion or petition to vacate or modify an order for parental rights and responsibilities, parent-child contact, or maintenance in the family superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$100.00 in lieu of all other fees not otherwise set forth in this section. However, if the motion or petition is filed with a stipulation for an order acceptable to the court, the fee shall be \$25.00. All motions or petitions filed by one party at one time shall be assessed one fee.

(5) Prior to the entry of any motion or petition to vacate or modify an order for child support in the family superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$35.00 in lieu of all other fees not otherwise set forth in this section; however, if the motion or petition is filed with a stipulation for an order acceptable to the court, there shall be no fee. A motion or petition to enforce an order for child support shall require no fee. All motions or petitions filed by one party at one time shall be assessed one fee; if a simultaneous motion is filed by a party under subdivision (4) of this subsection, the ~~subdivision (4)~~ fee under subdivision (4) shall be the only fee assessed.

* * *

(d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the supreme court or the superior, ~~environmental, or district~~ court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$100.00 for every appeal, cross-claim, or third-party claim and a fee of \$75.00 for every counterclaim in the superior ~~or environmental~~ court in lieu of all other fees not otherwise set forth in this section. The fee for an appeal of a magistrate's decision in the family superior court shall be \$100.00. The filing

fee for civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be \$75.00, which shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title.

(e) Prior to the filing of any postjudgment motion in the superior, ~~environmental, or district~~ court, including motions to reopen civil suspensions, there shall be paid to the clerk of the court for the benefit of the state a fee of \$75.00 except for small claims actions.

(f) The filing fee for all actions filed in the judicial bureau shall be \$50.00; the state or municipality shall not be required to pay the fee; however, if the respondent denies the allegations on the ticket, the fee shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title and shall be paid to the clerk of the bureau for the benefit of the state.

(g) Prior to the filing of any postjudgment motion in the judicial bureau there shall be paid to the clerk of the bureau, for the benefit of the state, a fee of \$35.00. Prior to the filing of any appeal from the judicial bureau to the ~~district~~ superior court, there shall be paid to the clerk of the court, for the benefit of the state, a fee of \$100.00.

(h) Pursuant to Vermont Rules of Civil Procedure 3.1, or Vermont Rules of Appellate Procedure 24(a), ~~or District Court Civil Rules 3.1~~, part or all of the filing fee may be waived if the court finds that the applicant is unable to pay it. The clerk of the court or the clerk's designee shall establish the in forma pauperis fee in accordance with procedures and guidelines established by administrative order of the supreme court.

Sec. 203a. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME, AND SUPERIOR, ~~—AND ENVIRONMENTAL~~ COURTS

* * *

(c) Prior to the entry of a small claims action, ~~there shall be paid to the clerk for the benefit of the county superior court for the benefit of the state~~ in lieu of all other fees not otherwise set forth in this section, a fee of \$75.00 if the claim is for more than \$1,000.00 and \$50.00 if the claim is for \$1,000.00 or less. Prior to the entry of any postjudgment motion in a small claims action, there shall be paid to the ~~clerk for the benefit of the county superior court for the benefit of the state~~ a fee of \$50.00. The fee for every counterclaim in small claims proceedings shall be \$25.00, payable to the ~~county superior court for the benefit of the state~~, if the counterclaim is for more than \$500.00, and \$15.00 if the counterclaim is for \$500.00 or less.

* * *

Sec. 204. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE ~~COURTS~~ CASES

(a) The following entry fees shall be paid to the probate division of the superior court for the benefit of the state, except for subdivision (17) of this subsection which shall be for the benefit of the county in which the fee was collected:

* * *

(b) For economic cause, the probate judge may waive this fee. No fee shall be charged for necessary documents pertaining to the opening of estates, trusts, and guardianships, including the issuance of two certificates of appointment and respective letters. No fee shall be charged for the issuance of two certified copies of adoption decree and two certified copies of instrument changing name.

(c) A fee of \$5.00 shall be paid for each additional certification of appointment of a fiduciary.

Sec. 205. 32 V.S.A. § 1436(b) is amended to read:

(b) Notwithstanding any statute to the contrary, fees collected as a result of this section shall be in lieu of any payments by the state to the county for the use of the county courthouse by the supreme, ~~district, family, and environmental~~ and superior courts or by the judicial bureau.

Sec. 206. 32 V.S.A. § 1471 is amended to read:

§ 1471. TAXATION OF COSTS

(a) There shall be taxed in the bill of costs to the recovering party in the supreme, and superior, ~~family, district, or environmental~~ courts or the judicial bureau a fee equal to the entry fees, the cost of service fees incurred, and the total amount of the certificate of witness fees paid.

(b) Any costs taxed to the respondent in any action filed by the office of child support shall be paid to the clerk of the court for deposit in the general fund.

Sec. 207. 32 V.S.A. § 1511 is amended to read:

§ 1511. GRAND AND PETIT JURORS IN SUPERIOR ~~AND DISTRICT~~ COURT

There shall be allowed to grand and petit jurors in the superior ~~and district~~ court the following fees and expenses:

(1) For attendance, \$30.00 a day, on request, unless the jurors were

otherwise compensated by their employer;

(2) For each talesman, \$30.00 a day, on request, unless the talesmen were otherwise compensated by their employer;

(3) Upon request and upon a showing of hardship, reimbursement for expenses necessarily incurred for travel from home to court, and return, at the rate of reimbursement allowed state employees for travel under the terms of the prevailing collective bargaining agreement.

Sec. 208. 32V.S.A. § 1514 is amended to read:

§ 1514. BOARD AND LODGING OF JURORS

When in a grand jury investigation or in the trial of a criminal or civil cause jurors are kept together by order of the court, their board and lodging and that of the officers having such jurors in charge shall be paid by the state. ~~This provision shall apply only to grand jurors and petit jurors in superior courts and petit jurors in district courts.~~

Sec. 209. 32 V.S.A. § 1518 is amended to read:

§ 1518. TOWN GRAND JURORS

In criminal causes ~~before a district court~~, the grand juror or other prosecuting officer shall be paid:

(1) If the cause is disposed without trial, \$1.50;

(2) For trial by court, \$2.00;

(3) For trial by jury, \$2.50;

(4) For each subsequent day, \$2.00 additional;

(5) Ten cents a mile travel one way for one trip for each cause, provided a separate trip for such cause has been made; but if a separate trip has not been made, then at \$0.05 a mile one way for each cause;

(6) No grand juror shall receive in fees more than \$400.00 in any one year.

Sec. 210. 32 V.S.A. § 1551 is amended to read:

§ 1551. ATTENDANCE FEES

There shall be allowed to witnesses the following fees:

(1) For attendance before a ~~district or superior court or court of jail delivery~~, or to give a deposition before a notary public, \$30.00 a day;

(2) For attendance before an appraiser appointed by the commissioner of taxes, \$30.00 a day; such fees to be apportioned as the appraiser may direct;

(3) For attendance on other courts or tribunals, \$30.00 a day;

(4) For travel in the state, all witnesses shall receive mileage at the rate of reimbursement allowed state employees for travel under the terms of the prevailing collective bargaining agreement.

Sec. 211. 32 V.S.A. § 1596 is amended to read:

§ 1596. FEES FORBIDDEN

Fees shall not be allowed to an officer for the service of a capias, bench warrant, or other writ for the arrest of a person who is under a recognizance taken before a ~~district court judge or other~~ an officer authorized by law to take such recognizance, requiring the appearance of such person before the superior court.

Sec. 212. 32 V.S.A. § 1631 is amended to read:

§ 1631. TRUSTEES' FEES

The person summoned as trustee shall be allowed \$0.06 a mile for his or her travel, and \$1.50 for each day's attendance before the superior court, the same for travel and \$0.75 for each day's attendance before a commissioner ~~or district court~~.

Sec. 213. 32 V.S.A. § 1751 is amended to read:

§ 1751. FEES WHEN NOT OTHERWISE PROVIDED

(a)(1) Officers and persons whose duty it is to record deeds, proceedings, depositions, or make copies of records, proceedings, docket entries, or minutes in their offices, when no other provision is made, shall be allowed:

~~(1)~~(A) The sum of \$0.60 a folio therefor with a minimum fee of \$1.00;

~~(2)~~(B) The sum of \$2.00 for each official certificate;

~~(3)~~(C) For the authentication of documents, \$2.00;

~~(4)~~(D) For other services such sum as is in proportion to the fees established by law.

(2) Provided, however, that no fees shall be charged to honorably discharged veterans of the armed forces of the United States, or to their dependents or beneficiaries, for copies of records required in the prosecution of any claim for benefits from the United States government, or any state agency, and fees for copies of records so furnished at the rates provided by law shall be paid such officers by the town or city wherein such record is maintained.

(b)(1) Whenever ~~probate, district, environmental, family, or superior~~ court officers and employees or officers and employees of the judicial bureau furnish

copies or certified copies of records, the following fees shall be collected for the benefit of the state:

~~(1)~~(A) The sum of \$0.60 a folio with a minimum fee of \$1.00 when a copy is reproduced by typewriter or hand;

~~(2)~~(B) The sum of \$0.25 a page with a minimum fee of \$1.00 when a copy is reproduced photographically;

~~(3)~~(C) For each official certificate, \$5.00; however, one conformed copy of any document issued by a court shall be furnished without charge to a party of record to the action;

~~(4)~~(D) For the authentication of documents, \$5.00;

~~(5)~~(E) For a response to a request for a record of criminal history of a person based upon name and date of birth, \$30.00.

~~(6)~~(F) For appointment as an acting judge pursuant to 4 V.S.A. § 22(b) for the purpose of performing a civil marriage, \$100.00.

(2) However, the fees provided for in this subsection shall not be assessed by these officers and employees in furnishing copies or certified copies of records to any agency of any municipality, state, or federal government or to veterans honorably discharged from the armed forces of the United States, their dependents or beneficiaries, in the prosecution of any claim for benefits from the United States government, or any state agency.

Sec. 214. 32 V.S.A. § 1753 is amended to read:

§ 1753. INQUESTS

The fees and expenses of inquests on the dead, and buildings burned shall be the same as in criminal causes before a ~~district~~ court.

Sec. 215. 32 V.S.A. § 1760 is amended to read:

§ 1760. FEES OF COUNTY CLERKS FOR INDEX OF DEEDS AND INDEX OF RECORDS

The county clerks shall receive from the county, for making the general index of existing land records under ~~section 27 V.S.A. § 401 of Title 27~~, \$1.00 for each 100 entries upon such index; and for making an index as provided in ~~section 4 V.S.A. § 656 of Title 4~~, such sum as the assistant ~~judges of the superior court~~ certify to be reasonable, to be allowed by the commissioner of finance and management in the accounts of the clerks.

Sec. 216. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

* * *

(8) "Court" means a superior court, ~~a district court~~, or the judicial bureau.

* * *

Sec. 217. 32 V.S.A. § 5936(b) is amended to read:

(b) The final determination of any claimant agency regarding the validity and amount of any debt may be appealed within 30 days to the civil division of the superior court of the county unit in which the taxpayer resides, except that if the claimant agency is the office of child support the appeal shall be to the family division of the superior court. Upon appeal, the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules for Family Proceedings, as appropriate, shall apply, and the court shall proceed de novo to determine the debt owed.

Sec. 218. 32 V.S.A. § 7449 is amended to read:

§ 7449. ~~REGISTER OF PROBATE~~ CLERK OF SUPERIOR COURT TO SEND COMMISSIONER NOTICE OF ESTATE

The ~~register of the probate~~ clerk of the superior court shall send to the commissioner by mail at the time of granting letters of administration in any estate and upon forms to be furnished by the commissioner, the name of the decedent, the date of his or her death, and the name and address of the administrator or executor.

Sec. 219. 32 V.S.A. § 8171 is amended to read:

§ 8171. RECOVERY OF TAXES AND PENALTIES

Taxes imposed by this chapter may be recovered in the name of the state in a civil action, on the statute imposing them, returnable to any superior ~~or district~~ court. The penalties so imposed may be so recovered in a civil action on the statute imposing them. The amount of taxes assessed or penalties accrued up to the time of trial may be recovered in such suit; but a court wherein an action is pending to recover a forfeiture, in its discretion, may remit such part thereof as it shall deem just and equitable in the circumstances. The state shall not be required in any proceeding under this chapter to furnish recognizance or bond for costs, nor injunction bonds. Upon final judgment, the court may make such order relating to the payment of costs, by the state or the defendant, as it shall deem just and equitable.

Sec. 220. 32 V.S.A. § 10102(a) is amended to read:

(a) In addition to any other powers granted to the commissioner and the secretary in this chapter, they may:

* * *

(5) require the attendance of, the giving of testimony by, and the production of any books and records of any person believed to be liable for the payment of tax or to have information pertinent to any matter under investigation by the commissioner or the secretary. The fees of witnesses required to attend any hearing shall be the same as those allowed witnesses appearing in the superior court, but no fees shall be payable to a person charged with a tax liability under this chapter. Any superior ~~or district~~ judge may, upon application of the commissioner or the secretary, compel the attendance of witnesses, the giving of testimony, and the production of books and records before the commissioner or the secretary in the same manner, to the same extent, and subject to the same penalties as if before a superior ~~or district~~ court.

Sec. 221. 33 V.S.A. § 4916a(c)(2) is amended to read:

(2) The administrative review may be stayed upon request of the person alleged to have committed abuse or neglect if there is a related ~~criminal or family court~~ case pending in the criminal or family division of the superior court which arose out of the same incident of abuse or neglect for which the person was substantiated. During the period the review is stayed, the person's name shall be placed on the registry. Upon resolution of the superior court ~~criminal or family court~~ case, the person may exercise his or her right to review under this section.

Sec. 222. 33 V.S.A. § 4916b(c) is amended to read:

(c) A hearing may be stayed upon request of the petitioner if there is a related ~~criminal or family court~~ case pending in the criminal or family division of the superior court which arose out of the same incident of abuse or neglect for which the person was substantiated.

Sec. 223. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters, unless the context otherwise requires:

* * *

(8) "Custodian" means a person other than a parent or legal guardian to whom legal custody of the child has been given by order of a Vermont ~~family or probate~~ superior court or a similar court in another jurisdiction.

* * *

(12) “Guardian” means a person who, at the time of the commencement of the juvenile judicial proceeding, has legally established rights to a child pursuant to an order of a Vermont ~~probate~~ superior court or a similar court in another jurisdiction.

Sec. 224. 33 V.S.A. § 5103(a) and (b) are amended to read:

(a) The family division of the superior court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

(b) Orders issued under the authority of the juvenile judicial proceedings chapters shall take precedence over orders in other family ~~court~~ division proceedings and any order of another court of this state, to the extent they are inconsistent. This section shall not apply to child support orders in a divorce, parentage, or relief from abuse proceedings until a child support order has been issued in the juvenile proceeding.

Sec. 225. 33 V.S.A. § 5104(a) is amended to read:

(a) The family division of the superior court may retain jurisdiction over a youthful offender up to the age of 22.

Sec. 226. 33 V.S.A. § 5203(e) is amended to read:

(e) Motions to transfer a case to the family division of the superior court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 227. 33 V.S.A. § 5281 is amended to read:

§ 5281. MOTION IN ~~DISTRICT~~ CRIMINAL DIVISION OF SUPERIOR
COURT

(a) A motion may be filed in the ~~district~~ criminal division of the superior court requesting that a defendant under 18 years of age in a criminal proceeding who had attained the age of 10 but not the age of 18 at the time the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the state’s attorney, the defendant, or the court on its own motion.

(b) Upon the filing of a motion under this section and the entering of a conditional plea of guilty by the youth, the ~~district court~~ criminal division shall enter an order deferring the sentence and transferring the case to the family ~~court~~ division for a hearing on the motion. Copies of all records relating to the

case shall be forwarded to the family ~~court~~ division. Conditions of release and any department of corrections supervision or custody shall remain in effect until the family ~~court~~ division approves the motion for treatment as a youthful offender and orders conditions of juvenile probation pursuant to section 5284 of this title.

(c) A plea of guilty entered by the youth pursuant to subsection (b) of this section shall be conditional upon the family ~~court~~ division granting the motion for youthful offender status.

(d)(1) If the family ~~court~~ division denies the motion for youthful offender treatment pursuant to subsection 5284 of this title, the case shall be returned to the ~~district court~~ criminal division, and the youth shall be permitted to withdraw the plea. The conditions of release imposed by the ~~district court~~ criminal division shall remain in effect, and the case shall proceed as though the motion for youthful offender treatment had not been made.

(2) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and Rule 410 of the Vermont Rules of Evidence, the family ~~court's~~ division's denial of the motion for youthful offender treatment and any information related to the youthful offender proceeding shall be inadmissible against the youth for any purpose in the subsequent criminal division proceeding ~~in district court~~.

Sec. 228. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the family court division, unless the court extends the period for good cause shown, the department shall file a report with the family court.

(b) A report filed pursuant to this section shall include the following elements:

(1) A recommendation as to whether youthful offender status is appropriate for the youth.

(2) A disposition case plan including proposed services and proposed conditions of juvenile probation in the event youthful offender status is approved.

(3) A description of the services that may be available for the youth when he or she reaches 18 years of age.

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than the department, the court, the state's attorney, the youth, the youth's attorney, the youth's guardian ad litem, the

department of corrections, or any other person when the court determines that the best interests of the youth would make such a disclosure desirable or helpful.

Sec. 229. 33 V.S.A. § 5283 is amended to read:

§ 5283. HEARING IN FAMILY ~~COURT~~ DIVISION

(a) Timeline. A hearing on the motion for youthful offender status shall be held no later than 35 days after the transfer of the case from ~~district court~~ the criminal division.

(b) Notice. Notice of the hearing shall be provided to the state's attorney; the youth; the youth's parent, guardian, or custodian; the department; and the department of corrections.

(c) Hearing procedure.

(1) If the motion is contested, all parties shall have the right to present evidence and examine witnesses. Hearsay may be admitted and may be relied on to the extent of its probative value. If reports are admitted, the parties shall be afforded an opportunity to examine those persons making the reports, but sources of confidential information need not be disclosed.

(2) Hearings under subsection 5284(a) of this title shall be open to the public. All other youthful offender proceedings shall be confidential.

(d) The burden of proof shall be on the moving party to prove by a preponderance of the evidence that a child should be granted youthful offender status. If the court makes the motion, the burden shall be on the youth.

(e) Further hearing. On its own motion or the motion of a party, the court may schedule a further hearing to obtain reports or other information necessary for the appropriate disposition of the case.

Sec. 230. 33 V.S.A. § 5285 is amended to read:

§ 5285. MODIFICATION OR REVOCATION OF DISPOSITION

(a) If it appears that the youth has violated the terms of juvenile probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a motion for modification or revocation of youthful offender status may be filed in the family division of the superior court. The court shall set the motion for hearing as soon as practicable. The hearing may be joined with a hearing on a violation of conditions of probation under section 5265 of this title. A supervising juvenile or adult probation officer may detain in an adult facility a youthful offender who has attained the age of 18 for violating conditions of probation.

(b) A hearing under this section shall be held in accordance with section 5268 of this title.

(c) If the court finds after the hearing that the youth has violated the terms of his or her probation, the court may:

(1) maintain the youth's status as a youthful offender, with modified conditions of juvenile probation if the court deems it appropriate;

(2) revoke the youth's status as a youthful offender status and return the case to the ~~district court~~ criminal division for sentencing; or

(3) transfer supervision of the youth to the department of corrections.

(d) If a youth's status as a youthful offender is revoked and the case is returned to the ~~district court~~ criminal division under subdivision (c)(2) of this section, the ~~district~~ court shall hold a sentencing hearing and impose sentence. When determining an appropriate sentence, the ~~district~~ court may take into consideration the youth's degree of progress toward rehabilitation while on youthful offender status. The ~~district court~~ criminal division shall have access to all family ~~court~~ division records of the proceeding.

Sec. 231. 33 V.S.A. § 5286(a) and (c) are amended to read:

(a) The family ~~court~~ division shall review the youth's case before he or she reaches the age of 18 and set a hearing to determine whether the court's jurisdiction over the youth should be continued past the age of 18. The hearing may be joined with a motion to terminate youthful offender status under section 5285 of this title. The court shall provide notice and an opportunity to be heard at the hearing to the state's attorney, the youth, the department, and the department of corrections.

(c) The following reports shall be filed with the court prior to the hearing:

(1) The department shall report its recommendations, with supporting justifications, as to whether the family ~~court~~ division should continue jurisdiction over the youth past the age of 18 and, if continued jurisdiction is recommended, whether the department or the department of corrections should be responsible for supervision of the youth.

* * *

Sec. 232. 33 V.S.A. § 5287(a) and (c) are amended to read:

(a) A motion may be filed at any time in the family ~~court~~ division requesting that the court terminate the youth's status as a youthful offender and discharge him or her from probation. The motion may be filed by the state's attorney, the youth, the department, or the court on its own motion. The court shall set the motion for hearing and provide notice and an opportunity to be

heard at the hearing to the state's attorney, the youth, and the department.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the family ~~court~~ division case. The family ~~court~~ division shall provide notice of the dismissal to the ~~district court~~ criminal division, which shall dismiss the ~~district court~~ criminal case.

Sec. 233. 33 V.S.A. § 6932(a) and (b) are amended to read:

(a) The family division of the superior court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 6936 of this title may be issued by a judge of the ~~district~~, criminal, civil, or family division of the superior or family court.

Sec. 234. 33 V.S.A. § 6938(a) and (c) are amended to read:

(a) Except as otherwise provided in this subchapter, proceedings commenced under this subchapter shall be in accordance with the Rules for Family Court Rules Proceedings and shall be in addition to any other available civil or criminal remedies.

(c) The court administrator shall establish procedures to insure access to relief after regular court hours, or on weekends and holidays. The court administrator is authorized to contract with public or private agencies to assist persons to seek relief and to gain access to ~~district~~, superior and family court judges. Law enforcement agencies shall assist in carrying out the intent of this section.

Sec. 235. Sec. 121(a) of No. 4 of the Acts of 2009 is amended to read:

(a) The probate courts of the probate districts of Bennington and Manchester are consolidated as of the effective date of this act to form the probate court of the probate district of Bennington, which is deemed to be a continuation of the probate courts of the probate districts of Bennington and Manchester. The current probate judge for the probate court of the probate district of Manchester shall become the probate judge for the probate court of the probate district of Bennington. The current probate registers of the probate districts of Bennington and Manchester shall become the registers for the probate district of Bennington and shall be allowed to maintain their employment status that was in effect on January 31, 2009 until January 31, 2011, ~~at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district.~~ The records of the probate courts of the probate districts of Bennington and

Manchester shall become the records of the probate court of the probate district of Bennington. The newly consolidated probate court of the probate district of Bennington shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the probate districts of Bennington and Manchester, including all pending matters and appeals. The probate court of the probate district of Bennington shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The assistant judges of Bennington County shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 235a. AMERICANS WITH DISABILITIES ACT; COURT

FACILITIES; REPORT

(a) Intent. It is the intent of the general assembly that judicial proceedings occur in facilities that meet the accessible facility standards of the Americans with Disability Act (ADA).

(b) Report. The commissioner of the department of buildings and general services and the court administrator shall study the county courthouses to evaluate whether the courthouses comply with ADA accessibility standards, and shall report the results of the study to the general assembly, along with any recommendations and estimates of the costs of bringing courthouses into compliance, on or before December 15, 2010. Where it is necessary that expenses be incurred in order to bring a courthouse into compliance with the ADA, the judiciary shall submit a capital budget request to the commissioner of buildings and general services for consideration in the capital budget request process.

Sec. 236. LEGISLATIVE COUNCIL STATUTORY REVISION AUTHORITY

The staff of the legislative council, in its statutory revision capacity, is authorized and directed to make such amendments to the Vermont Statutes Annotated as are necessary to effect the purpose of this act, including where applicable, substituting the words "superior court," "civil division," "criminal division," "family division," "environmental division," or "probate division," as appropriate, for the words "district court," "family court," "probate court," and "environmental court." These amendments shall be made when new legislation is proposed or there is a republication of a volume of the Vermont Statutes Annotated.

Sec. 237. TRANSITIONAL PROVISIONS

(a) The judicial office of district judge is eliminated. On the effective date of Sec. 9 of this act, each district judge shall become a superior judge and have all of the powers and duties of a superior judge. The term of each superior judge who reached the office by virtue of this subsection shall be the same as if the person had remained a district judge.

(b) On July 1, 2010:

(1) the superior court as it formerly existed shall be redesignated as the civil division of the superior court, and all cases and files of the former superior court shall be transferred to the civil division of the superior court;

(2) the family court as it formerly existed shall be redesignated as the family division of the superior court, and all cases and files of the former family court shall be transferred to the family division of the superior court;

(3) the district court as it formerly existed shall be redesignated as the criminal division of the superior court, and all cases and files of the former district court shall be transferred to the criminal division of the superior court; and

(4) the environmental court as it formerly existed shall be redesignated as the environmental division of the superior court, and all cases and files of the former environmental court shall be transferred to the environmental division of the superior court.

(c) On February 1, 2011, the probate court shall be redesignated as the probate division of the superior court, and all cases and files of the former probate court shall be transferred to the probate division of the superior court.

(d) Until February 1, 2011, each county clerk shall provide each superior clerk with deputies to work in the superior court. The number of deputies provided shall be equal to the number of deputies working in the superior court on July 1, 2009.

(e)(1) The court administrator shall assign, from the positions currently authorized for the judicial branch, the positions that will provide staff support to the divisions of the superior court. The court administrator shall establish the organizational structure of the positions assigned to the units of the court. In the transition from the existing courts to the superior court, hiring preference shall be given to current state and county judiciary employees. Where the position of an incumbent permanent state judiciary employee is reassigned to the superior court, the employee may choose to continue in the position or exercise reduction in force rights.

(2) Upon passage of this act and until February 1, 2011, the salaries of county employees working as chief deputy clerks, deputy clerks, assistant

clerks, office clerks, docket clerks, office assistants, assistant deputy clerks, senior deputy clerks, senior accounting clerks, or court recorders for the superior court shall be frozen at the employee's current level, unless a collective bargaining agreement in effect on the date of passage of this act requires otherwise. Also upon passage, no change may be made to leave policies covering the county positions described in this subdivision except if a collective bargaining agreement in effect on that date requires otherwise.

(3) Upon passage of this act and until February 1, 2011, vacancies that occur in positions listed in subdivision (2) of this subsection may not be filled without the authorization of the court administrator.

(4) By December 31, 2010, the county shall report to the court administrator the current employees of the county who serve the superior court, each employee's hire date with the county, hourly rate, and leave balances, and a description of the employee's benefits.

(5) Any county employee who becomes a state employee pursuant to this act shall be immediately eligible to enroll in the state health plan.

Sec. 238. REPEALS AND REPLACEMENTS

(a) The following sections are hereby repealed:

(1) 4 V.S.A. §§ 24 (designation and special assignment of district or superior judge to hear child support enforcement actions), 111a (designation and jurisdiction of superior court), 113 (jurisdiction of superior court), 114 (criminal jurisdiction of superior court), 116 (special sessions of superior court), 117 (special hearings of superior court), 119 (completion of cases commenced in superior court), 151 (opening and adjournment of court by judge or sheriff), 152 (adjournment of court to another day), 153 (change in time of holding sessions), 154 (designation of time of commencement of term), 275 (Fair Haven and Rutland probate districts), 276 (Marlboro and Westminster probate districts), 277 (Hartford and Windsor probate districts), 436 (district court created), 437 (civil jurisdiction of district court), 439 (jurisdiction of district court in felony cases), 440 (jurisdiction of district court in misdemeanor cases), 441 (jurisdiction of district court with respect to violations of bylaws or ordinances), 442 (powers of the district court), 443 (appeals from district court), 444 (number, appointment, and assignment of district judges), 444a (powers of Essex County assistant judges in district court), 446 (court officer in district court), 451 (family court created), 452 (composition of family court), 453 (powers of family court), 454 (jurisdiction of family court), 456 (appeals from family court), 457 (participation and availability of assistant judges in family court), 459 (powers of assistant judges not restricted), 461a (powers of Essex County

assistant judges and magistrates in family court proceedings), 461b (powers of Essex and Orleans County assistant judges in parentage proceedings), 461c (powers of assistant judges in divorce proceedings), 604 (district judge declaration of intent to continue office), 651a (county clerk to be superior court clerk), 693 (district court docket and records), 694 (filing of process with judge or clerk in district court), 799 (assignment of reporters to probate court), and 951 (office of jury commission established).

(2) 12 V.S.A. §§ 1949 (district court jury), 5540a (assistant judges' jurisdiction over small claims), 5805 (contents of juror's oath for civil cases in district court), and 5809 (contents of jury officer's oath in district court);

(3) 24 V.S.A. §§ 76 (county law library), 139 (assistant judge judicial education), 174 (superior court seal may be used as county seal), 182 (county clerk's return of fees to commissioner of finance and management), 401 (superior court judges to appoint commissioners of jail delivery), 402 (vacancy in office of commissioner of jail delivery), 403 (quorum for transaction of business by commission of jail delivery), and 404 (procedure when commissioners of jail delivery disqualified); and

(4) 32 V.S.A. §§ 526 (fees disallowed when justice has not filed return with county clerk), 527 (bill of costs disallowed when justice has not filed returns with county clerk), 528 (penalty when justice fails to make returns), 1146 (expenses and fees for district judges), 1181 (salaries of county clerks), and 1474 (costs and fees allowed in district courts).

(b) In the following sections, the phrase "district court," wherever it appears, is replaced with "criminal division of the superior court":

(1) 3 V.S.A. §§ 965 and 1030;

(2) 4 V.S.A. §§ 23, 1107, 1109, and 1110;

(3) 7 V.S.A. §§ 563, 572, and 657;

(4) 9 V.S.A. § 2575;

(5) 10 V.S.A. §§ 2671, 2674, 4552, and 4555;

(6) 12 V.S.A. §§ 5717 and 5854;

(7) 13 V.S.A. §§ 353, 354, 1460, 4822, 4823, 5132, 5411, 5411d, 6504, 6606, 7002, and 7573;

(8) 17 V.S.A. § 2616;

(9) 18 V.S.A. §§ 1060, 7312, 7510, 7612, 7615, 7801, 7802, 8403, and 8840;

(10) 19 V.S.A. §§ 5, 7a, and 726;

- (11) 20 V.S.A. §§ 2056c and 2864;
- (12) 21 V.S.A. §§ 1352, 1622, and 1727;
- (13) 23 V.S.A. §§ 105, 304a, 1209a, 1215, 2202, 2205, and 3318;
- (14) 24 V.S.A. §§ 299, 1311, 1932, 1936a, 1981, 1983, and 3109;
- (15) 28 V.S.A. §§ 373, 374, 504, and 705;
- (16) 32 V.S.A. §§ 542, 543, 544, and 7781; and
- (17) 33 V.S.A. §§ 5203, 5204, and 5293.

(c) In the following sections, the phrase “family court,” wherever it appears, is replaced with “family division of the superior court”:

- (1) 3 V.S.A. § 476a;
- (2) 4 V.S.A. §§ 458, 465, and 466;
- (3) 14 V.S.A. §§ 2663 and 2667;
- (4) 15 V.S.A. §§ 293, 303, 606, 653, 668a, 782, 787, 798, 799, 1108, and 1206;
- (5) 15A V.S.A. §§ 1-112, 2-407, 3-101, and 3-207;
- (6) 15B V.S.A. § 102;
- (7) 16 V.S.A. § 1946b;
- (8) 18 V.S.A. §§ 5004, 7624, 9305, 9306, 9309, 9314, and 9315;
- (9) 24 V.S.A. § 5066a; and
- (10) 33 V.S.A. §§ 3901, 4102, 4103, 4105, 4108, 4916, 5102, 5117, 5118, 5252, 5301, and 6940.

Sec. 238a. REPEALS AND REPLACEMENTS

(a) The following sections are hereby repealed:

(1) 4 V.S.A. §§ 271 (probate districts), § 311 (probate court jurisdiction), 314 (probate court retention of jurisdiction over estate once taken), 315 (contest of probate court jurisdiction), 351 (record and seal of probate court), 352 (impression of probate court seal to be kept by governor), 353 (probate court always open), 358 (duties of probate court register), 359 (judge may perform probate court register’s duties), 360 (card index required in probate court), 361 (maintenance of ledger in probate court), 363 (powers of probate court), 366 (costs taxed to witnesses in probate court), and 367 (security for costs taxed to witnesses in probate court);

(2) 12 V.S.A. §§ 2553 (appellate jurisdiction of superior court in probate

matters) and 2555 (standing to appeal probate matter to superior court);

(3) 14 V.S.A. § 905 (appeal to superior court of probate court order appointing administrator);

(4) 24 V.S.A. § 71b (assistant judge and sheriff responsible for county courthouse security);

(5) 32 V.S.A. § 1558 (costs for witnesses in probate court); and

(6) the following sections of No. 4 of the Acts of 2009: Secs. 122 (single probate districts in each county), 123 (salaries of probate judges), 124 (repeal of multiple probate district counties), 125 (transitional provisions), and 130(c) (February 1, 2011 effective date of Secs. 122–125).

(b) In the following sections, the phrase “probate court,” wherever it appears, is replaced with “probate division of the superior court”:

(1) 3 V.S.A. §§ 465 and 468;

(2) 8 V.S.A. §§ 2201, 2407, 12602, 14205, and 14405;

(3) 9 V.S.A. §§ 2480n and 4359;

(4) 12 V.S.A. §§ 2358, 5136(c), 7154, and 7159;

(5) 14 V.S.A. §§ 2, 103, 104, 105, 106, 107, 113, 114, 116, 202, 312, 313, 314, 315, 681, 684, 902, 903, 904, 906, 907, 909, 917, 917a, 919, 921, 922, 923, 924, 928, 929, 931, 961, 962, 963, 964, 965, 1051, 1054, 1056, 1059, 1065, 1066, 1068, 1201, 1204, 1206, 1210, 1410, 1416, 1455, 1492, 1551, 1554, 1557, 1558, 1559, 1611, 1612, 1613, 1614, 1615, 1651, 1652, 1653, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1665, 1721, 1729, 1730, 1731, 1736, 1737, 1739, 1741, 1742, 1743, 1801, 1804, 1952, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2201, 2202, 2203, 2303, 2305, 2306, 2307, 2318, 2327, 2402, 2403, 2501, 2502, 2602, 2603, 2645, 2650, 2653, 2654, 2656, 2658, 2665, 2666, 2667, 2671, 2684, 2687, 2711, 2712, 2751, 2752, 2753, 2754, 2791, 2792, 2794, 2795, 2800, 2802, 2803, 2804, 2841, 2843, 2846, 2881, 2882, 2886, 2887, 2890, 2921, 2923, 2924, 2925, 2928, 2961, 2963, 2964, 3001, 3004, 3011, 3063, 3064, 3069, 3075, 3076, 3076, 3081, 3091, 3093, 3094, 3095, 3101, 3201, and 3509;

(6) 15 V.S.A. §§ 811, 812, 813, and 816;

(7) 15A V.S.A. §§ 1-101, 1-105, 1-110, 1-113, 2-105, 2-206, 3-101, 3-102, 5-104, 6-102, 6-103, and 6-105;

(8) 16 V.S.A. §§ 1940 and 1941;

(9) 18 V.S.A. §§ 5075, 5076, 5077, 5150, 5151, 5168, 5169, 5202a, 5212, 5212a, 5219, 5227, 5228, 5230, 5232, 5308, 5438, 5534, 5537, 5576,

7401, 9701, 9703, 9707, 9711, 9714, and 9718;

(10) 24 V.S.A. §§ 5059 and 5061;

(11) 27 V.S.A. §§ 105, 106, 143, 145, 184, 185, 465, 466, and 1270;

(12) 28 V.S.A. § 814;

(13) 32 V.S.A. §§ 7109, 7303, 7304, 7450, 7451, and 745; and

(14) 33 V.S.A. §§ 102, 123, 302, and 4921.

Sec. 239. EFFECTIVE DATES

(a) Except as provided in subsection (b) or (c) of this section, this act shall take effect on July 1, 2010.

(b) Sec. 42 of this act shall take effect on July 1, 2010, except that the power to hire and remove staff, which is currently performed by county employees, as set forth in 4 V.S.A. § 491 as amended by Sec. 42 of this act, shall take effect on February 1, 2011.

(c) The following sections of this act shall take effect on February 1, 2011: Secs. 7a, 7f, 18, 18a, 19, 20, 21, 23, 24, 25, 28a, 73, 74a, 75, 76, 81, 91, 92, 120, 121, 122, 124, 125, 126a, 148, 149, 154a, 155a, 163a, 165, 197, 199, 200, 201, 203a, 204, and 238a.

(Committee Vote: 10-0-1)

H. 509

An act relating to pollution control measures for Lake Champlain

Rep. Deen of Westminster, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 4821(a) is amended to read:

(a) Program created. A program is created to provide state financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters of the state of Vermont, consistent with goals of the federal Water Pollution Control Act and with state water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the state shall be an on-farm improvement eligible for

assistance under this subchapter when subject to a maintenance agreement entered into with the agency of agriculture, food and markets.

Sec. 2. 6 V.S.A. § 4900 is amended to read:

§ 4900. VERMONT AGRICULTURAL BUFFER PROGRAM

(a) The secretary of agriculture, food and markets is authorized to develop a Vermont agricultural buffer program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative buffers and installing conservation practices in ditch networks on ~~annual cropland~~ agricultural land adjacent to the surface waters of the state.

(b) The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed ~~40 percent of~~ the combined federal and state payment that the relevant ~~cropland~~ agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another approved conservation program. The incentive payment shall be made annually at the end of the cropping season for a nonrenewable five-year period.

(c) The secretary of agriculture, food and markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont agricultural buffer program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, “surface waters” means all rivers, streams, ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are contained within, flow through, or border upon the state or any portion of it.

Sec. 3. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The farm agronomic practices assistance program is created in the agency of agriculture, food and markets to provide the farms of Vermont with state financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices shall be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
- (2) cover cropping;

- (3) strip cropping;
- (4) cross-slope tillage;
- (5) zone or no-tillage;
- (6) pre-sidedress nitrate tests;
- (7) annual maintenance of a nutrient management plan that is no longer receiving funding under a state or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$1,000.00 per year; ~~and~~
- (8) educational and instructional activities to inform the farmers and citizens of Vermont of:
 - (A) the impact on Vermont waters of agricultural waste discharges;
 - (B) the federal and state requirements for controlling agricultural waste discharges;
- (9) implementing alternative manure application techniques; and
- (10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

Sec. 4. 10 V.S.A. § 321(d) is amended to read:

(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection funds under this subsection, the board shall seek to maximize state participation in the federal wetlands reserve program in order to allow for increased or additional implementation of conservation practices on farmland protected or preserved under this chapter.

Sec. 5. 10 V.S.A. § 1002 is amended to read:

§ 1002. DEFINITIONS

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

* * *

(10) “Watercourse” means any ~~depression two feet or more below the elevation of surrounding land serving to give direction to a current or flow of~~

~~water having a bed and well defined bank~~ perennial stream. “Watercourse” shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

Sec. 6. 10 V.S.A. § 1021(a) is amended to read:

(a) A person shall not change, alter, or modify the course, current, or cross-section of any watercourse ~~with a drainage area greater than ten square miles at the location of the proposed change, alteration or modification,~~ or of designated outstanding resource waters, within or along the boundaries of this state either by movement, fill, or by excavation of ten cubic yards or more in any year, unless authorized by the secretary.

Sec. 7. 10 V.S.A. § 7501 is amended to read:

§ 7501. GENERAL PERMITS

(a) When the secretary deems it to be appropriate and consistent with the purpose of this chapter, the secretary may issue a general permit under the following chapters of this title: chapter 23 (air pollution control) for stationary source construction permits; chapter 37 (water resources management) for aquatic nuisance control permits authorizing chemical treatment by the agency of natural resources, a department within that agency, or an appropriate federal agency; chapter 56 (public water supply) for construction permits; ~~and~~ chapter 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications; and chapter 41 (regulation of stream flow) for stream alteration permits.

(b) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and conditions may include providing for specific emission or effluent limitations and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

(c) This chapter is in addition to any other authority granted to the agency or department.

(d) The secretary may adopt rules to implement this chapter.

(e) The secretary may issue a nonreporting general permit for certain specific stream alteration activities under chapter 41 of this title.

Sec. 8. ANR REPORT ON GENERAL PERMIT PROGRAM FOR STREAM ALTERATION

(a) On or before January 15, 2011, the secretary of natural resources shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding a proposed general permit program for stream alteration under chapter 41 of Title 10.

(b) The report required under subsection (a) of this section shall:

(1) Define the thresholds, classes of activities, or other categories of activities that will be regulated under the general permit program.

(2) Summarize the requirements or management practices that stream alteration activities will be subject to under a general permit, including whether any activity or class of activities will be subject to a nonreporting general permit.

(3) Summarize the scientific basis for the thresholds, classes of activities, or categories of activities regulated under the proposed general permit program.

Sec. 9. 19 V.S.A. § 996 is added to read:

§ 996. HIGHWAY CONSTRUCTION, MAINTENANCE, AND REPAIR
BEST MANAGEMENT PRACTICES

(a) The agency of transportation shall work with municipal representatives to revise the agency of transportation's town and bridge standards in order to incorporate a suite of practical and cost-effective best management practices, as approved by the agency of natural resources, for the construction, maintenance, and repair of all existing and future state and town highways. These best management practices shall address activities which have a potential for causing pollutants to enter the groundwater and waters of the state, including stormwater runoff and direct discharges to state waters. The best management practices shall not supersede any requirements for stormwater management already set forth in 10 V.S.A. §§ 1264 and 1264a that apply to state and town highways. The agency of transportation shall report to the house and senate committees on transportation, the house committee on fish, wildlife and water resources, and the senate committee on natural resources and energy by January 15, 2011, the best management practices to be incorporated into the agency of transportation's town and bridge standards.

(b) Beginning January 15, 2013, and every four years thereafter, the secretary in consultation with municipal representatives and with approval from the agency of natural resources, shall review and revise, as appropriate, town road and bridge standards in order to ensure the standards are protective of water quality.

Sec. 10. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

(a) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards ~~and~~, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event, the local match shall be sufficient to cover 10 percent of the project costs. The secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

(b) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the class 2 town highway roadway program shall be matched by local funds sufficient to cover 30 percent of the project costs, unless the town has adopted road and bridge standards ~~and~~, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event, the local match shall be sufficient to cover 20 percent of the project costs. The secretary may adopt rules to implement the class 2 town highway roadway program. Class 2 town highway roadway projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality, and a municipality shall not receive a grant in excess of \$175,000.00.

* * *

Sec. 11. REPEAL OF SUNSET OF VERMONT AGRICULTURAL
BUFFER PROGRAM

Sec. 56 of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (sunset on Vermont agricultural buffer program) is repealed.

Sec. 12. Sec. 14 of No. 31 of the Acts of 2009 is amended to read:

Sec. 14. EFFECTIVE DATE

(a) This section and Secs. 1 (findings), 12 (ANR wetlands report), and 13 (Bristol Pond) of this act shall take effect July 1, 2009.

(b) Secs. 2 (retitling 10 V.S.A. chapter 37), 3 (wetlands definitions), 4 (ANR wetlands authority), 5 (wetlands permitting), 6 (recodification of aquatic nuisance control authority), 7 (water resources panel rulemaking authority), 8 (ANR enforcement authority), 9 (appeals), and 10 (marketability of title), ~~and 11 (transition)~~ of this act shall take effect 45 days after such time

as the water resources panel has issued both a rule updating the Vermont significant wetlands inventory maps and a rule updating the Vermont wetland rules.

(c) Sec. 11 (transition) of this act shall take effect January 1, 2010.

Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 1 (livestock fencing; best management practices), 2 (Vermont agricultural buffer program), 3 (farm agronomic practices program), 4 (VHCB; agricultural land preservation), 8 (ANR report on general permit program), 9 (agency of transportation best management practices), 11 (repeal of sunset on Vermont agricultural buffer program), and 12 (effective date of wetlands transition) of this act shall take effect upon passage.

(b) Secs. 5 (definition of watercourse) and 6 (stream alteration permits) of this act shall take effect March 31, 2011.

(c) Sec. 7 (ANR general permit authority) of this act shall take effect February 15, 2011.

(d) Sec. 10 (local match town highway programs) of this act shall take effect July 1, 2011.

and that after passage the title of the bill be amended to read: “An act relating to pollution control measures for Lake Champlain and the other waters of the state”

(Committee Vote: 9-0-0)

H. 528

An act relating to the illegal cutting, removal, or destruction of forest products

Rep. Conquest of Newbury, for the Committee on **Agriculture**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. §§ 3601–3604 are added to read:

§ 3601. DEFINITIONS

As used in this chapter:

(1) “Boundary tree” means a tree, the stem or trunk of which straddles an established property line and is jointly owned by abutting property owners.

(2) “Established property line” means a line demarcated by monuments, signs, markings, pins, reference points, markers, or other means that denote a change in ownership between abutting properties.

(3) "Harvest unit" means the area of land from which timber will be harvested or the area of land on which timber stand improvement will occur.

(4) "Harvester" means a person, firm, company, corporation, or other legal entity that harvests timber.

(5) "Landowner" means the person, firm, company, corporation, or other legal entity that owns or controls the land or owns or controls the right to harvest timber on the land.

(6) "Landowner's agent" means a person, firm, company, corporation, or other legal entity representing the landowner in a timber sale, timber harvest, or land management.

(7) "Line tree" means a boundary tree that is blazed, painted, embedded with wire fence, or otherwise demarcated to indicate the location of the established property line.

(8) "Stump diameter" means the diameter of a tree stump remaining or the diameter of the tree at four and one-half feet from the ground if the stump remaining after harvest is greater than four and one-half feet high.

§ 3602. UNLAWFUL CUTTING OF TREES

(a) Any person who cuts, fells, destroys to the point of no value, or substantially damages the potential value of a tree without the consent of the owner of the property on which the tree stands shall be assessed a civil penalty in the following amounts for each tree over two inches in diameter that is cut, felled, or destroyed:

(1) if the tree is no more than six inches in diameter, not more than \$25.00;

(2) if the tree is more than six inches and not more than ten inches in diameter, not more than \$50.00;

(3) if the tree is more than 10 inches and not more than 14 inches in diameter, not more than \$150.00;

(4) if the tree is more than 14 inches and not more than 18 inches in diameter, not more than \$500.00;

(5) if the tree is more than 18 inches and not more than 22 inches in diameter, not more than \$1,000.00;

(6) if the tree is greater than 22 inches in diameter, not more than \$1,500.00.

(b) In calculating an assessment under this section, a law enforcement officer may rely on a written damage assessment provided by the aggrieved

landowner or the aggrieved landowner's agent.

§ 3603. HARVESTING TIMBER NEAR A PROPERTY LINE

(a) A landowner who authorizes timber harvesting or who in fact harvests timber shall clearly and accurately mark with flagging or other temporary and visible means the harvest unit or the property line. Each mark of a harvest unit or property line shall be visible from the next and shall not exceed 100 feet apart. The marking of a harvest unit or property lines shall be completed prior to commencement of a timber harvest. If a violation as described in section 3602 of this title occurs due to the failure of a landowner to mark a harvest unit or property line, the landowner who failed to mark a harvest unit or property line in accordance with the requirements of this subsection shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.

(b) A landowner or landowner's agent shall obtain the written permission of the co-owner of a boundary tree prior to harvesting. A landowner or landowner's agent who authorizes the harvest of or who in fact harvests a boundary tree without first obtaining permission from the abutting landowner shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.

(c) A landowner or landowner's agent who authorizes the harvest of or who in fact harvests a line tree shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.

§ 3604. EXEMPTIONS

The cutting, felling, or destruction of a tree or the harvest of timber by the following is exempt from the requirements of sections 3602, 3603, and 3606 of this title:

(1) the agency of transportation conducting brush removal on state highways or agency maintained trails;

(2) a municipality conducting brush removal subject to the requirements of 19 V.S.A. § 904;

(3) a utility conducting vegetation maintenance within the boundaries of the utility's established right-of-way;

(4) a harvester under the authority or contract with a landowner within a harvest unit or property that has been marked by a landowner under subsection 3603(a) of this title. A landowner who harvests timber on his or her own property shall not be a "harvester" for the purposes of this subdivision; or

(5) a railroad conducting vegetation maintenance or brush removal in the railroad right-of-way.

Sec. 2. 13 V.S.A. § 3606 is amended to read:

§ 3606. TREBLE DAMAGES FOR CONVERSION OF TREES OR
DEFACING MARKS ON LOGS

If a person cuts down, destroys, or carries away any tree or trees placed or growing for any use or purpose whatsoever, or timber, wood, or underwood standing, lying, or growing belonging to another person, without leave from the owner of such trees, timber, wood, or underwood, or cuts out, alters, or defaces the mark of a log or other valuable timber, in a river or other place, the party injured may recover of such person, in an action on this statute, treble damages in an action on this statute or for each tree the same amount that would be assessed as a civil penalty under section 3602 of this title. However, if it appears on trial that the defendant acted through mistake, or had good reason to believe that the trees, timber, wood, or underwood belonged to him or her, or that he or she had a legal right to perform the acts complained of, the plaintiff shall recover single damages only, with costs. For purposes of this section, "damages" shall include any damage caused to the land or improvements thereon as a result of a person cutting, felling, destroying to the point of no value, substantially reducing the potential value, or carrying away a tree, timber, wood, or underwood without the consent of the owner of the property on which the tree stands.

Sec. 3. 4 V.S.A. § 1102(b) is amended to read:

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(18) Violations of 23 V.S.A. § 3327(d), relating to obeying a law enforcement officer while operating a vessel.

(19) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and harvesting near a property line.

(**Committee Vote: 11-0-0**)

H. 540

An act relating to motor vehicles passing vulnerable users on the highway and to bicycle operation

Rep. Burke of Brattleboro, for the Committee on **Transportation**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING ON THE LEFT MOTOR VEHICLES AND VULNERABLE USERS

(a) Vehicles Passing motor vehicles. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, ~~may~~ shall not pass to the left of the center of the highway unless the way ahead is clear of approaching traffic, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Definition. As used in this chapter, “vulnerable user” means a pedestrian and a highway worker in highway equipment; a person operating a wheelchair or other personal mobility device, whether motorized or not; a person operating a bicycle or other nonmotorized means of transportation (such as, but not limited to, roller skates, rollerblades, or roller skis); a person riding, driving, or herding an animal; or a person operating a farm tractor or implement of husbandry.

(c) Passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user shall exercise due care, which includes using every reasonable precaution and increasing clearance from the vulnerable user, to safely clear the vulnerable user.

Sec. 2. 23 V.S.A. § 1039 is amended to read:

§ 1039. FOLLOWING TOO CLOSELY, CROWDING, AND HARASSMENT

(a) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon, and the conditions of, the highway. The operator of a vehicle shall not, in a careless or imprudent manner, approach, pass, or maintain speed unnecessarily close to a vulnerable user, and an occupant of a vehicle shall not throw any object or substance at a vulnerable user.

* * *

Sec. 3. 23 V.S.A. § 1065 is amended to read:

§ 1065. HAND SIGNALS

(a) ~~All~~ A right or left turn shall not be made without first giving a signal of intention either by hand or by signal in accordance with section 1064 of this title. Except as provided in subsection (b) of this section, all signals to indicate change of speed or direction, when given by hand, shall be given from the left side of the vehicle and in the following manner:

- (1) Left turn. – Hand and arm extended horizontally.
- (2) Right turn. – Hand and arm extended upward.
- (3) Stop or decrease speed. – Hand and arm extended downward.

(b) ~~No turn to right or left may be made without first giving a signal of an intention to do so either by hand or by signal in accordance with section 1064 of this title~~ A person operating a bicycle may give a right-turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.

Sec. 4. 23 V.S.A. § 1127 is amended to read:

§ 1127. CONTROL IN PRESENCE OF ~~HORSES AND CATTLE~~ ANIMALS

(a) Whenever upon a public highway and approaching a vehicle drawn by a ~~horse or other~~ draft animal, ~~or approaching a horse or other~~ an animal upon which a person is riding, or animals being herded, the operator of a motor vehicle shall operate the vehicle in such a manner as to exercise every reasonable precaution to prevent the frightening of ~~such horse or~~ any animal and to ~~insure~~ ensure the safety and protection of the animal and the person riding ~~or, driving, or herding~~.

(b) The operator of a motor vehicle shall yield to any ~~cattle, sheep, or goats~~ which are animals being herded on or across a highway.

Sec. 5. 23 V.S.A. § 1139(a) is amended to read:

(a) A person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction and generally shall ride as near to the right side of the roadway as practicable ~~exercising due care when passing a standing vehicle or one proceeding in the same direction, but shall ride to the left or in a left lane when:~~

- (1) preparing for a left turn at an intersection or into a private roadway or driveway;
- (2) approaching an intersection with a right turn lane if not turning right at the intersection;
- (3) overtaking another highway user; or
- (4) taking reasonably necessary precautions to avoid hazards or road

conditions.

Sec. 6. 23 V.S.A. § 1141(a) is amended to read:

(a) ~~No~~ A person may shall not operate a bicycle at nighttime from one-half hour after sunset until one-half hour before sunrise unless it is equipped with a lamp on the front, which emits a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear, which shall be visible at least 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. Lamps emitting flashing or steady red lights visible to the rear may be used in addition to the red reflector.

Sec. 7. REPEAL

23 V.S.A. § 1053 (passing pedestrians on a highway) is repealed.

(**Committee Vote: 11-0-0**)

H. 590

An act relating to mediation in foreclosure proceedings

Rep. Jewett of Ripton, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 80.1 of the Vermont Rules of Civil Procedure is amended to read:

RULE 80.1. FORECLOSURE OF MORTGAGES AND JUDGMENT LIENS

* * *

(b) Complaint; Process.

(1) Complaint. The complaint in an action for foreclosure shall set forth the name of the mortgagor and mortgagee, the date of the mortgage deed, the description of the premises, the debt or claim secured by the mortgage, any attorney's fees claimed under an agreement in the mortgage or other instrument evidencing indebtedness, any assignment of the mortgage, the condition contained in the mortgage deed alleged to have been breached, the names of all parties in interest and, as to each party in interest, the date of record of the instrument upon which the interest is based, shall pray that defendants' equity of redemption in the premises be foreclosed and explain that the defendant or defendants must enter their appearance in order to receive notice of the foreclosure judgment which will set forth the amount of money they must deposit to redeem the premises and the period of time allowed them to deposit this amount. The plaintiff shall attach to the complaint copies of the note and mortgage and proof of ownership thereof, including all assignments and endorsements of the note and mortgage. All parties in interest shall be

joined as parties defendant. Failure to join any party in interest shall not invalidate the action nor any subsequent proceedings as to those joined. A claim for foreclosure in an action under this paragraph may not be joined with a claim for a deficiency except when a defendant in the answer has requested foreclosure pursuant to a power of sale in the mortgage.

* * *

Sec. 2. 12 V.S.A. § 4523(b) is amended to read:

(b) The plaintiff shall file a copy of the complaint, without supporting attachments, in the town clerk's office in each town where the mortgaged property is located. The clerk of the town shall minute on the margin of the record of the mortgage that a copy of foreclosure proceedings on the mortgage is filed. The filing shall be sufficient notice of the pendency of the action to all persons who acquire any interest or lien on the mortgaged premises between the dates of filing the copy of foreclosure and the recording of the final judgment in the proceedings. Without further notice or service, those persons shall be bound by the judgment entered in the cause and be foreclosed from all rights or equity in the premises as completely as though they had been parties in the original action.

Sec. 3. 12 V.S.A. § 4531a is amended to read:

§ 4531a. FORECLOSURE; POWER OF SALE

(a) When a power of sale is contained in a mortgage and the plaintiff in the foreclosure complaint, or the defendant in his or her answer requests a sale, the court may upon entry of judgment of foreclosure order that if the property is not redeemed within the time period allowed by the court, the property be sold pursuant to such power and the court may further determine the time and manner of the sale. If a sale is ordered with respect to any property other than farmland or a dwelling house of ~~two~~ four units or less when currently occupied by the owner as his or her principal residence, the redemption period shall be eliminated or reduced by the court to no more than 30 days. If the property is not redeemed, the plaintiff shall thereupon execute the power of sale and do all things required by it or by the court. No sale of a dwelling house of ~~two~~ four units or less when currently occupied by the owner as his or her principal residence may take place within seven months of service of the foreclosure complaint, unless the court finds that the occupant is making waste of the property or the parties mutually agree after suit to a shorter period.

(b) When a power of sale is contained in a mortgage relating to any property except for a dwelling house of ~~two~~ four units or less that is occupied by the owner as a principal residence, or farmland, instead of a suit and decree of foreclosure, the mortgagee or assignee may, upon breach of mortgage

condition, exercise the power of sale without first commencing a foreclosure action or obtaining a foreclosure decree, and may give notices and do all such acts as are authorized or required by the power, including the giving of a foreclosure deed upon the completion of the foreclosure sale; but no sale under and by virtue of a power of sale shall be valid and effectual to foreclose the mortgage unless the conditions of sections 4532 and 4533a of this title are complied with.

* * *

Sec. 4. 12 V.S.A. chapter 163, subchapter 9 is added to read:

Subchapter 9. Mediation in Foreclosure Actions

§ 4701. MEDIATION PROGRAM ESTABLISHED

(a) This subchapter establishes a program to assure the availability of mediation and compliance with the federal Home Affordable Modification Program (“HAMP”) requirements, if applicable, in actions for foreclosure of a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence.

(b) To be qualified to act as a mediator under this subchapter, an individual shall be licensed to practice law in the state and shall be required to have taken a specialized, continuing legal education training course on foreclosure prevention or loss mitigation approved by the Vermont Bar Association.

§ 4702. OPPORTUNITY TO MEDIATE

(a) Prior to commencing an action for foreclosure of a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence, Vermont counsel for the mortgagee shall notify the mortgagor that an action for foreclosure is imminent, and that mediation is available in order to consider alternatives to foreclosure. The notice shall be given by any method capable of showing proof of delivery of two copies thereof, with a self-addressed, stamped envelope, to the mortgagor personally, or by leaving copies thereof at the mortgagor’s dwelling with a person of suitable age and discretion then residing therein. Mortgagee’s counsel shall simultaneously send notice to the department of banking, insurance, securities, and health care administration’s mortgage assistance program, which shall maintain a list of all mortgagors who have been sent a notice of the opportunity to mediate.

(b) The notice shall be in substantially the following form:

IMPORTANT NOTICE TO HOMEOWNER

To: [Name(s) of homeowner(s)]

! YOU ARE AT RISK OF LOSING YOUR HOME !

A foreclosure case is about to be filed against you in court. If foreclosure is approved by the court, **you may lose your home!**

Before any foreclosure case is filed, you have the right to meet with your lender or mortgage servicer and a neutral third person (a “mediator”) to explore ways to stay in your home, including possible modification of the terms of your existing mortgage. To do this, **you must ask for a meeting within 20 days of receiving this notice.** Simply fill in your name, address, telephone number, and e-mail address, if any, below, sign and date one copy of this notice and mail it back to your lender’s lawyer who is the person who sent you this notice and whose name and address is:

_____ [Name] _____
_____ [Address] _____

If you request a meeting, you will be contacted by a mediator.

You have the right to be represented at the meeting by an attorney of your choice.

There may also be ways you can get free help in trying to prevent a foreclosure. Here are some names and numbers you can call to ask about free help:

[List names and numbers here.]

You should still request a meeting even if you are already talking to your lender or mortgage servicer because those conversations will not necessarily stop foreclosure. **You will not have to pay the mediator.**

I REQUEST A MEETING WITH MY LENDER OR MORTGAGE SERVICER AND A NEUTRAL THIRD PARTY.

Printed name: _____

Your street address or P.O. box: _____

Your town/city and zip code: _____

Your telephone number: _____

Your e-mail address, if any: _____

Signature: _____ Date: _____

(c) If no request for mediation is received by mortgagee’s attorney within 20 days of receipt of the notice by the mortgagor, or if mediation is held but is not successful, the mortgagee shall allege in any complaint, and mortgagee’s

attorney shall certify on personal knowledge, that notice of the availability of mediation was properly given, that the mortgagor did or did not request mediation, and, if requested, that mediation occurred but was not successful. Mortgagee shall attach to the complaint proof of delivery of the notice and the mediator's report, if mediation occurred.

(d) After an action for foreclosure is commenced, and until the expiration of 20 days from the date of service of the summons and complaint, the court, on motion or request of a party, shall order mediation even if mediation has previously been attempted. Thereafter, on its own motion or on the motion of a party for good cause, the court may order mediation. All mediation shall be completed prior to the expiration of the redemption period, and the redemption period shall not be stayed on account of pending mediation. If a mortgagor requests mediation after judgment has been entered, the court may grant the request only if the mortgagor has returned a request for mediation in an amount of time sufficient to allow for a proper mediation to occur, and the court determines that the mortgagor is not attempting to delay the case. The mediator shall report the results of the process, as described in subsection 4704(b) of this subchapter, to the court and both parties in writing.

(e) The court may, on motion of a party, find that the requirements of this subchapter have been met, and that the parties are not required to participate in mediation under this subchapter because they participated in a proceeding providing the substantive protections of mediation under this subchapter.

§ 4703. MEDIATION

(a) Prior to or during all mediations under this subchapter:

(1) The mortgagee shall consider all available foreclosure prevention tools, including reinstatement, loan modification, forbearance, and short sale;

(2) The participants shall use all applicable federal and state laws, regulations, and guidelines on loan modification, including the federal Home Affordable Modification Program ("HAMP") guidelines, and employ all related "net present value" calculations in considering a loan modification; and

(3) The mortgagee shall produce for the mortgagor and mediator documentation of its consideration of each applicable foreclosure prevention tool, including the data used in and the outcome of any "net present value" calculation.

(b) In all mediations under this subchapter, the mortgagor shall produce information on his or her household income and any other information required by HAMP.

(c)(1) The following persons shall participate in any mediation under this

subchapter:

(A) the mortgagee, or any other person, including the mortgagee's servicing agent, who shall have:

(i) authority to agree to a proposed settlement, loan modification, or dismissal of the foreclosure action;

(ii) real time access during the mediation to the mortgagor's account information and to the records relating to consideration of each available foreclosure prevention tool relating to the mortgagor, including the data and factors considered in evaluating each such foreclosure prevention tool; and

(iii) the ability and authority to perform necessary "net present value" and other foreclosure avoidance tool calculations during the mediation;

(B) counsel for the mortgagee; and

(C) the mortgagor, and counsel for the mortgagor, if represented.

(2) The mediator may permit a party identified in subdivision (1) of this subsection to participate in mediation by telephone or videoconferencing.

(d) The mediator shall include in the mediation process under this subchapter any other person the mediator determines is necessary for effective mediation.

§ 4704. MEDIATION REPORT

(a) Within seven days of the conclusion of any prelitigation mediation, the mediator shall report the results of the process to both parties in writing. If prelitigation mediation does not result in a settlement or if the court orders mediation after an action for foreclosure has commenced, within seven days of the conclusion of the mediation, the mediator shall report the results of the process to the court and both parties in writing.

(b) The report shall not disclose the mediator's assessment of any aspect of the case or substantive matters discussed during the mediation, except as is required to report the information required by this section. The report shall contain the following items:

(1) The date on which the mediation was held, including the starting and finishing times.

(2) The names and addresses of all persons attending, showing their role in the mediation and specifically identifying the representative of each party who had decision-making authority.

(3) A summary of any substitute arrangement made regarding

attendance at the mediation.

(4) All “net present value” and other foreclosure avoidance tool calculations performed prior to or during the mediation and all information related to the requirements in subsection 4703(a) of this subchapter.

(5) The results of the mediation, stating whether full or partial settlement was reached and appending any agreement of the parties.

§ 4705. COMPLIANCE WITH OBLIGATIONS

Upon receipt of the mediator’s report, pursuant to subsection 4704(a) of this subchapter, the court shall promptly and without hearing determine whether the servicer has complied with all of its obligations under subsection 4703(a) of this subchapter.

§ 4706. EFFECT OF MEDIATION PROGRAM ON FORECLOSURE ACTIONS FILED PRIOR TO EFFECTIVE DATE

The court shall, on request of a party, require mediation in any foreclosure action on a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence that was commenced prior to the effective date of this subchapter but only up to 30 days prior to the end of the redemption period.

§ 4707. NO WAIVER OF RIGHTS; COSTS OF MEDIATION; EXEMPTIONS

(a) The parties’ rights in a foreclosure action are not waived by their participation in mediation under this subchapter.

(b) The mortgagee shall pay the required costs for any mediation under this subchapter.

(c) No mortgagee may shift to the mortgagor the costs of the mortgagee’s or the servicing agent’s attorney’s fees or travel costs related to mediation.

(d) The requirements of this subchapter shall apply only to foreclosure actions involving loans that are serviced by a bank or servicer subject to the federal HAMP guidelines.

Sec. 5. REPEAL

12 V.S.A. § 4532a (notice to commissioner of banking, insurance, securities, and health care administration) is repealed.

Sec. 6. EFFECTIVE DATE

This act shall take effect 45 days after passage but no later than July 1, 2010.

Sec. 7. SUNSET

This act shall be repealed on the same day as the expiration date of the federal Home Affordability Modification Program (“HAMP”).

(Committee Vote: 8-2-1)

H. 594

An act relating to access to restroom facilities

Rep. Bissonnette of Winooski, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 140 is added to read:

CHAPTER 140. RESTROOM ACCESS

IN RETAIL ESTABLISHMENTS

§ 4511. DEFINITIONS

For purposes of this chapter:

(1) “Customer” means an individual who is lawfully on the premises of a retail establishment.

(2) “Eligible medical condition” means Crohn’s disease, ulcerative colitis, irritable bowel syndrome, any other inflammatory bowel disease, or any medical condition that requires immediate access to a toilet facility.

(3) “Retail establishment” means a place of business open to the general public for the sale of goods or services.

§ 4512. RETAIL ESTABLISHMENTS; RESTROOM ACCESS; LIABILITY

(a) A retail establishment that provides a toilet facility for its employees shall allow a customer to use the facility during normal business hours if all of the following conditions are met:

(1) The customer requesting the use of the employee toilet facility suffers from an eligible medical condition or uses an ostomy device and provides a statement signed by a physician which indicates that the customer suffers from an eligible medical condition or uses an ostomy device.

(2) Two or more employees of the retail establishment are working at the time the customer requests use of the employee toilet facility.

(3) The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk or a security risk to the retail establishment.

(4) A public restroom is not immediately accessible to the customer.

(b) A retail establishment or an employee of a retail establishment is not civilly liable for the injury or death of a customer resulting from any act or omission in allowing a customer to use an employee toilet facility pursuant to this section, unless the act or omission is willful or grossly negligent.

(c) A retail establishment is not required to make any physical changes to an employee toilet facility under this section.

(d) A retail establishment shall not be in violation of chapter 139 of this title solely by reason of allowing a customer to use an employee toilet facility pursuant to this section.

(Committee Vote: 10-1-0)

H. 639

An act relating to motor vehicle insurance for volunteer drivers

Rep. Smith of Mendon, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4211 is added to read:

§ 4211. VOLUNTEER DRIVERS

(a) An insurer may not refuse to issue motor vehicle liability insurance to an applicant solely because the applicant is a volunteer driver. An insurer may not impose a surcharge or otherwise increase the rate for a motor vehicle policy solely on the basis that the named insured, a member of the insured's household, or a person who customarily operates the insured's vehicle is a volunteer driver.

(b) For purposes of this section, "volunteer driver" means a person who provides services, including transporting individuals or goods, without compensation above mileage expenses to a charitable organization or nonprofit corporation established under Title 11B, pursuant to a written agreement.

(c) This section does not prohibit an insurer from refusing to renew, imposing a surcharge on, or otherwise raising the rate for a motor vehicle liability insurance policy based upon factors other than the volunteer status of the insured driver.

Sec. 2. EFFECTIVE DATE

Sec. 1 of this act shall apply to all policies and contracts offered, issued, or renewed on and after September 1, 2010.

(Committee Vote: 11-0-0)

H. 680

An act relating to termination of occupancy of farm employee housing

Rep. Toll of Danville, for the Committee on **Agriculture**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS AND RECOMMENDATIONS

The general assembly finds:

(1) Vermont farmers frequently provide housing to their employees as a benefit of agricultural work performed.

(2) Farmers and their employees have a reasonable expectation that where housing is provided as a benefit of employment, each party has certain rights and responsibilities that should be mutually understood.

(3) The purpose of this act is to provide a clear and consistent framework for the rights and responsibilities of farmers and their employees where housing is provided, including due process protections for the farm employee.

(4) With the increasing presence of a mobile workforce, the general assembly recognizes that English may not be the primary language for a number of farm employees in Vermont.

(5) The general assembly therefore recommends that the agency of agriculture, food and markets, the department of health, the department of labor, the department of economic, housing and community affairs, and other appropriate agencies make available on their websites the notice provisions set forth in 9 V.S.A. § 4469a(c) in the languages most commonly used by farm employees in Vermont.

(6) The general assembly further recommends that state agencies providing guidance on farm employer-employee relations direct farmers who provide housing to their employees:

(A) upon commencement of farm employment, to inform a farm employee in the employee's native language that, unless otherwise provided by contract, the right to occupy farm housing will end upon termination of farm employment; and

(B) upon termination of farm employment, to provide the notice provisions set forth in 9 V.S.A. § 4469a(c) to the farm employee in the farm employee's native language.

Sec. 2. 9 V.S.A. § 4469a is added to read:

4469a. TERMINATION OF OCCUPANCY OF FARM EMPLOYEE
HOUSING

(a) For the purposes of this section:

(1) “Farm employee” means an individual employed by a farm employer for farming operations.

(2) “Farm employer” means a person earning at least one-half of his or her annual gross income from the business of farming as that term is defined in Section 1.175-3 of the regulations issued by the United States Department of the Treasury under the Internal Revenue Code of the United States, as amended.

(3) “Housing provided as a benefit of farm employment” means housing owned or controlled by the farm employer, whether located on or off the farm premises, and provided for the occupancy of the farm employee and the farm employee’s family or household members for no payment other than the farm employee’s labor. Payment of utility and fuel charges paid by the farm employee does not affect the designation of housing provided as a benefit of farm employment.

(b) Unless otherwise provided in a written employment contract, a farm employer who provides housing to a farm employee and the farm employee’s family or household members as a benefit of the employment may terminate that benefit and all rights of the employee and the employee’s family or household members to occupy the housing when the employee’s employment is terminated.

(c) The termination of the housing benefit shall be by written notice served upon the former farm employee by a law enforcement officer in accordance with Rule 4 of the Vermont Rules of Civil Procedure. The notice shall be served together with a summons and complaint seeking a writ of possession under this section to remove the former farm employee from occupancy of the farm housing. The notice shall include the following statements, in boldface print:

“Your employment and housing benefit have been terminated.

“Your employer has filed a legal proceeding in _____ County superior court to obtain a court order directing you and any family or household member cohabitating in the dwelling to vacate and leave the dwelling and remove all of your possessions. The address and telephone number of the court are as follows: _____ .

“The court will hold a hearing on your former employer’s request for a court order directing you to leave and vacate the dwelling. The hearing will be

held on _____ at _____ in the _____ am/pm at the courthouse at the address listed above. You have the right to be served with notice of the hearing at least ten days prior to the hearing date. You have the right to appear at this hearing. At the hearing, your former employer must prove that the dwelling is needed for housing a replacement employee, and that your failure to vacate is causing actual hardship.

“If you believe that your employment was terminated wrongfully, that your dwelling house was not habitable, or if you have any other claim against your former employer, you may file a counterclaim against your former employer as explained in the summons and complaint that are being served upon you with this notice.

“Filing a counterclaim against your former employer will not delay or stop the court from ordering you to leave and vacate the dwelling.

“You may wish to seek legal advice from a licensed attorney. If you believe you cannot afford an attorney, you may contact the clerk of the court listed above for information about the availability of an attorney at public expense, although you may not be entitled to an attorney at public expense.”

(d) A farm employer shall be entitled to a show cause hearing on an expedited basis for the purpose of demonstrating that the failure of the former farm employee to vacate the farm housing is causing an actual hardship to the farm employer. The show cause hearing shall be held not less than 10 calendar days after service on the former employee of the notice described in subsection (c) of this section. The issue before the court at the hearing shall be whether the farm employer has suffered actual hardship because of the unavailability of the farm housing for a replacement employee.

(e) If the court finds that the farm employer has suffered actual hardship because of the unavailability of the farm housing for a replacement employee, the court shall enter an order approving a writ of possession, which shall be executed no sooner than five days nor later than 30 days after the writ is served, to put the plaintiff into possession.

(f) If the court does not make a finding on behalf of the farm employer, the farm employer may seek an eviction pursuant to sections 4467 and 4468 of this chapter and subchapter 3 of chapter 169 of Title 12. In any action pursuant to this section, the farm employer may file a motion for payment of the reasonable rental value of the premises into court pursuant to 12 V.S.A. § 4853a.

(g) The right of a former farm employee to pursue any claim that he or she may have against the former farm employer by way of a counterclaim in a civil action brought pursuant to this section is expressly preserved. The assertion of

a counterclaim shall not have the effect of delaying or preventing the removal of the employee from the housing, nor shall the employee be entitled to obtain injunctive relief in the form of repossession of farm housing. A former employee who prevails on a counterclaim shall be entitled to relief as provided by applicable law.

(h) Sections 4455, 4461, and 4467 of this chapter shall not apply to housing provided to a farm employee as a benefit of the employment.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee Vote: 11-0-0)

H. 698

An act relating to services for Vermont seniors

Rep. McFaun of Barre Town, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 7108(f) and (g) are added to read:

(f) Except as otherwise required by federal law, until June 30, 2013, the licensing agency shall conduct an unannounced inspection of one-third of the residential care home and assisted living residences licensed pursuant to this chapter per year. The agency shall give priority in its inspections to those facilities that have not been inspected for the longest period of time.

(g)(1) Except as otherwise required by federal law, beginning July 1, 2013, the licensing agency shall conduct an unannounced inspection of each residential care home and assisted living residence licensed pursuant to this chapter at least annually.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, beginning July 1, 2013, the licensing agency may authorize a residential care home or assisted living residence that was found at its most recent inspection to have met criteria specified by the department of disabilities, aging, and independent living by rule to conduct a self-inspection in lieu of an inspection by the licensing agency in the following year. This provision shall apply only to facilities inspected on or after July 1, 2012.

(3) A residential care home or assisted living residence that conducts a self-inspection pursuant to subdivision (2) of this subsection shall be inspected by the licensing agency in the year following the self-inspection. In no event shall a residential care home or assisted living residence licensed pursuant to

this chapter be inspected by the licensing agency less frequently than every other year after July 1, 2013.

Sec. 2. FUNDING FOR ADULT PROTECTIVE SERVICES EVALUATION

(a) In the event that an interested party identifies sources of funding for the adult protective services evaluation authorized by Sec. 3 of this act and prepares the documents necessary to obtain the funds, the agency of human services shall cooperate with the interested party to take such steps as are needed to secure the funds.

(b) In the event that the agency of human services receives federal funds for the purposes of protecting vulnerable adults, such funds shall be used to conduct the evaluation authorized by Sec. 3 of this act, up to the full cost of the evaluation.

(c) No later than March 15 of each year, the agency of human services shall provide an update to the house committee on human services and the senate committee on health and welfare regarding the status of efforts to secure funding for the evaluation authorized by Sec. 3 of this act and the issuance of a request for proposals to conduct the evaluation.

Sec. 3. ADULT PROTECTIVE SERVICES EVALUATION

(a) Upon securing appropriate funding as provided in Sec. 2 of this act, the agency of human services shall issue a request for proposals to conduct an independent evaluation of the adult protective services provided by the department of disabilities, aging, and independent living's division of licensing and protection.

(b) The evaluation shall examine:

- (1) the effectiveness of the adult protective services provided;
- (2) the division's responsiveness to complaints;
- (3) the appropriateness of the level of investigation into complaints;
- (4) the adequacy of training for adult protective services staff;
- (5) the ability of vulnerable adults to access adult protective services;
- (6) the division's rules, protocols, and practices for prioritizing, responding to, and investigating complaints;
- (7) the sufficiency of adult protective services staffing levels in the division;
- (8) the number of reports, substantiations, and reversals by the commissioner or the human services board;

(9) the role that the division does or should play in assessing and providing emergency protective services to vulnerable adults;

(10) best practices from other states that would improve the division's ability to protect vulnerable adults from abuse and exploitation;

(11) the scope and effectiveness of current adult protective services public education efforts;

(12) public perception of and satisfaction with adult protective services;

(13) the relationship between the units of survey and certification and adult protective services in the division of licensing and protection in the department of disabilities, aging, and independent living with respect to investigations of abuse, exploitation and neglect; and

(14) such other areas as the entity conducting the evaluation deems appropriate.

(c) Upon completion of the evaluation authorized by this section but in no event later than January 15, 2015, the entity conducting the evaluation shall report its findings and recommendations to the house committee on human services and the senate committee on health and welfare.

Sec. 4. RULEMAKING

The department of disabilities, aging, and independent living shall adopt rules pursuant to chapter 25 of Title 3 to establish high-standard criteria by which a residential care home or assisted living residence may be authorized to conduct a self-inspection and the required elements of such self-inspection.

Sec. 5. EFFECTIVE DATE

This act shall take effect upon passage.

and by changing the name of the bill to read "An act relating to vulnerable adults"

(Committee Vote: 9-0-2)

S. 288

An act relating to the Vermont recovery and reinvestment act of 2010

Rep. Botzow of Pownal, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

*** VRRRA 2010 Legislative Intent ***

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to supplement and support the programs and policies established in No. 54 (H.313) of the Acts of 2009, the Vermont Recovery and Reinvestment Act of 2009, and to provide other economic incentives.

(b) The provisions of this act provide short-term economic stimulus to certain sectors of the Vermont economy, and invest in long-term strategies that are consistent with the four principal goals of economic development identified by the commission on the future of economic development and codified in 10 V.S.A. § 3(b) as follows:

(1) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(2) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(3) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(4) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(c) The programs identified in this act shall strive to meet the challenge of improving their economic development results by taking steps to meet the two outcomes for economic development stated in Sec. 8(b) of an Act Relating to Challenges for Change, No. 68 (S.286) of the Acts of the 2009 Adj. Sess. (2010): (1) Vermont achieves a sustainable annual increase in nonpublic sector employment and in median household income; and (2) Vermont attains a statewide, state-of-the-art telecommunications infrastructure. As also identified in the Challenges for Change Act, Sec. 8(a)(3) in S.286, such steps shall include:

(1) identifying measurable results of improvement;

(2) designing evidence-based economic development strategies to achieve these improvements and the four goals of economic development identified in 10 V.S.A. § 3;

(3) directing available state funds to these strategies; and

(4) using objective, data-based indicators to measure performance of

these strategies.

* * * SFSF General Services Fund Appropriations * * *

Sec. 2. STATE FISCAL STABILIZATION FUND; GENERAL SERVICES FUND; APPROPRIATIONS

(a) In fiscal year 2010, \$8,665,000.00 from the state fiscal stabilization fund general services fund that remains available to Vermont under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, is hereby appropriated as prescribed in Secs. 3–10 of this act.

(b) For the specific purpose of ensuring SFSF funds are expended in a timely fashion and in accordance with the deadlines and restrictions established under ARRA, and also to ensure that the objectives of the appropriations contained herein are accomplished, the secretary of administration is authorized to substitute general fund appropriations for the SFSF appropriations in this section, and in such an event, the secretary is authorized to expend the SFSF funds on any other authorized general fund expenditure.

(c) It is the intent of the general assembly that, unless otherwise stated, the appropriations of SFSF funds made pursuant to this act are expended as quickly as possible so as to have an immediate stimulative impact on Vermont's economy. However, to the extent it is not feasible or prudent for a program to expend all funds in fiscal year 2010, the funds may be carried forward to fiscal year 2011 and otherwise expended in accordance with the provisions of this act.

(d) It is the intent of the general assembly that any program receiving SFSF funds pursuant to this act make all reasonable and practicable efforts to ensure that such funds are evenly and equitably distributed throughout the entire state of Vermont.

Sec. 3. ENTREPRENEURS' SEED CAPITAL FUND

The amount of \$400,000.00 is appropriated to the entrepreneurs' seed capital fund established under chapter 14A of Title 10.

Sec. 4. RURAL BROADBAND; VTA

The amount of \$3,165,00.00 is appropriated to the Vermont telecommunications authority (VTA) for the purpose of making broadband services available to at least 12,000 households or businesses in locations where such services are not currently available, as provided in 30 V.S.A. § 8079, as established in Sec. 11 of this act.

Sec. 5. VERMONT EMPLOYMENT TRAINING PROGRAM

The amount of \$1,200,000.00 is appropriated to the department of economic, housing, and community development for the program operations of the Vermont employment training program established under 10 V.S.A. § 531.

Sec. 6. TOURISM AND MARKETING; MEDIA ADVERTISING

The amount of \$400,000.00 is appropriated to the department of tourism and marketing to increase the frequency of and expand the media buys in the state's key regional markets for Vermont's recreation and hospitality operations. These funds shall be expended in calendar year 2010 with the goal of increasing the number of visitors throughout all regions of the state this year.

Sec. 7. AGRICULTURE; VERMONT FARMERS

(a) The amount of \$778,000.00 is appropriated to the Vermont economic development authority (VEDA) to be used by the Vermont agricultural credit corporation for the Vermont agricultural credit program established under 10 V.S.A. § 374a to assist Vermont farmers with capital to meet operating and related needs.

(b) The amount of \$100,000.00 is appropriated to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330, as provided in Sec. 13 of this act.

(c) The amount of \$122,000.00 is appropriated to the secretary of agriculture to be transferred as follows:

(1) \$100,000.00 the farm-to-school program established under 6 V.S.A. § 4721.

(2) \$22,000.00 to the farms 2 + 2 program offered by the University of Vermont and the Vermont Technical Colleges.

Sec. 8. CHAMPLAIN BRIDGE CLOSURE; GRANTS AND LOANS

(a) The amount of \$500,000.00 is appropriated to the agency of commerce and community development for a grant to the Addison County economic development corporation (ACEDC) for the purpose of providing grants and loans to businesses and organizations that have incurred economic losses as a direct result of the closure of the Lake Champlain bridge at Crown Point, with oversight and reporting provided by the Vermont office of economic stimulus and recovery.

(b) Grants for loss in revenue. The ACEDC shall award grants to any business or organization that, due to the bridge closure, suffered revenue losses of at least 20 percent during the fourth quarter of calendar year 2009 as

compared with the same period in 2008. Awards under this subsection shall compensate up to 50 percent of uninsured losses.

(c) Grants for increased expenses. The ACEDC shall award grants to any business or organization for the purpose of compensating losses incurred during the fourth quarter of calendar year 2009 directly attributable to the closure of the bridge as follows:

(1) up to 75 percent of a documented, uninsured increase in transportation costs.

(2) up to 75 percent of documented, uninsured costs incurred in paying employee per diems to cover increased commuting time and expenses.

(3) up to 75 percent of documented, uninsured costs incurred for equipment rentals or the hiring of custom haulers necessary to continue business operations.

(d) Any grant made pursuant to subsections (b) and (c) of this section shall not exceed \$20,000.00. No business or organization shall be eligible for more than one grant. ACEDC shall not award more than \$150,000.00 in grants under this section.

(e) Loans. The ACEDC shall establish criteria for making low-or-no-interest loans to businesses and organizations negatively impacted by the closure of the Champlain Bridge. The loans shall be to assist such entities with maintaining payroll, ordering inventory, and covering operational expenses. The ACEDC shall establish underwriting criteria, and any other terms and conditions deemed necessary to carry out the purposes of this subsection. The ACEDC shall issue up to \$350,000.00 in aggregated loans.

(f) The Addison County economic development corporation may use 0.5 percent of the appropriation made under this section for administrative costs.

(g) On November 1, 2010, all unexpended funds shall be transferred to the Vermont economic development authority (VEDA). In addition, all loan repayments shall be transferred to VEDA. Any funds received by VEDA pursuant to this subsection shall be transferred to the entrepreneurs' seed capital fund established under chapter 14A of Title 10. ACEDC may retain any interest.

Sec. 9. VEDA; VERMONT JOBS FUND

The amount of \$1,700,000.00 is appropriated to the Vermont economic development authority to provide interest-rate subsidies on loans approved under the Vermont jobs fund established in 10 V.S.A. § 234.

Sec. 10. MICROBUSINESS DEVELOPMENT; INDIVIDUAL DEVELOPMENT ACCOUNTS

(a) The amount of \$100,000.00 is appropriated to community capital of Vermont for the job start loan fund to support low and moderate income business owners who do not have access to conventional bank loans.

(b) The amount of \$200,000.00 is appropriated to the office of economic opportunity within the Vermont department for children and families. These funds shall not be used to secure a federal match. Of this appropriation:

(1) \$100,000.00 shall be transferred to the individual development account (IDA) program; and

(2) \$100,000.00 shall be transferred to the micro-business development program.

* * * VTA Broadband Infrastructure * * *

Sec. 11. 30 V.S.A. § 8079 is added to read:

§ 8079. BROADBAND ADOPTION PROGRAM

(a) There is established the Vermont broadband adoption program to be administered by the Vermont telecommunications authority for the purposes of accelerating the subscription to and use of broadband Internet access by the public and increasing the sustainability of broadband networks in Vermont, especially in rural and underserved communities. Through this program, the authority shall insure that broadband service is provided to at least 12,000 households and businesses left unserved by private entities.

(b) The authority shall expend monies appropriated to the Vermont broadband adoption program consistent with this section.

(c) For purposes of this section, a “community” shall be a local geographic area of the state defined by the authority and consisting of one or more geographic areas with a defined boundary, including municipalities, telephone exchanges, ZIP codes, or census blocks.

(d) For purposes of this section, “broadband” service shall mean Internet access services which provide download speeds not less than 1.5 megabits per second and upload speeds not less than 200 kilobits per second. Service provided by satellite shall not qualify as “broadband.” In addition, the authority shall give priority to broadband services which meet or exceed the minimum technical service characteristic objectives established pursuant to section 8077 of this title, and may adopt any new such objectives established pursuant to section 8077 of this title in place of the definition provided in this subsection.

(e) In each fiscal year in which funding is available for the program, the authority shall establish target communities in which it will offer incentives to broadband service providers. In selecting the target communities, the authority shall consider, to the extent possible:

(1) the proportion of homes and businesses in those communities without access to broadband service and without access to broadband service meeting the minimum technical service characteristic objectives established under section 8077 of this title;

(2) the level of adoption of broadband services by residential and business users within the community;

(3) opportunities to leverage or support other sources of federal, state, or local funding for the expansion or adoption of broadband service;

(4) the number of potential new subscribers in each community and the total level of funding available for the program; and

(5) the geographic location of selected communities and whether new target communities would further the goal of bringing broadband services to all regions of the state.

(f) For each target community, the authority shall seek proposals through a competitive process from broadband service providers who agree to improve, expand, or introduce broadband service in the community. The authority shall consider in its selection of broadband service providers the factors used in selecting the target communities, and also the quality of the proposed broadband services and the plans of applicants to market and promote the adoption of its broadband services in the target communities. Based on the number and quality of proposals received, the authority may seek additional proposals, adjust the boundaries of the communities it has defined, or elect to not provide assistance in some target communities.

(g) Broadband service providers that agree to receive assistance under this program for a target community shall within 18 months make broadband service available to all occupied nonseasonal home and business locations within the community at upload and download speeds which shall be specified in a grant agreement with the authority, which shall not be less than speeds commonly offered by the broadband service provider in other areas it serves in the state.

(h) The authority shall provide a broadband service provider selected to receive assistance for a target community with a grant per new broadband subscriber in the target community. The amount of the grant shall be equal to a monthly refund level established by the authority. Prior to July 1, 2013, the

authority shall not establish a monthly refund level exceeding \$20.00 per month. Grants shall be sufficient to provide the monthly refund level for a period of 12 months. The broadband service provider shall apply the amount of the monthly refund level as a credit to the amount owed by a subscriber for service. The authority may require new subscribers to claim the credit on line, which may include initiating one or more on-line transactions with state services offered on line. To the extent possible and consistent with the cost-effective administration of the program, the authority shall limit grants awarded such that they are awarded for subscribers who have not previously had broadband service available in the target community.

(i) Prior to distribution of grant funding, the authority shall seek and obtain a reasonable demonstration that a selected broadband service provider has adequate capital funding available to complete the expansion of service required by subsection (g) of this section.

(j) Broadband service providers that agree to receive assistance under this program shall offer a broadband service on at least one tier of service at a price that shall not exceed the amount of the monthly refund level for one year after the subscriber initiates service. Broadband providers may offer additional tiers of broadband service or bundles of broadband service and other services without limit on price due to participation in this program.

(k) For good cause, if no satisfactory proposals to provide service in a target community are received, the authority may provide partial or full refunds for reasonable nonrecurring charges associated with initiation of service and may either establish for a target community a monthly grant level higher than otherwise allowed by subsection (h) of this section, or modify the price limitations of subsection (j) of this section, or both. In no case shall the monthly refund level exceed the price of the lowest tier of broadband service offered in a target community.

(l) During any quarter it receives assistance under this program, a broadband service provider shall provide information regarding broadband service availability, adoption, speed, and price to the entity selected by the National Telecommunications and Information Administration to receive funding for broadband data collection in Vermont under the state broadband data and development grant program established under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5 and the Broadband Data Improvement Act of 2008, P.L. No. 110-385.

(m) The authority may use up to 10 percent of the funds appropriated to the program to provide financial incentives for new subscribers in target communities to conduct transactions with state government on line instead of in person or in paper form, not to exceed \$50.00 per new subscriber.

Notwithstanding any other provision of this section, the authority may use up to 50 percent of the funds appropriated to the program to provide any state match which may be required if Congress extends the federal telephone lifeline program to include broadband service, or if Congress enacts any other program to provide financial assistance for low income consumers of broadband service as it may be defined under federal law. If the authority acts pursuant to this subsection, it shall send notice to the commissioner of public service, the speaker of the house, and the president pro tempore of the senate. Upon receipt of such notice, the commissioner of public service shall make a recommendation to the general assembly within six months regarding changes to Vermont statutes or rules regarding the telephone lifeline program and changes which may be required to provide ongoing support for a similar program for broadband.

(n) Of the funds appropriated to the broadband adoption program, the authority may use up to five percent for administration of the funds received.

(o) On or before January 1, 2011, the authority shall submit a report to the house committee on commerce and community development and the senate committee on economic development, housing and general affairs that details the progress it has made in reaching the goals of the broadband adoption program established by this section, specifically in terms of reaching the 12,000 unserved Vermonters.

* * * Agreements Pertaining to Telecommunications Facilities * * *

Sec. 12. 30 V.S.A. § 8079 is added to read:

§ 8079. AGREEMENTS; TELECOMMUNICATIONS FACILITIES

In awarding loans or grants to entities as permitted under subdivision § 8062(a)(6) of this title, the authority shall develop terms and conditions applicable to agreements covering telecommunications infrastructure that ensure payments accrue in reasonable installments and at reasonable intervals, particularly with respect to the time period commencing after an agreement is entered into but before the telecommunications facility that is the subject of the agreement is ready for commercial use.

* * * Farm-to-Plate Investment Program * * *

Sec. 13. FARM-TO-PLATE INVESTMENT PROGRAM

The funds received pursuant to Sec. 7(b) of this act shall be used to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330 and support entities that will enhance the production, storage, processing, and distribution infrastructure of the Vermont food system. The funds shall be competitively awarded by the program director, in consultation

with the secretary of agriculture, food and markets and the Vermont sustainable agriculture council, in the form of grants to nonprofit farmers' markets and like entities that are ready to implement their business plans or expand their existing operations to provide additional capacity and services within the food system. The funds also may be used for the coordination and implementation of the recommendations contained in the strategic plan of the farm-to-plate investment program.

* * * Audit Strategy for Job Creation * * *

Sec. 14. AUDIT STRATEGY; JOB CREATION

On or before January 1, 2011, the state auditor of accounts shall develop and recommend to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs an audit strategy designed to comprehensively validate job-creation programs in Vermont. The audit strategy shall seek to incorporate design elements that take into account possible "job inflation" caused by multiple economic development programs claiming creation of the same job.

* * * Increased Moral Obligation for Vermont Jobs Fund * * *

Sec. 15. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the authority, there may be appropriated annually and paid to the authority for deposit in each such fund, such sum as shall be certified by the chair of the authority, to the governor or the governor-elect, the president of the senate, and the speaker of the house, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor or the governor-elect, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the authority during the then current state fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~\$70,000,000.00~~ \$100,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the authority in contravention of the Constitution of the United States.

* * * VEDA: Increased Flexibility for Inter-Fund Lending Transfers * * *

Sec. 16. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

* * *

(c) ~~Monies in the fund may be loaned to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the authority to establish a line of credit in an amount not to exceed \$30,000,000.00 to be advanced to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title.~~

(d) ~~Monies in the fund may be loaned to the Vermont small business development corporation to support its lending operations as established pursuant to subdivision 216(14) of this title at interest rates and on terms and conditions to be set by the authority to establish a line of credit in an amount not to exceed \$3,000,000.00 to be advanced to the Vermont small business development corporation to support its lending operations as established pursuant to subdivision 216(14) of this title.~~

(e) ~~Monies in the fund may be loaned to the Vermont 504 corporation to support its lending operations as established pursuant to subdivision 216(13) of this title at interest rates and on terms and conditions to be set by the authority.~~

* * * VEDA: Extension of Time for Economic Recovery and
Opportunity Program * * *

Sec. 17. Sec. 5.507 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) shall be amended to read:

Sec. 5.507. VEDA – ECONOMIC RECOVERY AND OPPORTUNITY PROGRAM

(a) The state treasurer in consultation with the secretary of administration shall negotiate an agreement to advance up to \$1,250,000 to the Vermont economic development authority (“VEDA”) in fiscal year 2009.

~~(b) In fiscal 2009, a write-down of the advance in the amount of \$257,000 shall be made as an estimate of subsidy costs to be incurred by VEDA in 2009. Any difference between the actual subsidy costs incurred by VEDA in any fiscal year 2009 through 2013 shall be adjusted in the following year’s write-down amount.~~

(e) VEDA shall submit the advance agreement to the state treasurer and secretary of administration; said agreement shall include the following:

(1) ~~The agreement shall be structured to allow a structure that allows VEDA flexibility to use the subsidy funds in the most effective way to~~

generate new loan volume as quickly as possible to act as a stimulant to the Vermont economy; and

~~(2) Terms terms of repayment or write-down of the advance in years 2010 through 2013 shall be contingent on VEDA's demonstrated use of the advance proceeds, and any interest earned thereon, to offset the revenue lost by VEDA over the same period as a result of subsidies made by VEDA to its borrowers.~~

~~(3) The subsidies to VEDA borrowers will be for a maximum of three years from the date of closing of each enrolled loan.~~

~~(4) A maximum of \$18 million in VEDA loans can be made under the program over a 24 month period commencing on the effective date of the legislation.~~

~~(5) The program will terminate when all VEDA borrowers enrolled in the program have completed their respective three-year subsidy periods.~~

~~(d)(c)~~ Upon termination of the program any amount of the advance, or the interest earned thereon, not used for the subsidy program shall be repaid by VEDA to the state.

* * * Recovery Zone Facility Bond (RZFB) Program * * *

Sec. 18. RZFB PROGRAM; PUBLIC OUTREACH

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, allocates authority for the issuance of \$135,000,000.00 of recovery zone facility (private activity) bonds to Vermont, which must be issued before the end of calendar year 2010.

(b) The federal government issued the bonding authorizations to 11 of Vermont's 14 counties; however, in the opinion of the Vermont attorney general, Vermont counties do not have the necessary authority to issue or authorize others to issue facility bonds. ARRA allows the counties to waive their allocations to state government, which they did. In October 2009, the emergency board approved a plan designating the Vermont economic development authority (VEDA) as the entity responsible for issuing the bonds.

(c) The recovery zone facility bond (RZFB) program is designed to aid certain businesses through the issuance of tax-exempt bonds. Tax-exempt bonds traditionally carry lower interest rates than conventional bank loans because income earned by purchasers of these bonds is exempt from federal and, in some cases, state tax. VEDA is encouraged to take any steps necessary to increase public awareness of the RZFB program.

(d) VEDA is authorized to increase the current \$25,000,000.00 cap per

project to \$50,000,000.00.

* * * Recovery Zone Economic Development Bond (RZEDB) Program * * *

Sec. 19. RZEDB; PUBLIC OUTREACH

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, allocates authority for the issuance of \$90,000,000.00 of recovery economic development bonds to Vermont. The Vermont municipal bond bank is responsible for issuing the bonds, which must be issued before the end of calendar year 2010.

(b) The recovery zone economic development bonds (RZEDBs) are a category of Build America Bonds (BABs), and sometimes referred to as “super BABs.” They reduce by 45 percent the cost of the kind of tax-exempt bonding normally done by towns, counties, school districts, and the state. They may be used to fund capital expenditures for real and personal property; public infrastructure and facilities; and expenditures for job training and education programs.

(c) The Vermont municipal bond bank, in consultation with the Vermont League of Cities and Towns, shall make all reasonable efforts to inform public entities in Vermont about the availability, terms, and conditions of REZDBs to Ensure that Vermont, as a whole, is able to maximize the use of these favorable instruments of economic development.

* * * Legislative Priorities for ARRA Funds * * *

Sec. 20. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

With respect to federal funds potentially available to the state of Vermont as competitive funds under the ARRA and in addition to any other legislatively identified priorities established with regard to ARRA funds, the general assembly establishes the following equal priorities as outlined in this section.

(1) Railroad projects determined by the Vermont office of economic stimulus and recovery as being consistent with Vermont’s transportation plan.

(2) With respect to passenger rail funds requested by the state, funds for making upgrades to passenger rail service along the western corridor, such as the Ethan Allen Express improvements and extension corridor program. This corridor program consists of track and crossing improvements and a bridge project along the existing Ethan Allen Express Amtrak route as well as an extension of that service from Hoosick, NY to Bennington, from Bennington to Rutland and from Rutland to Burlington. The program will serve to support intercity passenger rail service through the most populous area of the state and further connect vital economic regions of the state to each other and to the state of New York.

(3) Telecommunications projects determined by Vermont's chief technology officer as being consistent with the goals and policies established under chapter 91 of Title 30.

Sec. 21. REPEAL; PRIORITIES FOR MUNICIPAL
TELECOMMUNICATIONS

Sec. 17(d) of No. 54 of the Acts of 2009 (municipal priorities for municipal communications services) is repealed.

Sec. 22. COORDINATION OF FARM-TO-PLATE, FARM-TO-SCHOOL,
AND FARM-TO-INSTITUTIONS PROGRAMS

For the purposes of avoiding duplication of administration and better coordinating resources, the Vermont farm-to-plate investment program, in consultation with the secretary of agriculture, shall include in its strategic plan for agricultural economic development required by 10 V.S.A. § 330(c)(1), a recommendation for the oversight and coordination of the farm-to-plate investment program established under 10 V.S.A. § 330, the farm-to-school program established under 6 V.S.A. § 4721, and any other farm-to-institutions partnerships designed to increase institutional purchases of fresh, locally grown food.

* * * Public Service Board: Smart Grid; Notice * * *

Sec. 23. 30 V.S.A. § 218(b)(3) is added to read:

(3) If the board approves or requires a utility to adopt a rate design that includes dynamic pricing, the board may alter or waive the notice and filing provisions that would otherwise apply under section 225 of this title for such real-time pricing rate plan, provided the board insures that each customer receives notice of the price of electricity the customer will be charged in advance of the time at which the customer uses the electricity.

* * * Study: Buy Local * * *

Sec. 24. STUDY ON STATE PURCHASE OF LOCAL GOODS AND
SERVICES

The secretary of administration shall conduct a study to evaluate the opportunities and feasibility of increasing the volume of state purchases of both goods and services from local suppliers. The secretary shall report his or her findings to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs on or before January 15, 2011.

* * * Digital Nonprofit Corporations * * *

Sec. 25. 11B V.S.A. § 1.20 is amended to read:

§ 1.20 FILING REQUIREMENTS

* * *

(c) The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form or in an electronic format prescribed by the secretary of state.

* * *

(g) If the secretary of state has prescribed a mandatory form or electronic format for a document under section 1.21 of this title, the document must be in or on the prescribed form.

* * *

Sec. 26. 11B V.S.A. § 1.21(a) is amended to read:

(a) The secretary of state may prescribe the form or electronic format of and furnish on request, forms or specifications for formats for:

- (1) an application for a certificate of existence;
- (2) a foreign corporation's application for a certificate of authority to transact business in this state;
- (3) a foreign corporation's application for a certificate of withdrawal; and
- (4) the biennial report.

Sec. 27. 11B V.S.A. § 1.23 is amended to read:

§ 1.23. EFFECTIVE DATE OF DOCUMENT

(a) Except as provided in subsection (b) of this section, ~~section~~ subsection 1.24(c) of this title, and section 2.03 of this title, a document is effective:

- (1) at the time of filing on the date it is filed, as evidenced by ~~the secretary of state's endorsement on the original document~~ any means the secretary of state may use for the purpose of recording the date and time of filing; or
- (2) at the time specified in the document as its effective time on the date it is filed.

* * *

Sec. 28. 11B V.S.A. § 1.24(a) is amended to read:

(a) A domestic or foreign corporation may correct a document filed by the secretary of state if the document:

(1) contains an incorrect statement; or

(2) was defectively executed, attested, sealed, verified, or acknowledged; or

(3) was undeliverable because the electronic transmission was defective.

Sec. 29. 11B V.S.A. § 1.25(b) is amended to read:

(b) The secretary of state files a document by ~~stamping or otherwise endorsing recording it as~~ “Filed,” together with the secretary of state’s name and official title ~~and on~~ the date and the time of receipt, on both the ~~original and copy of the~~ document and on the record of the receipt for the filing fee. After filing a document, except as provided in sections 5.03 and 15.10 of this title, the secretary of state shall deliver a copy of the document ~~copy~~ to the domestic or foreign corporation or its representative.

Sec. 30. 11B V.S.A. § 1.27 is amended to read:

§ 1.27. EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT

~~(a) A certificate attached to a copy of a document bearing the secretary of state’s signature (which may be in facsimile) and the seal of this state or a certificate as to the nonexistence of records relating to a corporation is conclusive evidence as to whether or not the original is on file with the secretary of state.~~

~~(b) A certificate by the secretary of state that a diligent search has failed to locate documents claimed to be filed with the secretary of state shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the records in the custody of the secretary of state.~~

~~(c) The secretary of state’s filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.~~

A certificate from the secretary of state delivered with a copy of a document filed with the secretary of state is conclusive evidence that the document is on file with the secretary of state.

Sec. 31. 11B V.S.A. § 1.40 is amended to read:

§ 1.40. DEFINITIONS

* * *

(4) “Bylaws” means the code or codes of rules (other than the articles) adopted pursuant to this title for the regulation or management of the affairs of the corporation, stored or depicted in any tangible or electronic medium, and irrespective of the name or names by which such rules are designated.

* * *

(8) “Deliver” ~~includes mail~~ or “delivery” means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission.

* * *

(35) “Electronic transmission” or “electronically transmitted” means a process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(36) “Meeting” means any structured communications conducted by participants in person or through the use of an electronic or telecommunications medium permitting simultaneous or sequentially structured communications.

(37) “Sign” or “signature” includes any manual, facsimile, conformed, or electronic signature.

Sec. 32. 11B V.S.A. § 1.41(b) and (c) are amended to read:

(b) Notice may be communicated in person; by telephone, voice mail, telegraph, teletype, facsimile, or other form of wire ~~or~~ wireless, or electronic communication; or by mail or private carrier, or other method of delivery. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(c) Notice to members. Written notice by a domestic or foreign corporation to its members, if in a comprehensible form, is effective when:

(1) mailed first class postpaid and correctly addressed to the members address as shown in the corporation’s current record of members; or

(2) electronically transmitted to the member in a manner authorized by the member.

Sec. 33. 11B V.S.A. § 7.01(f) is amended to read:

(f) An annual or regular meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conferencing telecommunication.

Sec. 34. 11B V.S.A. § 7.02(f) is amended to read:

(f) A special meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conferencing telecommunication.

Sec. 35. 11B V.S.A. § 7.04(e) is added to read:

(e) For purposes of this section, written consent may be evidenced by an electronic communication or an electronic record.

Sec. 36. 11B V.S.A. § 8.20(c) is amended to read:

(c) Unless the articles of incorporation or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously ~~hear~~ communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 37. 11B V.S.A. § 16.01(d) and (e) are amended to read:

(d) A corporation shall maintain its records in written form or in another form, including electronic form, capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office (or, if none in this state, then the registered office):

* * *

(5) all written or electronic communications to members generally within the past three years, including the financial statements furnished for the past three years under section 16.20 of this title;

* * *

Sec. 38. 11A V.S.A. § 2.06(b) is amended to read:

(b) The bylaws of a corporation may contain any provisions for managing the business and regulating the affairs of the corporation that are not inconsistent with law or the articles of incorporation, and may be stored or depicted in any tangible or electronic medium.

* * * Vermont Public Power Supply Authority * * *

Sec. 39. 30 V.S.A. § 5012 is amended to read:

§ 5012. GENERAL POWERS AND DUTIES

The authority shall have all of the powers necessary and convenient to carry out this chapter, including without limitation those general powers provided a business corporation by section 1852 of Title 11, and including, without limiting the generality of the foregoing, the power:

* * *

(12) ~~jointly or~~ jointly with utilities or on its own to plan, finance, acquire, construct, improve, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of, or otherwise participate in projects or portions of projects, the product or service from them, securities or obligations issued or incurred in connection with the financing of them, or research and development relating to them, within or outside the state. It may also enter into and perform contracts with any person with respect to the foregoing. If the authority acquires or owns an interest as a tenant in common with others in any projects within the state, the surrender or waiver by the other property owner of its right to partition the property for a period not exceeding the period for which the property is used or useful for electric utility purposes shall not be invalid and unenforceable by reason of length of the period, or as unduly restricting the alienation of such property;

* * *

(17) to make and execute all contracts and agreements and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter; ~~and~~

(18) to enter into contracts determined by the authority to be useful for the prudent management of its assets, purchases, funds, debts, or fuels, including interest rate or other swaps, option contracts, future contracts, forward purchase contracts, hedging contracts, and leases or other risk management instruments to the full extent that a business corporation is authorized to enter into such contracts;

(19) to acquire stock, shares, securities, membership units, or other equity or participation interests in entities that directly or indirectly construct, own, or operate electric generation or transmission facilities within or outside the state to the full extent that a business corporation is authorized to acquire such interests; and

~~(18)~~(20) to do all things necessary, convenient or desirable to carry out the purposes of this chapter or the powers expressly granted or necessarily implied in this chapter.

Sec. 40. 30 V.S.A. § 5013 is amended to read:

§ 5013. SPECIAL POWERS

* * *

(c) A municipality or cooperative shall be obligated to fix, revise and collect fees and charges for electric power and energy and other services, facilities and commodities furnished or supplied through its electric ~~department~~ ~~or~~ system at least sufficient to provide revenues adequate to meet its obligations under any such output and capacity contract and to pay all other amounts payable from or constituting a charge and lien upon those revenues.

* * *

(e) The authority and any member municipality or cooperative or other utility (whether or not such utility is a member of the authority) that is acting pursuant to a contract with the authority may expend its funds, including without limitation the proceeds of its notes, bonds, or other obligations, for the purposes of modifying demand for electric capacity or energy through conservation or load management by participation in such facilities, projects, and programs as the board of the authority or the legislative body or other governing body or the governing board of the member municipality or cooperative or other utility, as the case may be, determines will effectively accomplish such purposes. Such facilities, projects, and programs may include, but shall not be limited to, providing or financing facilities or projects for conservation or load management, which may be: (i) owned or operated by the authority or any member municipality or cooperative or other utility or by others; (ii) leased or licensed by the authority or any member municipality or cooperative or other utility to others, or financed by ~~loans~~ loans by the authority or any member municipality or cooperative or other utility to others, in either case on such terms and conditions as the board of the authority or the legislative body or other governing body or the governing board of the member municipality or cooperative or other utility, as the case may be, may determine. Any member municipality or cooperative or other utility may issue its notes, bonds or other obligations pursuant to any statutory authority conferring such power for carrying out the purposes of this subsection.

Sec. 41. 30 V.S.A. § 5017 is amended to read:

§ 5017. POWERS OF MUNICIPALITIES

A municipality, ~~after an affirmative vote of the qualified voters at any duly warned annual or special meeting to be held for that purpose,~~ may by resolution of its legislative body enter into contracts with the authority for the purchase, sale, exchange, or transmission of electric energy and other services, on such terms and for such period of time as the resolution may provide. A municipality may by resolution of its legislative body enter into a contract with the authority related to the issuance of bonds and notes as authorized by

section 5031 of this title only after an affirmative vote of the qualified voters at any duly warned annual or special meeting held for that purpose. The required vote may either approve a specific contract with the authority or it may approve generally the right for the municipality to enter into all such contracts with the authority by resolution of its legislative body. A municipality may appropriate electricity-derived revenues received in any year to make payments due during that year under any contract made by the municipality with the authority. Nothing in this section shall be construed to repeal any charter provision or law requiring an election or other condition precedent to the establishment of a municipal electric plant.

Sec. 42. 30 V.S.A. § 5031 is amended to read:

§ 5031. BONDS AND NOTES

(a)(1) The authority may issue its negotiable notes and bonds in such principal amount as the authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the authority, establishment of reserves to secure the notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Without limiting the generality of the foregoing, such bonds and notes may be issued for project costs, or the authority's share of costs of projects which may include:

* * *

(5) The notes and bonds shall be authorized by resolution or resolutions of the authority, shall bear such date or dates and shall mature at such time or times as the resolution or resolutions may provide. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination of them. The resolution or resolutions may provide that the notes and bonds bear interest at a given rate or rates, be in certain denominations, be in temporary, coupon or registered form, carry certain registration privileges, be executed in a given manner, be payable in a given medium of payment, at a place or places within or without the state, and be subject to specified terms of redemption. The authority may participate in any state or federally created or supported bond programs. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine.

* * *

* * * International Trade Agreements: Prior Approval * * *

Sec. 43. 9 V.S.A. chapter 111A is added to read:

CHAPTER 111A. APPROVAL OF INTERNATIONAL TRADE
AGREEMENTS

§ 4125. FINDINGS AND PURPOSE

The general assembly makes the following findings of fact:

(1) Today's international trade agreements have impacts which extend significantly beyond the bounds of traditional trade matters such as tariffs and quotas. Restrictive government procurement rules, for example, may undermine state purchasing laws and preferences that are designed to promote good jobs and a healthy environment.

(2) Economic development and environmental policies that might be constrained by government procurement provisions in international trade agreements include buy-local laws, recycled-content laws, and renewable energy purchasing requirements. Measures that conflict with obligations in one or more international trade agreements could be challenged as potential barriers to trade.

(3) Currently, the Office of the United States Trade Representative asks state governors, without input from state legislatures, whether they will commit state purchasing to trade rules. States, through their governors, may opt into or out of trade rules dealing with government procurement.

(4) Historically, the general assembly and the governor have worked together to adopt and implement state procurement policies. The decision to consent to the coverage of Vermont under procurement provisions of international trade agreements should also include consultation with the legislative branch.

(5) If new trade rules permit states to opt into or out of trade rules dealing with investment and services, in addition to procurement, then the general assembly intends for the procedures in this chapter to apply to those provisions as well.

§ 4126. DEFINITIONS

As used in this chapter:

(1) "Commission" means the commission on international trade and state sovereignty established in 3 V.S.A. § 23.

(2) "International trade agreement" or "trade agreement" means a trade agreement between the federal government and a foreign country. It does not include a trade agreement between the state and a foreign country to which the federal government is not a party.

§ 4127. APPROVAL OF TRADE AGREEMENTS

(a) If the United States government provides the state with the opportunity to consent to or reject binding the state to a trade agreement, or a provision within a trade agreement, then an official of the state, including the governor, may not bind the state or give consent to the United States government to bind the state in those circumstances, except as provided in this section.

(b) When a communication from the United States trade representative concerning a trade agreement provision is received by the state, the governor shall submit a copy of the communication and the proposed trade agreement, or relevant provisions of the trade agreement, to the chairs of the commission, the president pro tempore of the senate, the speaker of the house of representatives, and the relevant legislative standing committees of jurisdiction.

(c) The commission shall review and analyze the trade agreement and issue a recommendation on the potential impact of the trade agreement to the governor.

(d) Prior to binding the state to the trade agreement, the governor shall consider the commission's recommendation and then shall report his or her intended action on the trade agreement to the members of the emergency board. A majority of the emergency board may request an opportunity to consider the issue at a meeting and make a recommendation to the governor prior to the governor binding the state.

(e) Upon completion of the consultation process provided for in this section, the governor may bind the state to the trade agreement.

Sec. 44. 3 V.S.A. § 23(b) is amended to read:

(b) Membership. There is created a commission on international trade and state sovereignty consisting of:

(1) ~~the chair of the house committee on commerce or his or her designee~~ two legislators appointed by the speaker of the house;

(2) ~~the chair of the senate committee on economic development, housing and general affairs or his or her designee~~ two legislators appointed by the committee on committees;

(3) a representative of a nonprofit environmental organization, appointed by the governor from a list provided by the Vermont Natural Resources Council;

(4) a representative of organized labor, appointed by the governor from a list provided by Vermont AFL-CIO, Vermont NEA, and the Vermont state employees' association;

(5) the secretary of commerce and community development or his or her designee;

(6) the attorney general or his or her designee;

(7) a representative of an exporting Vermont business, appointed by the governor; ~~and~~

(8) a representative of a Vermont business actively involved in international trade, appointed by the governor;

(9) the secretary of agriculture or his or her designee;

(10) a representative of a human rights organization, appointed by the governor; and

(11) a representative of a Vermont chamber of commerce, appointed by the governor.

* * * Effective Date * * *

Sec. 45. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal 2/25/2010)

Ordered to Lie

H.R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

Pending Question: Shall the House adopt the resolution?

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 3/12/2010.

H.C.R. 271

House concurrent resolution commemorating the Green Mountain Club on its centennial anniversary

H.C.R. 272

House concurrent resolution honoring the South Burlington Community Library children's librarian Marje Von Ohlsen

S.C.R. 41

Senate concurrent resolution in memory of former Representative and Senator Nancy Chard

S.C.R. 42

Senate concurrent resolution congratulating Ruth (Riddick) McLaine of St. Johnsbury on her 100th birthday

S.C.R. 43

Senate concurrent resolution congratulating Julie Brill on her confirmation as a member of the Federal Trade Commission

Information Notice

CROSS OVER GUIDELINES

The following are the guidelines concerning cross over :

1. All bills should be reported out of committee and brought into the Clerk's office by Friday March 12, 2010. This does not apply to the Appropriations bill, the Capital Construction bill or the Transportation Construction bill.
2. The Appropriations and Ways & Means committees need to have their bills reported out and brought into the Clerk's office by Friday, March 19, 2010.

INFORMATION NOTICE

The following items were recently received by the Joint Fiscal Committee:

JFO #2433 — \$3,999,923 grant from the U.S. Department of Labor to the Vermont Department of Labor. These funds will be used to study the demand for Green Jobs in Vermont and the northeast. Vermont will act as the lead administrative state for this collaboration with Massachusetts, Connecticut, Maine, New York, New Hampshire, and the District of Columbia. Vermont's share of this award is approximately \$530,000. The establishment of two (2) limited service positions are associated with this request, as is the retention of two existing positions. This grant is awarded under the American Recovery and Reinvestment Act.

[JFO received 3/4/10]

JFO #2434 — \$10,466 grant from the University of Vermont to Agriculture, Food & Markets. These funds will be used to provide oversight of

the voluntary John's disease program, review risk assessment and management plans, and process invoices for participating veterinarians.

[JFO received 3/4/10]

JFO #2435 — \$40,000 donation from the Watershed Center (Bristol, Vermont) to the Department of Fish & Wildlife. This funding represents 25% of the purchase price for a conservation easement in the Town of Bristol.

[JFO received 3/09/10]

JFO #2436 — \$951,000 grant from the U.S. Department of Labor to the Department of Disabilities, Aging and Independent Living. This grant will be used to further develop a statewide employment-focused Neuro-Resource Facilitation (NRF) System for disabled veterans with Traumatic Brain Injury in Vermont. This grant includes a request for two limited service positions.

[JFO received 3/09/10]

JFO #2437 — \$293,998 grant from the U.S. Department of Health & Human Services to the Office of Vermont Health Access. This grant will be used to support the development of a State Medicaid Health Information Technology Plan (SMHP). The establishment of two (2) limited service positions are associated with this request. This grant is awarded under the American Recovery and Reinvestment Act.

[JFO received 3/09/10]