

Journal of the Senate

THURSDAY, APRIL 19, 2012

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 51

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 762. An act relating to workers' compensation and unemployment compensation.

H. 787. An act relating to approval of amendments to the charter of the city of Montpelier.

In the passage of which the concurrence of the Senate is requested.

The House has considered a bill originating in the Senate of the following title:

S. 209. An act relating to naturopathic physicians.

And has passed the same in concurrence.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 57. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 403. An act relating to foreclosure of mortgages.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The Governor has informed the House that on the April 18, 2012, he approved and signed a bill originating in the House of the following title:

H. 634. An act relating to remedies for failure to pay municipal tickets.

Bill Ordered to Lie

Senator Lyons moved that the rules be suspended and that House bill entitled:

H. 774. An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths.

be committed to the Committee on Natural Resources and Energy with the reports of the Committees on Agriculture and on Finance *intact*,

Thereupon, pending the question, Shall the bill be committed to the Committee on Natural Resources and Energy with the reports of the Committees on Agriculture and on Finance *intact*?, Senator Lyons requested and was granted leave to withdraw the request and moved that the bill be ordered to lie.

Which was agreed to.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 762.

An act relating to workers' compensation and unemployment compensation.
To the Committee on Rules.

H. 787.

An act relating to approval of amendments to the charter of the city of Montpelier.

To the Committee on Rules.

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 53. An act relating to the Interstate Wildlife Violator Compact.

H. 440. An act relating to creating an agency and secretary of education and clarifying the purpose of the state board.

H. 464. An act relating to a moratorium on hydraulic fracturing wells for natural gas and oil production.

H. 484. An act relating to amendment to the Windham solid waste district charter.

Point of Order; Consideration Postponed

S. 169.

Senator Ashe, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to workers' compensation liens.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds:

(1) Several recent cases involving the search and rescue of persons lost in Vermont's outdoor recreation areas, including the tragic death of Levi Duclos on January 9, 2012 as he was hiking on the Emily Proctor Trail in Ripton, have raised questions concerning whether supervision of backcountry search and rescue operations should be maintained by the department of public safety or shared with or transferred to another governmental entity and whether regional protocols should be put into place to allow for a local or regional response utilizing a combination of qualified professional and qualified volunteer searchers and rescuers.

(2) Under current law and practice, the Vermont State Police division of the department of public safety has primary responsibility for finding lost hikers and other missing people in areas of the state which do not have municipal police departments and has the authority to call out qualified professional and qualified volunteer services. This duty was assigned when the Vermont State Police were first created in 1946 and has not changed since that time. According to Howard Paul, a public information officer and member of the board of directors of the National Association for Search and Rescue, Vermont is one of only five states that require their state police to find and rescue people who are lost or missing outdoors.

(3) In other states in which a significant amount of outdoor recreational activity occurs, such as New Hampshire and Maine, state fish and game agencies are in charge of finding lost outdoor recreationalists. Most eastern states turn to park rangers and fish and game wardens for search and rescue.

(4) Many states collaborate with nonprofit organizations to aid in search and rescue. For example, the Maine Warden Service is in charge of search and rescue throughout that state, and it relies on the Maine Association for Search and Rescue, which is composed of approximately 15 approved member organizations.

(5) Vermont has an extensive number of first responders and emergency service personnel with specific training and experience conducting outdoor search and rescue operations. The Lincoln Fire Department, for example, has significant search and rescue experience, well-established strategies for conducting such operations, and the ability to have a team on the ground in sometimes 30 minutes or less on nights and weekends. Despite these resources, only four civilian organizations are approved by the department of public safety to provide search and rescue assistance in Vermont.

(6) In light of Vermont's minority status in charging the state police with responsibility for search and rescue of lost hikers and outdoor recreationalists and in light of the department's recent challenges in fulfilling this responsibility, it is an appropriate time to consider whether some other state entity, working with Vermont's extensive volunteer community, should assume responsibility for outdoor search and rescue operations.

Sec. 2. BACKCOUNTRY SEARCH AND RESCUE STUDY COMMITTEE

(a) Creation of committee. There is created a backcountry search and rescue study committee to determine whether the department of public safety or a different state agency should have lead or coauthority for supervising search and rescue operations for missing persons in Vermont's backcountry and outdoor recreational areas and to recommend an appropriate organizational structure to manage Vermont's various search and rescue resources. As used in the section, "backcountry search and rescue" means the search for and provision of aid to people who are lost or stranded in the outdoors on Vermont's land or inland waterways.

(b) Membership. The backcountry search and rescue study committee shall be composed of six members. The members of the committee shall be as follows:

(1) Three members of the house appointed by the speaker.

(2) Three members of the senate appointed by the committee on committees.

(c) For purposes of its study, the committee shall consult with and seek testimony from interested parties, including the following individuals and entities or their designees:

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- (1) The commissioner of public safety.
 - (2) The commissioner of fish and wildlife.
 - (3) The Vermont League of Cities and Towns.
 - (4) Stowe Mountain Rescue.
 - (5) Colchester Technical Rescue.
 - (6) A certified first responder with search and rescue experience.
 - (7) The Professional Firefighters of Vermont.
 - (8) A member of a volunteer fire department with search and rescue experience designated by the president of the Vermont State Firefighters Association.
 - (9) A sheriff designated by the department of sheriffs and state's attorneys.
- (d) Powers and duties. The committee shall study whether the department of public safety or a different state agency should be responsible for supervising search and rescue operations for missing persons in Vermont's backcountry and outdoor recreational areas. The committee's study shall include:
- (1) reviewing the existing method and responsibility for conducting backcountry search and rescue operations in Vermont and identifying the advantages and disadvantages of the current system;
 - (2) considering models in other states for supervision of backcountry search and rescue operations, including the New Hampshire approach of providing authority to the New Hampshire fish and game department;
 - (3) evaluating whether backcountry search and rescue operations would be conducted in a more timely and efficient manner if the authority for conducting such operations were held by one or more state or nongovernmental entities other than the department of public safety or whether there should be a shared or regional approach depending on the location of the search;
 - (4) considering and evaluating different organizational structures to determine how to most effectively manage Vermont's backcountry search and rescue processes and resources;
 - (5) considering whether minimum qualifications should be set for participation in backcountry search and rescue operations and whether backcountry search and rescue responders who are not state employees should be provided with insurance coverage;

(6) considering the feasibility of establishing an online database of missing persons that would provide automatic notice to first responders;

(7) developing methods of financing search and rescue operations, including consideration of methods used in other states such as:

(A) establishing an outdoor recreation search and rescue card available for purchase by users of outdoor recreation resources on a voluntary basis to help reimburse the expenses of search and rescue missions;

(B) imposing fees on recreational and outdoor licenses and permits; and

(C) permitting recovery of expenses from any person whose negligent conduct required a search and rescue response and, if so, who should bring such an action and who should be reimbursed; and

(8) proposing any statutory changes that the committee identifies as necessary to improve the conduct and supervision of backcountry search and rescue activities in Vermont.

(e) Report. The committee shall report its findings and recommendations, together with draft legislation if any legislative action is recommended, to the general assembly on or before January 15, 2013.

(f) Reimbursement. Members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set forth in 32 V.S.A. § 1010.

(g) The legislative council shall provide administrative and drafting support to the committee.

After passage, the title of the bill is to be amended to read:

An act relating to a study of search and rescue operations.

And that when so amended the bill ought to pass.

Thereupon, pending the report of the Committee on Appropriations, Senator Snelling raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Ashe was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Ashe was *not germane* to the bill.

The President thereupon declared that the proposal of amendment offered by Senator Ashe could *not* be considered by the Senate and the recommendation of amendment was ordered stricken.

Thereupon, Senator Ashe moved to suspend the rules in order to permit consideration of the proposal of amendment of the Committee on Economic Development, Housing and General Affairs. Thereupon, pending the question, Senator Ashe moved that action on the bill be postponed until the next legislative day. Which was agreed to.

Proposals of Amendment; Third Reading Ordered

H. 789.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, by striking out districts BENNINGTON-3-1 and BENNINGTON-3-2 in their entirety and inserting in lieu thereof the following:

<u>BENNINGTON-3-1</u>	<u>Glastenbury and Shaftsbury</u>	<u>1</u>
<u>BENNINGTON-3-2</u>	<u>Arlington, Sandgate, Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the centerline of VT 153 to the intersection of East Street; then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road; then easterly along the southern side and southerly along the western side of the centerline of Kent Hollow Road to the boundary of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning</u>	<u>1</u>

Second: By striking out districts CHITTENDEN-4-1 and CHITTENDEN-4-2 in their entirety and inserting in lieu thereof the following:

<u>CHITTENDEN-4-1</u>	<u>Charlotte</u>	<u>1</u>
<u>CHITTENDEN-4-2</u>	<u>Hinesburg</u>	<u>1</u>

Third: By striking out Sec. 3 (effective date) in its entirety and inserting in lieu thereof the following:

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

§ 1881. NUMBER TO BE ELECTED

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

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

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

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

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

(5) Essex-Orleans senatorial district, composed of the towns of Albany, Averill, Avery's Gore, Barton, Bloomfield, Brighton, Brownington, Brunswick, Canaan, Charleston, Concord, Coventry, Craftsbury, Derby, East Haven, Eden, Ferdinand, Glover, Granby, Greensboro, Guildhall, Holland, Irasburg, Jay, Lemington, Lewis, Lowell, Lunenburg, Maidstone, Montgomery, Morgan, Newport City, Newport Town, Norton, Richford, Troy, Victory, Warner's Grant, ~~Warren's~~ Warren Gore, Westfield, Westmore, and Wolcott..... two;

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

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

(8) Lamoille senatorial district, composed of the towns of Belvidere, Cambridge, Elmore, Hyde Park, Johnson, Morrystown, Stowe₂ and Waterville..... one;

(9) Orange senatorial district, composed of the towns of Braintree, Brookfield, Chelsea, Corinth, Randolph, Strafford, Thetford, Tunbridge, Vershire, Washington₂ and Williamstown..... one;

(10) Rutland senatorial district, composed of the towns of Benson, Brandon, Castleton, Chittenden, Clarendon, Danby, Fair Haven, Hubbardton, Ira, Killington, Mendon, Middletown Springs, ~~Mt. Holly~~, Mt. Tabor, Pawlet, Pittsfield, Pittsford, Poultney, Proctor, Rutland City, Rutland Town, Shrewsbury, Sudbury, Tinmouth, Wallingford, Wells, West Haven₂ and West Rutland..... three;

(11) Washington senatorial district, composed of the towns of Barre City, Barre Town, Berlin, Cabot, Calais, Duxbury, East Montpelier, Fayston, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Warren, Waterbury, Woodbury₂ and Worcester..... three;

(12) Windham senatorial district, composed of the towns of Athens, Brattleboro, Brookline, Dover, Dummerston, Grafton, Guilford, Halifax, Jamaica, Londonderry, Marlboro, Newfane, Putney, Rockingham, ~~Somerset~~, Stratton, Townshend, Vernon, Wardsboro, Westminster, Whitingham₂ and Windham..... two;

(13) Windsor senatorial district, composed of the towns of Andover, Baltimore, Barnard, Bethel, Bridgewater, Cavendish, Chester, Hartford, Hartland, Ludlow, Mt. Holly, Norwich, Plymouth, Pomfret, Reading, Rochester, Royalton, Sharon, Springfield, Stockbridge, Weathersfield, Weston, West Windsor, Windsor₂ and Woodstock..... three.

Sec. 4. EFFECTIVE DATE

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

And that after passage the title of the bill be amended to read:

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

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to

amend the bill as recommended by the Committee on Reapportionment? Senator Galbraith raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator White as it related to the moving of county boundaries was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, Senator Galbraith requested and was granted leave to withdraw his request for a point of order.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Reapportionment?, Senator Flory moved to amend the proposal of amendment of the Committee on Reapportionment, by striking out the first and second proposals of amendment in their entirety.

Which was disagreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Reapportionment?, Senator Mullin moved to amend the proposal of amendment of the Committee on Reapportionment, by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

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

§ 1893. INITIAL DIVISION

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

District	Towns and Cities	Representatives
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* * *

BENNINGTON-3	Arlington, Glastenbury, Sandgate, Shaftsbury, Stratton , Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the centerline of VT 153 to the intersection of East Street ; then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road ; then southerly along the western side of the centerline of Kent Hollow Road to the boundary of the town of Sandgate ; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning <u>VT Route</u>	
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315; then northeasterly along the eastern side of the centerline of VT 315 to the boundary of the town of Dorset; then southerly along the Dorset town line to the boundary of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning

2

* * *

- CHITTENDEN-4-1 ~~Charlotte and, in Hinesburg, the following~~
census block 003507: 1039 that portion of the town of Hinesburg encompassed within a boundary beginning at the point where the boundary line of Hinesburg and Charlotte intersects with Drinkwater Road; then easterly along the southern side of the centerline of Drinkwater Road to the intersection of Baldwin Road; then southerly along the western side of the centerline of Baldwin Road to the boundary of the town of Monkton; then westerly along the Monkton town line to the boundary of Charlotte; then northerly along the Charlotte town line to the point of beginning 1
- CHITTENDEN-4-2 Hinesburg, except that portion of the town in CHITTENDEN-4-1 1
- CHITTENDEN-5 Shelburne and St. George 2
- CHITTENDEN-6 Burlington and Winooski 12
- CHITTENDEN-7 South Burlington 4
- CHITTENDEN-8-1 That portion of the town of Essex not included in CHITTENDEN-8-2 or 8-3 2
- CHITTENDEN-8-2 The village of Essex Junction, except ~~the~~
following census block 002601: 1023 that portion of the village encompassed within a boundary beginning at the point where Pearl Street intersects with Warner Avenue; then northerly along the western side of the centerline of Warner Avenue to the intersection with Sunderland Brook; then northwesterly along the southern side of the centerline of Sunderland Brook to the intersection with Susie Wilson Road and Pearl Street; then southeasterly along the northern side of the centerline of Pearl Street to the point of beginning 2

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- CHITTENDEN-8-3 Westford and that portion of the town of Essex encompassed within a boundary beginning at the point where the boundary line of Essex and the town of Colchester intersects with Curve Hill Road; then southeasterly along the northern side of the centerline of Curve Hill Road to the intersection of Lost Nation Road; then southeasterly along the northern side of the centerline of Lost Nation Road to the intersection of Old Stage Road; then northerly along the western side of the centerline of Old Stage Road to the intersection of Towers Road; then southeasterly along the northern side of the centerline of Towers Road to the intersection of ~~Clover Drive; then northeasterly along the western side of the centerline of Clover Drive to the intersection with Alder Brook; then southeasterly along the northern side of the centerline of Alder Brook to the intersection with~~ Brown's River Road; then easterly along the northern side of the centerline of Brown's River Road to the intersection of Weed Road; then easterly along the northern side of the centerline of Weed Road to the intersection of Jericho Road; then easterly along the northern side of the centerline of Jericho Road to the boundary of the town of Jericho; then northeasterly along the Jericho town line to the boundary of Westford; then westerly along the Westford town line to the boundary of Colchester; then southwesterly along the Colchester town line to the point of beginning 1
- CHITTENDEN-9 Colchester 4
- * * *
- LAMOILLE-2 Belvidere, Hyde Park, Johnson, and Wolcott, ~~and that portion of the town of Eden not in~~
ORLEANS LAMOILLE 2
- * * *
- ORLEANS-2 Coventry, Irasburg, Newport City, ~~and~~ Newport Town, and that portion of the town of Troy encompassed within a boundary beginning at the point where the boundary line of Troy and Newport Town intersects

with the Canadian Pacific railway; then northwesterly along the southern side of the centerline of the railway to the intersection of VT Route 105; then northwesterly along the southern side of the centerline of VT 105 to the intersection of East Hill Road; then southerly along the eastern side of the centerline of East Hill Road to the intersection of VT Route 100; then westerly along the southern side of the centerline of VT 100 to the intersection with the Missisquoi River; then southwestly along the eastern side of the centerline of the Missisquoi River to the boundary of the town of Westfield; then southerly along the Westfield town line to the boundary of the town of Lowell; then easterly along the Lowell town line to the boundary of Newport Town; then northerly along the Newport Town boundary to the point of beginning 2

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ORLEANS-

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

RUTLAND-

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

RUTLAND-1

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

RUTLAND-2

Clarendon, Prætor, Shrewsbury, Tinmouth, Wallingford, and West Rutland 2

RUTLAND-3	Castleton, Fair Haven, Hubbardton, <u>Sudbury</u> , and West Haven	2
	* * *	
RUTLAND-6	Brandon, Pittsford, and Sudbury <u>Proctor</u>	2
RUTLAND-		
WINDSOR-1		
RUTLAND-		
<u>WINDSOR</u>	Bridgewater, Chittenden, Killington, and Mendon	1
RUTLAND-		
WINDSOR-2	Ludlow, Mount Holly, and Shrewsbury	1
	* * *	
WINDHAM-5	Marlboro, Newfane, and that portion of the town of Townshend not in <u>WINDHAM-BENNINGTON</u>	1
WINDHAM-6	Halifax, Whitingham, and <u>Wilmington, and that portion of the town of Whitingham not in</u> <u>WINDHAM-BENNINGTON</u>	1
WINDHAM-		
BENNINGTON	Dover, Readsboro, Searsburg, Somerset, Stamford, Wardsboro, and that portion of the town of Townshend <u>Whitingham</u> encompassed within a boundary beginning at the northernmost point where the boundary line of Townshend and the town of Wardsboro intersects with West Hill Road; then northerly along the eastern side and easterly along the southern side of the centerline of West Hill Road to the intersection of State Forest Road; then easterly along the southern side and southerly along the western side of the centerline of State Forest Road to the boundary of the town of Newfane; then westerly along the town line of Newfane to the boundary line of Wardsboro; then northerly along the town line of Wardsboro to the <u>point of beginning point where the boundary line of</u> <u>Whitingham and Readsboro intersects with VT Route</u> <u>100; then southerly along the Readsboro town line to the</u>	

boundary of the state of Massachusetts; then easterly along the Massachusetts state line to the intersection of Kentfield Road; then northerly along the western side of the centerline of Kentfield Road to the intersection with the Nog Brook; then northerly along the western side of the centerline of Nog Brook to the intersection with VT 100; then southerly along the eastern side and westerly along the southern side of the centerline of VT 100 to the point of beginning 1

WINDHAM-

BENNINGTON-

WINDSOR

Jamaica, Londonderry, Stratton, Weston, and Winhall

1

* * *

WINDSOR-3-1

Andover, Baltimore, Chester, and that portion of the town of Springfield encompassed within a boundary beginning at the point where the boundary line of Springfield and Chester intersects with Route 10; then easterly along the southern side of the centerline of Route 10 to the intersection of Cemetery Road; then easterly along the southern side of the centerline of Cemetery Road to the intersection of School Street; then southerly on the western side of the centerline of School Street to the intersection of Main Street; then easterly on the southern side of the centerline of Main Street to the intersection of Church Street; then southerly along the western side of the centerline of Church Street to the intersection ~~with Great Brook; then southerly along the western side of the centerline of Great Brook to the intersection with~~ Spoonerville Road; then southerly along the western side of the centerline of Spoonerville Road to the boundary line of Chester; then northerly along the Chester town line to the point of beginning 1

WINDSOR-3-2

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

2

WINDSOR-4-1

Barnard, that portion of the town of Pomfret not in WINDSOR-5, and that portion of the town of Hartford encompassed within a boundary beginning

- at the point where the boundary line of Hartford and the town of Norwich intersects with Newton Lane; then southerly along the western side of the centerline of Newton Lane to the intersection of Jericho Street; then westerly along the northern side of the centerline of Jericho Street to the intersection of Dothan Road; then southerly along the western side of the centerline of Dothan Road to the intersection of VT Route 14; then westerly along the northern side of the centerline of VT Route 14 to the intersection of the centerline of Runnels Road and VT Route 14; then at a right angle to a utility pole marked 137T/6 ET&T/3>/136/GMP Corp/156/40030 on the south edge of Route 14; then southerly in a straight line across the White River to the junction of Old River Road and the beginning of Costello Road; then southerly and easterly along the centerline of Costello Road to its end on U.S. Route 4; then westerly along the northern side of the centerline of U.S. Route 4 to the boundary of the town of Hartland; then westerly and northerly along the town line of Hartland to the boundary of Pomfret; then northeasterly along the town line of Pomfret to the boundary of Norwich; then southeasterly along the town line of Norwich to the point of beginning 1
- WINDSOR-4-2 That portion of the town of Hartford not located in WINDSOR-4-1 2
- WINDSOR-5 Plymouth, Reading, and Woodstock, and that portion of the town of Pomfret encompassed within a boundary beginning at the point where the boundary line of Pomfret and the town of Barnard intersects with Stage Road; then southeasterly along the southern side of the centerline of Stage Road to the intersection of Pomfret Road; then southeasterly along the southern side of the centerline of Pomfret Road to the boundary of Woodstock; then westerly along the Woodstock town line to the boundary of Barnard; then northerly along the Barnard town line to the point of beginning 1

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WINDSOR-

RUTLAND-1 Ludlow, Mount Holly, and Plymouth 1

~~WINDSOR-~~~~RUTLAND~~WINDSOR-

RUTLAND-2 Bethel, Pittsfield, Rochester, and Stockbridge 1

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Reapportionment be amended as proposed by Senator Mullin?, Senator Mullin requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Reapportionment?, Senator Sears moved to amend the proposal of amendment of the Committee on Reapportionment, by adding two new sections to be numbered Sec. 4 and Sec. 5 to read as follows:

Sec. 4. 24 V.S.A. § 3 is amended to read:

§ 3. BENNINGTON

The county of Bennington is formed of the towns of Arlington, Bennington, Dorset, Landgrove, Manchester, Peru, Pownal, Readsboro, Rupert, Sandgate, Searsburg, Shaftsbury, Stamford, Sunderland, Winhall, Woodford, and the unorganized ~~township~~ townships of Glastenbury ~~and Somerset~~. Bennington and Manchester are the shire towns.

Sec. 5. 24 V.S.A. § 14 is amended to read:

§ 14. WINDHAM

The county of Windham is formed of the towns of Athens, Brattleboro, Brookline, Dover, Dummerston, Grafton, Guilford, Halifax, Jamaica, Londonderry, Marlboro, Newfane, Putney, Rockingham, Stratton, Townshend, Vernon, Wardsboro, Westminster, Whitingham, Wilmington, and Windham ~~and the unorganized township of Somerset~~. Newfane is the shire town.

And by renumbering the remaining sections to be numerically correct

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Sears? Senator Galbraith raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Sears was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Sears was *not germane* to the bill.

The President explained that in deciding a question of germaneness, the threshold determination must be that of the subject matter of the bill and amendment under consideration. The bill as it stands deals with House legislative districts. The amendment deals with changing county lines. Thus, I find the amendment does not flow in a natural and logical sequence to the subject matter of the bill as it stands, and that it introduces a different topic or subject. As such, the proposed amendment is *not germane* to H.789 and may not be considered by the Senate.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Reapportionment?, Senator Westman moved that the Senate propose to the House that the bill be amended as follows:

First: In Sec. 3, 17 V.S.A. § 1881, in subdivision (5) (Essex-Orleans senatorial district), after “East Haven,” by striking out the word “Eden,”

Second: In Sec. 3, 17 V.S.A. § 1881, in subdivision (8) (Lamoille senatorial district), after “Cambridge,” by inserting the word Eden,

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Reapportionment, as amended?, Senator Sears raised a point of order regarding the constitutionality of the recommendation of proposal of amendment of the Committee on Reapportionment with respect to the Township of Somerset being in the Bennington Senatorial District.

Thereupon, citing Mason’s Manual of Legislative Procedure Section 242, the President *overruled* the point of order as it is not within the province of the Presiding Officer to decide as to the constitutionality of an amendment, or the legal effect of or expediency of a proposed amendment or bill.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Reapportionment, as amended?, was decided in the affirmative on a roll call, Yeas 26, Nays 2.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Campbell, Carris, Cummings, Doyle, *Flory, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: Brock, *Galbraith.

Those Senators absent and not voting were: Fox, Mullin.

*Senator Galbraith explained his vote as follows:

“I am concerned that this reapportionment plan is unconstitutional. Like it or not, the US and Vermont constitutions say we represent people not territory. Population growth in Vermont has been in the Northwest. Based on population, the four northwest Senate districts should have eleven Senators. This plan only provides them ten.

“I attended enough meetings of the Reapportionment Committee to understand that the primary motive for the 18.29 % deviation in this bill is to preserve the status quo. This is not a constitutionally permissible reason for a deviation that is far beyond that of any state except for Hawaii.

“I regret that the Reapportionment Committee did not make a verbatim record of its deliberations, as would have been the case had the Senate not abruptly amended its rules to strip the Government Operations Committee of its responsibility for reapportionment. The Committee minutes are a poor substitute for a verbatim recording as they do not reflect how much the Committee focused on maintaining the status quo and how little justification there was for the resulting deviation. The failure to keep a verbatim record hurts Vermonters wishing to exercise their constitutional and statutory rights to challenge this plan in the Courts.”

*Senator Flory explained her vote as follows:

“I reluctantly vote yes, with reservations because of the high deviation in the House portion of the bill being passed, but with the hope that this will be addressed in Conference.”

Thereupon, third reading of the bill was ordered.

Adjournment

On motion of Senator Campbell, the Senate adjourned until nine o'clock in the morning.