

# Journal of the House

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Friday, April 20, 2012

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by the Speaker.

## Message from the Senate No. 48

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

**H. 550.** An act relating to the Vermont administrative procedure act.

**H. 789.** An act relating to reapportioning the final representative districts of the House of Representatives.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

## House Bill Introduced

### H. 795

Reps. Lanpher of Vergennes and Clark of Vergennes introduced a bill, entitled

An act relating to a traffic light in the town of Ferrisburgh

Which was read the first time and referred to the committee on Transportation.

## Senate Bill Referred

### S. 99

Senate bill, entitled

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

Was read and referred to the committee on General, Housing and Military Affairs.

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

**H. 789**

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

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

Was taken up for immediate consideration.

The Senate proposed 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, 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<sub>2</sub> and South Hero..... one;

(8) Lamoille senatorial district, composed of the towns of Belvidere, Cambridge, Eden, Elmore, Hyde Park, Johnson, Morristown, Stowe<sub>2</sub> and Waterville..... one;

(9) Orange senatorial district, composed of the towns of Braintree, Brookfield, Chelsea, Corinth, Randolph, Strafford, Thetford, Tunbridge, Vershire, Washington<sub>2</sub> and Williamstown..... one;

(10) Rutland senatorial district, composed of the towns of Benson, Brandon, Castleton, Chittenden, Clarendon, Danby, Fair Haven, Hubbardton, Ira, Killington, Mendon, Middletown Springs, ~~Mt. Holly~~, Mt. Tabor, Pawlet, Pittsfield, Pittsford, Poultney, Proctor, Rutland City, Rutland Town, Shrewsbury, Sudbury, Tinmouth, Wallingford, Wells, West Haven<sub>2</sub> and West Rutland..... three;

(11) Washington senatorial district, composed of the towns of Barre City, Barre Town, Berlin, Cabot, Calais, Duxbury, East Montpelier, Fayston, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Warren, Waterbury, Woodbury<sub>2</sub> and Worcester..... three;

(12) Windham senatorial district, composed of the towns of Athens, Brattleboro, Brookline, Dover, Dummerston, Grafton, Guilford, Halifax, Jamaica, Londonderry, Marlboro, Newfane, Putney, Rockingham, ~~Somerset~~, Stratton, Townshend, Vernon, Wardsboro, Westminster, Whitingham<sub>2</sub> 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, Windsor<sub>2</sub> 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.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Sweaney of Windsor** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Sweaney of Windsor**

**Rep. Hubert of Milton**

**Rep. Jewett of Ripton**

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

#### **Action on Bill Postponed**

##### **S. 115**

Senate bill, entitled

An act relating to ineffective assistance claims against assigned counsel

Was taken up and pending third reading of the bill, on motion of **Rep. Donaghy of Poultney**, action on the bill was postponed until Wednesday, April 25, 2012.

#### **Action on Bill Postponed**

##### **H. 503**

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until Wednesday, April 25, 2012.

#### **Bill Amended, Read Third Time and Passed**

##### **H. 794**

House bill, entitled

An act relating to the management of search and rescue operations

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

In Sec. 2 (search and rescue strategic plan development committee), in subsection (b) (membership), in the first sentence, after "committee shall be

composed of” by striking out “12” and inserting in lieu thereof “13” and by adding a new subdivision to be subdivision (12) to read:

(12) One member of the National Ski Patrol appointed by the northern regional director of the National Ski Patrol’s eastern division.

Which was agreed to. Thereupon, the bill was read the third time and passed.

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

**S. 223**

Senate bill, entitled

An act relating to health insurance coverage for early childhood development disorders, including autism spectrum disorders

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

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

**S. 189**

**Rep. Reis of St. Johnsbury**, for the committee on Judiciary, to which had been referred Senate bill, entitled

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

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

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

Sec. 1. 3 V.S.A. § 164(c)(1) is amended to read:

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

(1) The diversion project shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The state’s attorney shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. If the prosecuting attorney refers a case to diversion, ~~the information and affidavit~~ prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the

purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the state's attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the board declines to accept the case;
- (B) the person declines to participate in diversion; ~~or~~
- (C) the board accepts the case, but the person does not successfully complete diversion;
- (D) the state's attorney recalls the referral to diversion.

Sec. 2. 3 V.S.A. § 164a is added to read:

§ 164a. RESTITUTION

(a) A diversion program may refer an individual who has suffered a pecuniary loss as a direct result of a delinquent act or crime alleged to have been committed by a juvenile or adult accepted to its program to the restitution unit established by 13 V.S.A. § 5362 for the purpose of application for an advance payment pursuant to 13 V.S.A. § 5363(d)(1). The restitution unit may enter into a repayment contract with a juvenile or adult accepted into diversion and shall have the authority to bring a civil action to enforce the repayment contract in the event that the juvenile or adult defaults in performing the terms of the contract.

(b) The restitution unit and the diversion program shall develop a process for documenting victim loss, information sharing between the unit and diversion programs regarding the amount of restitution paid by the unit and diversion participants' contractual agreements to reimburse the unit, transmittal of payments from participants to the unit, and maintenance of the confidentiality of diversion information.

Sec. 3. 13 V.S.A. § 5362 is amended to read:

§ 5362. RESTITUTION UNIT

\* \* \*

(c) The restitution unit shall have the authority to:

\* \* \*

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

Sec. 4. 13 V.S.A. § 5363 is amended to read:

**§ 5363. CRIME VICTIMS' RESTITUTION SPECIAL FUND**

(a) There is hereby established in the state treasury a fund to be known as the crime victims' restitution special fund, to be administered by the restitution unit established by section 5362 of this title, and from which payments may be made to provide restitution to crime victims.

(b)(1) There shall be deposited into the fund:

(A) All monies collected by the restitution unit pursuant to section 7043 and subdivision 5362(c)(7) of this title.

(B) All fees imposed by the clerk of court and designated for deposit into the fund pursuant to section 7282 of this title.

(C) All monies donated to the restitution unit or the crime victims' restitution special fund.

(D) Such sums as may be appropriated to the fund by the general assembly.

\* \* \*

(d)(1) The restitution unit is authorized to advance up to \$10,000.00 to a victim or to a deceased victim's heir or legal representative if the victim:

(A) was first ordered by the court to receive restitution on or after July 1, 2004;

(B) is a natural person or the natural person's legal representative; and

(C) has not been reimbursed under subdivision (2) of this subsection;

(D) is a natural person and has been referred to the restitution unit by a diversion program pursuant to 3 V.S.A. § 164a.

\* \* \*

Sec. 5. 13 V.S.A. § 7043(n) is amended to read:

(n) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure of an offender aged 18 or older shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

Sec. 6. 13 V.S.A. § 5360 is added to read:

**§ 5360. APPLICATION INFORMATION; CONFIDENTIALITY**



(a) All documents reviewed by the victims' compensation board for purposes of approving an application for compensation shall be confidential and shall not be disclosed without the consent of the victim except as provided in this section and subsection 7043(c) of this title.

(b) For the purpose of requesting restitution, the amount of assistance provided by the victim's compensation board shall be established by copies of bills submitted to the victim's compensation board reflecting the amount paid by the board and stating that the services for which payment was made were for uninsured pecuniary losses.

(c) The following shall be confidential and shall be redacted by the victim's compensation board for any purpose including restitution: the victim's residential address, telephone number, and other contact information and the victim's social security number. In cases involving stalking, sexual offense, and domestic violence, the following information shall also be confidential and shall not be disclosed by the victim's compensation board for any purpose including restitution:

(1) the victim's employer's name, telephone number, address, or any other contact information; and

(2) the victim's medical or mental health provider's name, telephone number, address, or any other contact information.

Sec. 7. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

\* \* \*

(b)(1) When ordered, restitution may include:

(A) return of property wrongfully taken from the victim;

(B) cash, credit card, or installment payments paid to the restitution unit; or

(C) payments in kind, if acceptable to the victim.

(2) In the event of a victim's crime-related death, the court may, at the request of the restitution unit, direct the unit to pay up to \$10,000.00 from the restitution fund to the victim's estate to cover future uninsured material losses caused by the death.

(c) Restitution hearing.

(1) Unless the amount of restitution is agreed to by the parties at the time of sentencing, the court shall set the matter for a restitution hearing.

(2) Prior to the date of the hearing, the state's attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the victim's compensation fund, the state's attorney shall provide the defendant with copies of bills submitted by the victim's compensation board pursuant to section 5360 of this title.

(3) Absent consent of the victim, medical and mental health records submitted to the victim's compensation board shall not be discoverable for the purposes of restitution except by order of the court. If the defendant files a motion to view copies of such records, the state's attorney shall file the records with the court under seal. The court shall conduct an in camera review of the records to determine what records, if any, are relevant to the parties' dispute with respect to restitution. If the court orders disclosure of the documents, the court shall issue a protective order defining the extent of dissemination of the documents to any person other than the defendant, the defendant's attorney, and the state's attorney. In no event shall the court permit disclosure of information in a document provided by the victim's compensation board that is confidential under subsection 5360(c) of this title.

~~(e)~~(d) In awarding restitution, the court shall make findings with respect to:

(1) The total amount of the material loss incurred by the victim. If sufficient documentation of the material loss is not available at the time of sentencing, the court shall set a hearing on the issue, and notice thereof shall be provided to the offender.

(2) The offender's current ability to pay restitution, based on all financial information available to the court, including information provided by the offender.

~~(d)~~(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the court shall establish a restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection (k) of this section. Notwithstanding 12 V.S.A. chapter 113 ~~of Title 12~~ or any other provision of law, interest shall not accrue on a restitution judgment.

\* \* \*

~~(e)~~(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to

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preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.

\* \* \*

~~(f)~~(g)(1) When restitution is requested but not ordered, the court shall set forth on the record its reasons for not ordering restitution.

\* \* \*

~~(g)~~(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

~~(h)~~(i)(1) The court shall transmit a copy of a restitution order to the restitution unit, which shall make payment to the victim in accordance with section 5363 of this title.

\* \* \*

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

~~(j)~~(k) All restitution payments shall be made to the restitution unit, with the exception of restitution relating to a conviction for welfare fraud ordered under this section and recouped by the economic services division. The economic services division shall provide the restitution unit with a monthly report of all restitution collected through recoupment. This subsection shall have no effect upon the collection or recoupment of restitution ordered under Title 33.

~~(k)~~(l) The sentencing court may modify the payment schedule of a restitution order if, upon motion by the restitution unit or the offender, the court finds that modification is warranted by a substantial change in circumstances.

~~(l)~~(m) If the offender fails to pay restitution as ordered by the court, the restitution unit may file an action to enforce the restitution order in superior or

small claims court. After an enforcement action is filed, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the restitution unit, the victim, and the offender. If the court determines the offender has failed to comply with the restitution order, the court may take any action the court deems necessary to ensure the offender will make the required restitution payment, including:

\* \* \*

~~(m)~~(n)(1) Any monies owed by the state to an offender who is under a restitution order, including lottery winnings and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

\* \* \*

~~(n)~~(o) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

~~(o)~~(p) An obligation to pay restitution is part of a criminal sentence and is:

\* \* \*

~~(p)~~(q) A transfer of property made with the intent to avoid a restitution obligation shall be deemed a fraudulent conveyance for purposes of 9 V.S.A. chapter 57 ~~of Title 9~~, and the restitution unit shall be entitled to the remedies of creditors provided under 9 V.S.A. § 2291.

Sec. 8. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND  
DOCUMENTS

\* \* \*

(c) The following public records are exempt from public inspection and copying:

\* \* \*

(40) ~~Records~~ records of genealogy provided in support of an application for tribal recognition pursuant to chapter 23 of this title;

(41) documents reviewed by the victim's compensation board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ 5360 and 7043(c).

Sec. 9. EFFECTIVE DATE

(a) Sections 1, 2, 3, 4, and 5 shall take effect on July 1, 2012.

(b) Sections 6, 7, 8, and this section shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment offered by the committee on Judiciary agreed to and third reading ordered.

**Favorable Report; Third Reading Ordered**

**H. 792**

**Rep. Atkins of Winooski**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the city of Burlington

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Favorable Report; Third Reading Ordered**

**H. 793**

**Rep. Atkins of Winooski**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the Winooski incorporated school district

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Senate Proposal of Amendment Concurred in**

**H. 758**

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

An act relating to divorce and dissolution proceedings

First: In Sec. 4, 15 V.S.A. § 1206, in subdivision (d)(1), after the words "parties to a civil union" by adding the words certified in Vermont

Second: In Sec. 5, 18 V.S.A. § 5131, in subdivision (a)(4)(A), in the first sentence, by striking the word “solemnized” and inserting in lieu thereof the word certified

Third: By adding Sec. 5a to read as follows:

Sec. 5a. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

\* \* \*

(b)(2) Prior to the entry of any divorce or annulment proceeding in the 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~~. 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 if one or both of the parties are residents, and \$150.00 if neither party is a resident.

\* \* \*

Which proposal of amendment was considered and concurred in.

#### **Action on Bill Postponed**

#### **H. 759**

House bill, entitled

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Martin of Springfield**, action on the bill was postponed until Wednesday, April 25, 2012.

#### **Senate Proposal of Amendment Not Concurred in; Committee of Conference Requested and Appointed**

#### **H. 770**

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

An act relating to the state’s transportation program

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

Sec. 1. TRANSPORTATION PROGRAM

(a) The state’s proposed fiscal year 2013 transportation program appended

to the agency of transportation's proposed fiscal year 2013 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

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

(1) "Agency" means the agency of transportation.

(2) "Secretary" means the secretary of transportation.

(3) The table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" or "TIB" refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f.

\* \* \* Program Development Funding Sources \* \* \*

## Sec. 2. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified as follows:

(1) Among eligible projects selected in the secretary's discretion, the secretary shall reduce project spending authority in the total amount of \$502,437.00 in transportation funds and \$25,000.00 in federal funds, and increase project spending authority in the total amount of \$484,745.00 in TIB funds.

\* \* \* Program Development – Paving \* \* \*

## Sec. 3. PORTABLE HOT MIX PLANT

(a) A new project is added to the development and evaluation list of the program development – paving program within the fiscal year 2013 transportation program for the acquisition of a portable hot mix plant.

(b) As soon as practicable, the secretary shall study the feasibility and evaluate the costs and benefits of acquiring a portable hot mix plant, and necessary associated equipment, for use on paving projects throughout the state.

(c) If the secretary determines that use of a portable hot mix plant for paving projects is feasible and that the cost savings expected to result from its acquisition are projected to exceed the capital and operating costs of the plant, the secretary may spend transportation funds and, if eligible for federal

funding, federal funds, totaling up to \$4,000,000.00 from within the fiscal year 2013 program development appropriation (8100001100) for acquisition of the portable hot mix plant and necessary associated equipment, provided that such expenditure does not delay other programmed expenditures.

(d) Prior to any acquisition under the authority of subsection (c) of this section, the secretary shall notify the house and senate committees on transportation if the general assembly is in session, and if not in session, the joint transportation oversight committee, of his or her intention to take such action.

\* \* \* Program Development – Roadway \* \* \*

#### Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

(a) The following project is added to the development and evaluation list of the program development – roadway program within the fiscal year 2012 transportation program:

CIRC Alternatives – Phase 1 Alternative Projects.

(b) In light of the destruction caused by Tropical Storm Irene to the village of Waterbury, and the plans to reconstruct portions of the Waterbury Complex in the village, the agency of transportation shall review existing plans for the Waterbury – Reconstruct Main Street project (FEGC F 013-4(13)) as soon as is practicable:

(1) to ensure that project infrastructure will be resilient in the event of future flooding;

(2) to ensure, if feasible, that construction of the project is coordinated with Waterbury Complex reconstruction activities so as to minimize disruption to and impacts on residents and road users, and to maximize potential cost savings; and

(3) to determine whether the project plans need to be updated in light of the damage caused by Tropical Storm Irene and the planned configuration of the Waterbury Complex.

\* \* \* Program Development – State Highway Bridge \* \* \*

#### Sec. 5. PROGRAM DEVELOPMENT – STATE HIGHWAY BRIDGE

(a) The STP SCTT(1) – Townshend – State-owned Historic Sites – Scott Covered Bridge project is added to the fiscal year 2013 transportation program – program development – state highway bridge development and evaluation (D&E) list.



(b) Funds may be expended on the project as necessary from authorized statewide – state highway bridges D&E spending, provided the expenditure does not delay other programmed D&E expenditures.

\* \* \* Vermont Local Roads \* \* \*

Sec. 6. TOWN HIGHWAY VERMONT LOCAL ROADS

Authorized spending on the Vermont local roads program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	375,000	400,000	25,000
Total	375,000	400,000	25,000
<u>Sources of funds</u>			
State	235,000	235,000	0
Federal	140,000	165,000	25,000
Total	375,000	400,000	25,000

\* \* \* State Aid for Federal and Nonfederal Disasters \* \* \*

Sec. 7. STATE AID FOR NONFEDERAL DISASTERS

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	4,750,000	1,150,000	-3,600,000
Total	4,750,000	1,150,000	-3,600,000
<u>Sources of funds</u>			
State	1,550,000	1,150,000	-400,000
Federal	3,200,000	0	-3,200,000
Total	4,750,000	1,150,000	-3,600,000

Sec. 8. STATE AID FOR FEDERAL DISASTERS

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	0	3,600,000	3,600,000
Total	0	3,600,000	3,600,000
<u>Sources of funds</u>			
State	0	400,000	400,000
Federal	0	3,200,000	3,200,000
Total	0	3,600,000	3,600,000

Sec. 9. TOWN HIGHWAY STRUCTURES

Authorized spending on the town highway structures program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
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Grants	5,833,500	6,333,500	500,000
Total	5,833,500	6,333,500	500,000
<u>Sources of funds</u>			
State	5,833,500	6,333,500	500,000
Federal	0	0	0
Total	5,833,500	6,333,500	500,000

## Sec. 10. TOWN HIGHWAY AID

Authorized spending on the town highway aid program is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	26,482,744	25,982,744	-500,000
Total	26,482,744	25,982,744	-500,000
<u>Sources of funds</u>			
State	26,482,744	25,982,744	-500,000
Federal	0	0	0
Total	26,482,744	25,982,744	-500,000

\* \* \* Rail \* \* \*

## Sec. 11. RAIL

The following modifications are made to the rail program:

(1) The "Rutland-Burlington crossings project" is renamed the "Rutland-Burlington rail and crossings project," and the scope of the project is amended to include the installation of continuously welded rail.

(2) Spending authority for the Pittsford Bridge 219 project (HPP ABRB(9)) is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	6,600,000	1,500,000	-5,100,000
Total	6,600,000	1,500,000	-5,100,000
<u>Sources of funds</u>			
State	0	0	0
TIB	1,320,000	300,000	-1,020,000
Federal	5,280,000	1,200,000	-4,080,000
Local	0	0	0
Total	6,600,000	1,500,000	-5,100,000

(3) Spending authority for the Rutland-Burlington rail and crossings project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
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PE	600,000	600,000	0
Construction	900,000	6,000,000	5,100,000
Total	1,500,000	6,600,000	5,100,000
<u>Sources of funds</u>			
State	300,000	300,000	0
TIB	0	1,020,000	1,020,000
Federal	1,200,000	5,280,000	4,080,000
Local	0	0	0
Total	1,500,000	6,600,000	5,100,000

Sec. 12. RUTLAND–BURLINGTON RAIL AND CROSSINGS PROJECT

The “Rutland–Burlington rail and crossings project” is added to the fiscal year 2012 transportation program – rail program. The project includes the installation of continuously welded rail and the reconstruction of several rail-highway grade crossings along the Vermont Railway line between Rutland and Burlington.

Sec. 13. PURCHASE OF RAIL BRIDGE INSPECTION VEHICLE

(a) A new project is added to the fiscal year 2012 and 2013 transportation program – rail programs for the purchase of a servi-lift rail bridge inspection vehicle (“inspection vehicle”).

(b) Notwithstanding the authorized program spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to purchase an inspection vehicle using any federal grant funds received for its purchase.

(c) If a federal grant for the purchase of the inspection vehicle is not received or is not pending, notwithstanding the authorized project or activity spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to use up to a total of \$500,000.00 in transportation funds appropriated to the rail program for the purchase of the inspection vehicle, provided that the purchase does not delay the work schedule of a project or activity programmed in the fiscal year 2012 or 2013 rail programs.

(d) The agency shall promptly report any action taken under the authority granted in subsection (b) or (c) of this section to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

Sec. 14. ANTICIPATION OF FEDERAL RECEIPTS – RAIL PROGRAM

As authorized by 32 V.S.A. § 510, the secretary, with the prior approval of the commissioner of finance and management, may anticipate federal receipts into the transportation – rail program.

\* \* \* Transportation Buildings \* \* \*

Sec. 15. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Spending authority for the Mendon District 3/Southwest Regional Construction Office Building project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	50,000	0	-50,000
Construction	150,000	0	-150,000
Total	200,000	0	-200,000
<u>Sources of funds</u>			
State	200,000	0	-200,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	200,000	0	-200,000

(2) Spending authority for the Statewide – Brine-Making Facilities project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	3,000	3,000	0
Construction	0	80,000	80,000
Total	3,000	83,000	80,000
<u>Sources of funds</u>			
State	3,000	83,000	80,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	3,000	83,000	80,000

(3) Spending authority for the Middlebury – Design, Permit, and Construct 1–Bay Addition project is amended to read:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	5,000	0	-5,000
Construction	175,000	0	-175,000

Total	180,000	0	-180,000
<u>Sources of funds</u>			
State	180,000	0	-180,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	180,000	0	-180,000

Sec. 16. VTRANS TRAINING CENTER FACILITY; PROGRAM NAME

(1) The “VTrans Learning Campus” project within the fiscal year 2013 transportation buildings program is renamed the “VTrans Training Center” project, and the scope of the project is amended to read, “Renovation of existing materials & research building for use by the VTrans Training Center and the traffic research section.”

(2) The agency shall rename the VTrans Learning Campus program to be the VTrans Training Center program.

\* \* \* Public Transit \* \* \*

Sec. 17. PUBLIC TRANSIT

The scope of the Public Transit – Statewide Capital project is amended to include the construction of transit facilities.

Sec. 18. 24 V.S.A. § 5094 is added to read:

§ 5094. POWERS OF SECRETARY OF TRANSPORTATION

On behalf of the state and to carry out the purposes of this chapter and 19 V.S.A. § 10f, the secretary of transportation may:

(1) Execute and file an application with the Federal Transit Administration for federal assistance authorized by Titles 23 and 49 of the United States Code or other federal law.

(2) Execute and file certifications, assurances, or other documents the Federal Transit Administration may require before awarding a federal assistance grant or cooperative agreement.

(3) Execute grant and cooperative agreements with the Federal Transit Administration.

\* \* \* Fiscal Year 2013 Transportation Infrastructure Bonds \* \* \*

Sec. 19. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

Pursuant to 32 V.S.A. § 972, the state treasurer is authorized to issue transportation infrastructure bonds up to a total amount of \$11,500,000.00 for the purpose of funding:

(1) the spending authorized in Sec. 20 of this act;

(2) a debt service reserve to support the successful issuance of transportation infrastructure bonds; and

(3) the cost of preparing, issuing, and marketing the bonds as authorized under 32 V.S.A. § 975.

Sec. 20. TRANSPORTATION INFRASTRUCTURE BONDS; SPENDING AUTHORITY

The amount of \$10,000,000.00 from the issuance of transportation infrastructure bonds is authorized for expenditure in fiscal year 2013 on eligible projects as defined in 32 V.S.A. § 972(d) in the state's fiscal year 2013 transportation program as follows:

(1) \$9,000,000.00 on projects in program development.

(2) \$1,000,000.00 on projects in the town highway bridge program.

\* \* \* Agency of Transportation Positions \* \* \*

Sec. 21. AGENCY OF TRANSPORTATION POSITIONS

(a) The agency may establish 17 new limited service positions related to the response to Tropical Storm Irene and the spring 2011 flooding. This authority shall expire on June 30, 2014, and the positions shall terminate by June 30, 2014.

(b) The establishment of three new permanent classified positions is authorized in the agency of transportation – rail program.

(c) The establishment of three new permanent classified positions is authorized in the agency of transportation – program development program.

(d) The positions authorized in this section are not subject to the restriction in Sec. A.108 of No. 63 of the Acts of 2011, and are in addition to the positions authorized in Sec. 87(e) of No. 75 of the Acts of the 2011 Adj. Sess. (2012).

\* \* \* Central Garage \* \* \*

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Sec. 22. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2013, the amount of \$1,120,000.00 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

\* \* \* Relinquishment of State Highway Segment to Municipal Control \* \* \*

Sec. 23. RELINQUISHMENT OF VERMONT ROUTE 207 EXTENSION IN THE TOWN OF ST. ALBANS

(a) Pursuant to 19 V.S.A. § 15(2), the general assembly approves the secretary of transportation to enter into an agreement with the town of St. Albans to relinquish to the town's jurisdiction a segment of state highway right-of-way in the town of St. Albans which has not been constructed to be a traveled road, and which was to be known as the Vermont Route 207 Extension. This authority shall expire on June 30, 2022. The segment authorized to be relinquished measures approximately 1.7 acres, is approximately 160 feet in width, and starts at a point 200 feet west of the intersection of the U.S. Route 7/Vermont Route 207 centerline of highway project S0297(2), and continues westerly for 463 feet.

(b) Following relinquishment, the former state highway segment shall become a town highway and shall retain its limited access designation under 19 V.S.A. chapter 17 (limited access facilities).

(c) Following relinquishment, the state of Vermont shall retain ownership of the underlying fee interest in the former state highway segment. The town of St. Albans shall not sell or abandon any portion of the relinquishment area or allow any encroachments within the relinquishment area without the written permission of the agency of transportation.

\* \* \* Enhancement Grant Program Priorities \* \* \*

Sec. 24. ENHANCEMENT GRANT PROGRAM PRIORITIES

In addition to the priorities for salt and sand shed projects and bicycle or pedestrian facility projects specified in 19 V.S.A. § 38(g), in evaluating applications for enhancement grants in fiscal years 2013, 2014, and 2015, the transportation enhancement grant committee shall give preferential weighting to projects involving a municipality implementing eligible environmental mitigation projects under a river corridor plan that has been adopted by the agency of natural resources as part of a basin plan, under a municipal plan adopted pursuant to 24 V.S.A. § 4385, or under a mitigation plan adopted by the municipality and approved by the Federal Emergency Management

Agency. The degree of preferential weighting afforded shall be in the complete discretion of the transportation enhancement grant committee.

\* \* \* State Aid for Town Highways \* \* \*

Sec. 25. 19 V.S.A. § 306(e) and (f) are amended to read:

(e) State aid for town highway structures.

(1) There shall be an annual appropriation for grants to municipalities for maintenance, ~~(including actions to extend life expectancy)~~ and for construction of bridges, and culverts, and; for maintenance and construction of other structures, including causeways and retaining walls, intended to preserve the integrity of the traveled portion of class 1, 2, and 3 town highways; and for alternatives that eliminate the need for a bridge, culvert, or other structure, such as the construction or reconstruction of a highway, the purchase of parcels of land that would be landlocked by closure of a bridge, the payment of damages for loss of highway access, and the substitution of other means of access.

(2) Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of \$5,833,500.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects.

(3) Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

(f) ~~{Deleted.}~~ State aid for federal disasters.

(1) Towns receiving assistance under the Federal Highway Administration's emergency relief program for federal-aid highways shall be eligible for state aid when a nonfederal match is required. Eligibility for aid under this subsection shall be subject to the following criteria:

(A) Towns shall be responsible for up to 10 percent of the total eligible project costs.



(B) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the agency.

(C) Such additional criteria as may be adopted by the agency through rulemaking under 3 V.S.A. chapter 25.

(2) Notwithstanding 32 V.S.A. § 706 and the limits on authorized program spending in an approved transportation program, the secretary may transfer appropriations between the program created in this subsection and the state aid for nonfederal disasters program created in subsection (d) of this section.

\* \* \* Town Highway Bridges; Local Match \* \* \*

Sec. 26. 19 V.S.A. § 309a is amended to read:

§ 309a. LOCAL HIGHWAY WORK; UNIFORM LOCAL SHARE; EXCEPTIONS

(a) Except as provided in subsection (b) or (c) of this section or in sections 309b and 309c of this title, in any case of highway or bridge construction in which a federal/state/local or state/local funding match is authorized, the municipality's share shall be ten percent of the project costs.

(b) This section shall not apply to:

(1) ~~any project phase, preliminary engineering, right of way acquisition or construction, which was included in the transportation construction program submitted by the agency in February 1987 and approved by the general assembly in Act No. 91 of the Acts of 1987~~ any bridge replacement project in the town highway bridge program during the construction of which the municipality closes the bridge and does not construct a temporary bridge for the duration of the project, in which event the local match shall cover five percent of the project costs; ø

(2) any project phase for which a municipality already has provided for payment of its share by issuing bonds or funding a reserve established under a capital improvement plan; ø

(3) any project on a town highway for which the general assembly has authorized a different federal/state/local funding match; and any project which serves an "economic growth center" as defined in 23 U.S.C. § 143, and for

which the general assembly has authorized a different federal/state/local funding match;

(4) any project involving a bridge, including the approaches to a bridge, that extends between this state and an adjacent state;

(5) any bridge or roadway project involving a local financial share in which the municipality, after its review of the conceptual project plans, chooses not to proceed with the proposed project; in such circumstances, the agency shall pay 100 percent of the project costs incurred through the date it receives such notification from the municipality;

(6) any project where, by the mutual agreement of the municipality and agency, rehabilitation of an existing bridge is the preferred alternative, in which case the agency shall use the appropriate combination of state and federal funding to pay either 95 percent of the cost of rehabilitation, or 97.5 percent if the municipality closes the bridge and does not construct a temporary bridge for the duration of the project; or

(7) any project or portion of a project involving a structure that is part of the historic bridge program, where the agency shall use the appropriate combination of state and federal funding to pay 100 percent of the cost of rehabilitation.

\* \* \*

\* \* \* Tendering Payment in Condemnation Matters \* \* \*

Sec. 27. 19 V.S.A. § 512 is amended to read:

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

(a) Within 30 days after the compensation hearing, the board shall by its order fix the compensation to be paid to each person from whom land or rights are taken. Within 30 days of the board's order, the agency shall file and record the order in the office of the clerk of the town where the land is situated, deliver to each person a copy of that portion of the order directly affecting the person, and pay or tender the award to each person entitled. If an interested person has not provided the agency identification information necessary to process payment of the award, or if an interested person refuses an offer of payment, payment shall be deemed to be tendered for the purposes of this subsection when the agency pays the award into an escrow account that is accessible by the interested person upon his or her providing any necessary identification information. A person to whom a compensation award is paid or tendered under this subsection may accept, retain, and dispose of the award to

his or her own use without prejudice to the person's right of appeal, as provided in section 513 of this title. Upon the payment or tender of the award as above provided, the agency may proceed with the work for which the land is taken.

\* \* \*

\* \* \* Van Pool Program within State Infrastructure Bank \* \* \*

Sec. 28. REPEAL

10 V.S.A. § 280g(a)(10) and (d) (state infrastructure bank van pool loan program) are repealed.

\* \* \* Elimination, Modification, and Retention of Reports \* \* \*

Sec. 29. ELIMINATION OF REPORTS

10 V.S.A. § 445(b) (report regarding expenditures and income relating to Vermont trails system); 19 V.S.A. § 10e(c) (rail report); 19 V.S.A. § 10g(d)(1) (analysis of state's commitment to transportation projects); 19 V.S.A. § 10g(d)(2) (agency's plan to bring resources and cost into balance); 19 V.S.A. § 317(f) (report regarding the classification, number, and location of historic bridges); 32 V.S.A. § 706(4) (report of transfers of appropriations to cover federally reimbursable construction projects); and Sec. 50 of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 61 of No. 164 of the Acts of the 2007 Adj. Sess. (2008) (report on general condition of town assets in the bridge and culvert database), are repealed.

Sec. 30. 19 V.S.A. § 12b(d) is amended to read:

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

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

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

~~(2) In addition, with respect to the July meeting of the joint fiscal committee, the secretary's report shall discuss the agency's plans to adjust spending to any changes in the consensus forecast for transportation fund revenues. If and when applicable, the secretary shall submit electronically to the joint fiscal office for distribution to members of the joint transportation oversight committee a report summarizing any plans or actions taken to delay project schedules as a result of:~~

~~(1) a generalized increase in bids relative to project estimates;~~

~~(2) changes in the consensus revenue forecast of the transportation fund or transportation infrastructure bond fund; or~~

~~(3) changes in the availability of federal funds.~~

Sec. 31. 23 V.S.A. § 304b(a) is amended to read:

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate ~~and~~ on trucks registered for less than 26,001 pounds, ~~and~~ on vehicles registered to state agencies under section 376 of this title ~~and, but~~ excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of \$23.00. The commissioner ~~shall~~ may adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. ~~The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources~~

~~and energy a report detailing, over a three-year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.~~

Sec. 32. 24 V.S.A. § 5083(b) is amended to read:

(b) ~~The public transit advisory council~~ agency of transportation shall annually evaluate ~~existing services based on the goals established in subsection (a) of this section.~~ Proposals proposals for new public transit service shall be evaluated submitted by providers in response to a notice of funding availability, by examining feasibility studies submitted by providers. These The feasibility studies shall address criteria set forth in the most recent public transit policy plan of January 15, 2000.

Sec. 33. 19 V.S.A. § 42 is added to read:

§ 42. REPORTS PRESERVED

Notwithstanding 2 V.S.A. § 20(d), the reports or reporting requirements of sections 7(k), 10b(d), 10c(k), 10c(l), 10g, 11f(i), 12a, 12b(d), and 38(e)(2) of this title shall be preserved absent specific action by the general assembly repealing the reports or reporting requirements.

Sec. 34. 24 V.S.A. § 5092 is amended to read:

§ 5092. REPORTS

The agency of transportation, in cooperation with the public transit advisory council, shall develop an annual report of financial and performance data of all public transit systems that receive operating subsidies in any form from the state or federal government, including but not limited to subsidies related to the elders and persons with disabilities transportation program for service and capital equipment. Financial and performance data on the elders and persons with disabilities transportation program shall be a separate category in the report. The report shall be modeled on the Federal Transit Administration's national transit database program with such modifications as appropriate for the various services and guidance found in the most current state policy plan. The report shall describe any action taken by the agency pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards. ~~The report~~ agency shall be available deliver the report to the general assembly by January 15 of each year. Notwithstanding 2 V.S.A. § 20(d), this annual report shall be produced indefinitely absent specific action by the general assembly repealing the report.

\* \* \* Technical Corrections \* \* \*

Sec. 35. 5 V.S.A. § 3403 is amended to read:

§ 3403. ACQUISITION AND MODERNIZATION

(a) The agency of transportation, as agent for the state, and with the specific prior approval of the general assembly, is authorized to acquire by purchase or condemnation, after the approval of the ~~Interstate Commerce Commission~~ Surface Transportation Board, if necessary, any portion or portions of the line of any railroad directly affecting the state, including rails and ties, rights-of-way, land, buildings, appurtenances, and other facilities required for the operation of the line or to facilitate its sale or lease for continued operation. This action may be taken in concert with another state or states as necessary to insure continued railroad service in this state.

\* \* \*

Sec. 36. 5 V.S.A. § 3404 is amended to read:

§ 3404. RIGHT OF FIRST REFUSAL

(a) All railroad operating properties within the state offered for sale by a railroad, other than to another railroad for continued operation, shall also be offered to the state of Vermont. The offer shall be made in writing and shall be sent by certified mail to the agency. The offer shall include a map and a description of the property, the price, if available, a description of the present and past railroad use of the property, and any terms, reservations, or conditions the railroad proposes to include as part of the sale. Within 365 days, less any period of time that has elapsed because of the pendency of abandonment proceedings before the ~~Interstate Commerce Commission~~ Surface Transportation Board or the imposition of public use conditions under 49 U.S.C. § 10905, the agency shall accept or reject the offer. If the agency either rejects or fails to accept the offer in a timely manner, the state's preferential right under this section shall terminate, but in no event shall the railroad offer to sell the property, or any portion of it, to any other person on terms more favorable than the final terms offered to the agency.

\* \* \*

\* \* \* Copies of Municipal Reports \* \* \*

Sec. 37. 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

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

The clerk shall also mail to the state library two copies thereof, and one copy each to the secretary of state, commissioner of taxes, ~~highway board~~, state board of health, commissioner for children and families, commissioner of Vermont health access, auditor of accounts, and board of education. Officers making these reports shall supply the clerk of the municipality with the printed copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

\* \* \* Transportation Funding and Expenditures \* \* \*

#### Sec. 38. TRAFFIC SAFETY ENFORCEMENT COSTS

The joint fiscal office, in consultation with the commissioner of public safety or designee, shall analyze and estimate the costs incurred by the state in enforcing the state's traffic safety laws, and study how these state police costs could be apportioned between the general fund and the transportation fund. The joint fiscal office shall submit a report of its findings to the joint transportation oversight committee and the joint fiscal committee prior to the joint fiscal committee's November 2012 meeting.

#### Sec. 39. ALTERNATIVE FUEL VEHICLES; USER PAY PRINCIPLE

The secretary of transportation or designee, in consultation with the commissioner of motor vehicles, commissioner of taxes, and commissioner of public service or their designees, shall analyze options for user fees and fee collection mechanisms for motor vehicles that use energy sources not currently taxed so as to contribute to the transportation fund. The secretary shall submit a report of his or her findings, and of options for user fees and fee collection mechanisms, to the joint transportation oversight committee and the joint fiscal committee prior to the joint fiscal committee's November 2012 meeting.

#### Sec. 40. COMMISSION ON TRANSPORTATION FUNDING

##### (a) Findings.

(1) Annual gasoline and diesel tax revenues are currently at the same level generated in 1999–2000, while vehicle miles traveled and consequent wear and tear on the state's highway system has increased by 13.2 percent.

(2) As fuel efficiency continues to improve and vehicles using fuel sources not taxed so as to contribute to the transportation fund become more common, the gap between the payments collected from system users and the wear and tear users impose on the system will continue to grow.

(3) New revenue sources and consistent revenue streams will be needed to sustain Vermont's transportation infrastructure and support economic prosperity.

(b) Composition of commission. A commission composed of three members is established. The speaker of the house, the senate committee on committees, and the governor shall each appoint one member as soon as possible after the effective date of this act. The commission members shall promptly elect a chair.

(c) Purpose and charge. The commission shall:

(1) estimate transportation and TIB fund revenues over a five-year time horizon starting in fiscal year 2014, taking into account motor vehicle fuel efficiency mandates and trends, and identify and analyze factors likely to impact transportation and TIB fund revenues and transportation infrastructure spending in the future;

(2) estimate the gap between costs and projected revenues over the five-year time horizon (the “five-year funding gap”) based on the cost of maintaining the state’s existing infrastructure, and under any other cost scenario the commission deems appropriate;

(3) evaluate potential new state revenue sources and how existing state revenue sources could optimally be modified to address the five-year and longer term expected transportation funding gaps. The commission shall estimate the amount of funds that would be generated from each new and modified revenue source, and identify implementation structures, requirements, and challenges.

(d) The commission shall deliver a written report of its findings, and of any legislative options for consideration, to the house and senate committees on transportation by January 15, 2013. The commission shall terminate on January 15, 2013.

(e) Assistance. Upon the request of the commission, the agency may contract with consultants to provide expert assistance to the commission. Any consultant fees shall be paid out of the transportation – policy and planning appropriation. Upon request, the commission shall receive administrative support from the agency of transportation and assistance from the joint fiscal office and any unit of the executive branch the commission deems appropriate.

(f) Any commission member who is not a full-time state employee shall be entitled to compensation and reimbursement of expenses as provided in 32 V.S.A. § 1010. Funds disbursed under this subsection shall be paid out of the transportation – policy and planning appropriation.

\* \* \* Vermont Strong Motor Vehicle Plates \* \* \*

Sec. 41. VERMONT STRONG MOTOR VEHICLE PLATES



The agency is authorized to expend up to \$12,000.00 from the central garage appropriation for the purchase of Vermont Strong motor vehicle plates for installation on agency vehicles in conformance with No. 71 of the Acts of the 2011 Adj. Sess. (2012).

\* \* \* Natural Gas-Powered Motor Vehicles; Tax Proceeds \* \* \*

Sec. 42. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

\* \* \*

(7) Sales of motor fuels taxed or exempted under 23 V.S.A. chapter 28 of ~~Title 23;~~ provided, however, that aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the transportation fund in accordance with 19 V.S.A. § 11.

\* \* \*

Sec. 43. 19 V.S.A. § 11 is amended to read:

§ 11. TRANSPORTATION FUND

The transportation fund shall be comprised of the following:

\* \* \*

(4) moneys received from the sales and use tax on aviation jet fuel and on natural gas used to propel a motor vehicle under 32 V.S.A. chapter 233;

\* \* \*

Sec. 44. 23 V.S.A. § 3101 is amended to read:

§ 3101. DEFINITIONS

(a) The term “distributor” as used in this subchapter shall mean a person, firm, or corporation who imports or causes to be imported gasoline or other motor fuel for use, distribution, or sale within the state, or any person, firm, or corporation who produces, refines, manufactures, or compounds gasoline or other motor fuel within the state for use, distribution, or sale. ~~Kerosene, diesel oil, and aircraft jet fuel shall not be considered to be motor fuel under this subchapter.~~

~~(b)~~ When a person receives motor fuel in circumstances which preclude the collection of the tax from the distributor by reason of the provisions of the

constitution and laws of the United States, and ~~shall~~ thereafter ~~sell~~ sells or ~~use~~ uses the motor fuel in the state in a manner and under circumstances as may subject the sale to the taxing power of the state, the person shall be considered a distributor and shall make the same reports, pay the same taxes, and be subject to all provisions of this subchapter relating to distributors of motor fuel.

~~(e)~~(b) “Dealer” means any person who sells or delivers motor fuel into the fuel supply tanks of motor vehicles owned or operated by others.

(c) As used in this subchapter, “gasoline or other motor fuel” or “motor fuel” shall not include kerosene, diesel oil, aircraft jet fuel, or natural gas in any form.

(d) “Motor vehicle” means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.

\* \* \* Effective Dates \* \* \*

#### Sec. 45. EFFECTIVE DATES

(a) This section and Secs. 3 (portable hot mix plant), 4 (program development – roadway – CIRC alternatives), 11 (Rutland–Burlington rail and crossings project), 13 (purchase of rail bridge inspection vehicle), 14 (anticipation of federal receipts – rail program), 16 (VTrans learning campus facility), 18 (powers of secretary of transportation), 19 (authority to issue transportation infrastructure bonds), 21 (agency of transportation positions), 25 (state aid for town highways), 37 (copies of municipal reports), 38 (traffic safety enforcement cost study), 39 (alternative fuel vehicles; user pay study), 40 (commission on transportation funding), and 41 (Vermont Strong plates) of this act shall take effect on passage. The authority granted by Sec. 25(f) of this act (state aid for federal disasters) shall be retroactive to March 1, 2011.

(b) Secs. 42–44 shall take effect on July 1, 2013.

(c) All other sections of this act shall take effect on July 1, 2012.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Brennan of Colchester** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Brennan of Colchester**  
**Rep. Potter of Clarendon**  
**Rep. Corcoran of Bennington**

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**Action on Bill Postponed****H. 785**

House bill, entitled

An act relating to capital construction and state bonding budget adjustment

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Emmons of Springfield**, action on the bill was postponed until Tuesday, April 24, 2012.

**Rules Suspended; Bill Read Third Time and Passed****H. 792**

House bill, entitled

An act relating to approval of amendments to the charter of the city of Burlington

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage.

Thereupon, the bill was read the third time and passed.

**Rules Suspended; Bill Read Third Time and Passed****H. 793**

House bill, entitled

An act relating to approval of amendments to the charter of the Winooski incorporated school district

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed.

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

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

**H. 770**

House bill, entitled

An act relating to the state's transportation program

**H. 792**

House bill, entitled

An act relating to approval of amendments to the charter of the city of Burlington

**H. 793**

House bill, entitled

An act relating to approval of amendments to the charter of the Winooski incorporated school district

**H. 794**

House bill, entitled

An act relating to the management of search and rescue operations

**Recess**

At eleven o'clock and forty-six minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

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

**Adjournment**

At one o'clock and thirty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, April 23, 2012, at two o'clock in the afternoon.

**Concurrent Resolutions Adopted**

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

**H.C.R. 353**

House concurrent resolution designating May 6–12, 2012 as National Nurses Week in Vermont;

**H.C.R. 354**

House concurrent resolution congratulating the Bromley Mountain Ski Resort and the Bromley Outing Club on celebrating their respective 75th and 60th anniversaries;

**H.C.R. 355**

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks 2012 Division I championship girls' Nordic ski team;

**H.C.R. 356**

House concurrent resolution commemorating the 25th anniversary of the Rutland Open Door Mission at its Park Street location;

**H.C.R. 357**

House concurrent resolution in memory of Allyn Seward of East Wallingford;

**H.C.R. 358**

House concurrent resolution congratulating Circus Smirkus on its 25th anniversary;

**H.C.R. 359**

House concurrent resolution congratulating Marita Johnson on being named the Springfield Regional Chamber of Commerce's 23rd Annual Citizen of the Year;

**H.C.R. 360**

House concurrent resolution honoring Brian Lowe for his volunteer ornithological protection activities;

**H.C.R. 361**

House concurrent resolution congratulating the Woodstock Union High School Wasps on winning their third consecutive Division II boys' Nordic skiing championship;

**H.C.R. 362**

House concurrent resolution honoring the educational and community leadership of Jerry Sullivan;

**H.C.R. 363**

House concurrent resolution congratulating Alfred L. Pinsonneault Jr. on 50 exemplary years of service with the Town of Bennington Rescue Squad, Inc.;

**H.C.R. 364**

House concurrent resolution honoring Andreas Lehner for his outstanding administrative leadership in public education;

**H.C.R. 365**

House concurrent resolution congratulating the South Burlington Dolphins on winning the 2011 Northern Vermont Youth Football League state championship;

**H.C.R. 366**

House concurrent resolution designating April as the month of the military child in Vermont;

**H.C.R. 367**

House concurrent resolution congratulating Blanche Lamore on her 100th birthday;

**H.C.R. 368**

House concurrent resolution remembering the life of U.S. Army Major Jonathan Kirk Weaver;

**H.C.R. 369**

House concurrent resolution congratulating the Rochester School winners of the 2012 Vermont aviation art contest;

**S.C.R. 43**

Senate concurrent resolution designating May 2012 as Lupus Awareness Month in Vermont;

**S.C.R. 44**

Senate concurrent resolution congratulating Robert Swartz on being named the 2012 Northeast Kingdom Chamber Citizen of the Year;

**S.C.R. 45**

Senate concurrent resolution congratulating the 2012 Vermont Prudential Spirit of Community Award winners;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2012, seventy-second Adjourned session.]