

# Senate Calendar

WEDNESDAY, FEBRUARY 29, 2012

SENATE CONVENES AT: 3:30 P.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR  
UNFINISHED BUSINESS**

**Third Reading**

**H. 630.**

An act relating to reforming Vermont's mental health system.

**PROPOSAL OF AMENDMENT TO H. 630 TO BE OFFERED BY  
SENATOR SEARS BEFORE THIRD READING**

Senator Sears, on behalf of the Committee on Appropriations, moves that the Senate proposal of amendment be amended in Sec. 9, subdivision (a)(2), by striking out the number "10" and inserting in lieu thereof the number four.

**PROPOSAL OF AMENDMENT TO H. 630 TO BE OFFERED BY  
SENATOR SEARS, ON BEHALF OF THE COMMITTEE ON  
APPROPRIATIONS, BEFORE THIRD READING**

Senator Sears, on behalf of the Committee on Appropriations, moves that the Senate proposal of amendment be amended in Sec. 33, subdivision (b)(2), by striking out subparagraph (B) in its entirety and inserting in lieu thereof the following:

(B)(i) the number of declined referrals to inpatient psychiatric hospitals due to lack of capacity; and

(ii) the number of declined referrals to inpatient psychiatric hospitals due to patient or unit acuity;

**PROPOSAL OF AMENDMENT TO H. 630 TO BE OFFERED BY  
SENATORS BARUTH AND ASHE BEFORE THIRD READING**

Senators Baruth and Ashe move that the Senate proposal of amendment be amended in Sec. 9, subdivision (b)(1), by striking out the following: "16-bed" and inserting in lieu thereof the following: 25-bed

**PROPOSAL OF AMENDMENT TO H. 630 TO BE OFFERED BY  
SENATOR BENNING BEFORE THIRD READING**

Senator Benning moves that the Senate proposal of amendment be amended in Sec. 9, Inpatient Hospital Beds, subdivision (b)(1), after the first sentence, by inserting the following: The design shall include the capacity for expansion to 25 beds, including the infrastructure needed in the first phase of construction to support such a future expansion. Permitting shall be based on a 25-bed

design. The administration shall take no action nor fail to take action that would preclude a decision of the general assembly in 2013 or thereafter to expand the hospital to 25 beds if deemed necessary.

**PROPOSAL OF AMENDMENT TO H. 630 TO BE OFFERED BY  
SENATOR ASHE BEFORE THIRD READING**

Senator Ashe moves that the Senate proposal of amendment be amended in Sec. 9, in subdivision (a)(2), by striking the period at the end of subdivision (a)(2)(F) and inserting in lieu thereof a semicolon, and by striking the period at the end of subdivision (a)(2)(G) and inserting in lieu thereof ; and, and by adding a subdivision (a)(2)(H) to read as follows:

(H) Participating hospitals shall be required to identify the number and type of new positions needed to care for patients under the custody of the commissioner of mental health. Thirty days prior to hiring for these positions, participating hospitals shall provide the department of human resources with a description of all positions that shall provide care to individuals with mental health conditions pursuant to the contract and application processes, which the department of human resources shall immediately list with its regular job postings. Participating hospitals shall hire former or existing Vermont State Hospital staff applying for posted positions at the time the positions are first being filled, provided the applicant meets all required qualifications. After initially filling the positions according to the process described in this subdivision, the participating hospital shall no longer be required to affirmatively offer employment to current or former Vermont State Hospital employees.

**PROPOSAL OF AMENDMENT TO H. 630 TO BE OFFERED BY  
SENATOR ASHE BEFORE THIRD READING**

Senator Ashe moves to amend the Senate proposal of amendment be amended in Sec. 9, in subdivision (a)(2), by striking out the period at the end of subdivision (a)(2)(F) and inserting in lieu thereof a semicolon, and by striking out the period at the end of subdivision (a)(2)(G) and inserting in lieu thereof ; and, and by adding a new subdivision (a)(2)(H) to read as follows:

(H) Contracts shall comply with 3 V.S.A. §§ 341–344.

**PROPOSAL OF AMENDMENT TO H. 630 TO BE OFFERED BY  
SENATOR ILLUZZI BEFORE THIRD READING**

Senator Illuzzi moves to amend the Senate proposal of amendment as follows:

First: In Sec. 9, in subdivision (a)(2), by striking out the period at the end of subdivision (a)(2)(F) and inserting in lieu thereof a semicolon, and by

striking out the period at the end of subdivision (a)(2)(G) and inserting in lieu thereof ; and, and by adding subdivision (a)(2)(H) to read as follows:

(H)(i) The general assembly finds that the state entered into a stipulation and agreement with the Vermont State Employees' Association on July 30, 1996 for the purpose of furthering a public-private partnership with the department of corrections. The stipulation and agreement enabled current classified service employees to continue employment in classified positions when the contractor commenced its correctional mental health care services to the state. The stipulation and agreement specified that the contractor would provide immediate supervision of classified employees and that the commissioner of corrections would impose corrective and disciplinary actions.

(ii) Participating hospitals shall be required to identify the number of positions needed to staff patients under the custody of the commissioner of mental health. These positions shall be first offered to current state hospital employees and state hospital employees who have been subject to a reduction in force, and if accepted, the employees shall be hired as state employees and shall retain their wages, benefits, and rights under any collective bargaining agreement. Upon the employees' separation through attrition, retirement, or other just cause, the participating hospital shall be entitled to fill positions with nonstate employees.

Second: In Sec. 9, subdivision (b)(1), by adding (A) after "(b)(1)", and in the first sentence, by adding before the period , which shall temporarily be called the New Vermont State Hospital and thereafter renamed by the administration and mental health care providers, and by striking out the second and third sentences, and by adding a new subdivision (b)(1)(B) to read as follows:

(B) In the event the department of mental health reaches an agreement with one or more Vermont medical hospitals to operate a centrally located psychiatric hospital under their licenses, the department of buildings and general services shall design and construct a psychiatric hospital containing 50 beds. The hospital shall be designed and constructed in a manner that fosters off-unit treatment and recreational opportunities on its campus.

Third: By adding a new section to be numbered Sec. 24a to read as follows:  
Sec. 24a. 18 V.S.A. § 7610 is added to read:

§ 7610. LEGAL REPRESENTATION

On or before September 1, 2012, paralegals shall be empowered to provide legal representation to individuals within the custody of the commissioner of

mental health in proceedings before the family court, where a licensed attorney supervises the paralegal.

Fourth: By adding a new section to be numbered Sec. 25a to read as follows:

Sec. 25a. 18 V.S.A. § 7712 is added to read:

§ 7712. OFF-UNIT TREATMENT AND RECREATION

The commissioner of mental health shall establish by rule protocols for ensuring that individuals with a mental health condition who receive treatment in an acute inpatient setting have access to a recreational area outside the confines of the building that houses the psychiatric unit or hospital, consistent with each individual's treatment plan.

Fifth: In Sec. 37b, by adding two new subsections (c) and (d) to read as follows:

(c)(1) The general assembly finds that under Title XIX of the Social Security Act, Medicaid has historically excluded from participation institutions for mental diseases (IMDs), with the exception of those hospitals containing 16 beds or less. While the Brattleboro Retreat, an IMD exceeding 16 beds, has received an exception under the state's Global Commitment waiver, the waiver is set to expire on December 31, 2013.

(2) It is the intent of the general assembly that the department of mental health and the secretary of administration investigate all potential opportunities for ensuring that inpatient psychiatric units not be classified as IMDs in order to maximize the availability of federal matching Medicaid funds for patients served in those units. Such efforts could include seeking federal waivers or working with the affected hospitals to determine if the units could be operated in such a way as to avoid classification as IMDs.

(d)(1) The general assembly finds that Central Vermont Medical Center and Fletcher Allen Health Care presented a proposal to the senate committee on health and welfare on February 15, 2012 regarding the joint operation of a psychiatric unit in Berlin, to the extent such an arrangement would avoid the unit's classification as an IMD.

(2) It is the intent of the general assembly that the secretary of administration continue to negotiate and seek an agreement with Central Vermont Medical Center and Fletcher Allen Health Care regarding their joint operation of a psychiatric unit in Berlin. On or before September 15, 2012, the secretary of administration shall report to the mental health oversight committee regarding the status of these negotiations.

**Second Reading**  
**Favorable with Recommendation of Amendment**  
**S. 189.**

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

**Reported favorably with recommendation of amendment by Senator Snelling for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out 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 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 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 section 164a of Title 3.

\* \* \*

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. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(Committee vote: 5-0-0)

**Reported favorably by Senator Snelling for the Committee on Appropriations.**

(Committee vote: 5-0-2)

## **NEW BUSINESS**

### **Second Reading**

#### **Favorable**

#### **S. 129.**

An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe.

**Reported favorably by Senator Ashe for the Committee on Economic Development, Housing and General Affairs.**

(Committee vote: 5-0-0)

**Favorable with Recommendation of Amendment**

**S. 197.**

An act relating to hospital-based outpatient fees.

**Reported favorably with recommendation of amendment by Senator Mullin for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9458 is added to read:

§ 9458. HOSPITAL-ACQUIRED MEDICAL PRACTICES

(a) Beginning January 1, 2011, whenever a hospital acquires a medical practice, the hospital shall, for a period of 30 months following the date of acquisition, provide written notice as described in subsection (b) of this section to each patient and prospective patient prior to performing the first outpatient service after April 1, 2012 for which such patient or prospective patient may incur an increased out-of-pocket expense.

(b) The written notice provided to a patient pursuant to this section shall notify the patient that the hospital's acquisition of the medical practice may result in changes to the patient's out-of-pocket expenses for an outpatient visit or ancillary service, including the potential for cost-sharing requirements in excess of the typical office visit co-payment under the patient's health insurance plan.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage and shall apply to any medical practice acquired by a hospital on or after January 1, 2011 for a period of 30 months following the date of acquisition.

(Committee vote: 4-0-1)

**NOTICE CALENDAR**

**Second Reading**

**Favorable**

**S. 128.**

An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe.

**Reported favorably by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.**

(Committee vote: 5-0-0)

**S. 199**

An act relating to immunization exemptions and the immunization pilot program.

**Reported favorably by Senator Mullin for the Committee on Health and Welfare.**

(Committee vote: 3-1-1)

**Favorable with Recommendation of Amendment**

**S. 121.**

An act relating to the higher education endowment trust fund.

**Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Education.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. HIGHER EDUCATION ENDOWMENT TRUST FUND;  
INTEGRITY

(a) When it created the Vermont higher education endowment trust fund in 1999, the Vermont legislature ensured the integrity of the fund's principal balance by strictly limiting the amount of fund assets that could be transferred in any one year.

(b) The legislature ensured the integrity of the central purpose of the trust fund by permitting assets to be used only in ways that directly assist Vermont students who might otherwise be unable financially to access higher education at a Vermont institution or that strengthen an endowment.

(c) In order to ensure that the trust fund is available to assist future Vermonters to access higher education that might otherwise be unavailable to them, it is the intent of the general assembly:

(1) that trust fund assets shall continue to be used solely in ways that substantially benefit Vermont students to obtain higher education, particularly financially needy students;

(2) that distribution of trust fund assets in any year shall never compromise the fund's financial integrity; and

(3) that the decision of the general assembly to distribute unexpectedly high estate fund taxes levied in fiscal year 2012 for purposes in addition to

those specifically defined in statute shall be a one-time exception to the general and enduring use of trust fund assets.

Sec. 2. HIGHER EDUCATION ENDOWMENT TRUST FUND;  
DISTRIBUTION OF ASSETS

Notwithstanding 16 V.S.A. § 2665 or other provisions of law to the contrary, the treasurer shall withdraw and distribute the sum of \$6,500,000.00 from the higher education endowment trust fund to be distributed as follows:

(1) \$3,250,000.000 to the Vermont State Colleges:

(A) to implement the early college program, which shall include need-based components; provided that tuition shall be equal to the lesser of 87 percent of the base education amount or the tuition charged by the college; and further provided that the appropriation shall fund 100 percent of tuition costs in fiscal years 2014, 2015, and 2016 and shall fund 75 percent, 50 percent, and 25 percent of the tuition costs in fiscal years 2017, 2018, and 2019 with the remaining 25 percent, 50 percent, and 75 percent paid by the commissioner from the education fund in those latter three years:

(i) tuition support in FY2014–FY2019: \$2,000,000.00

(ii) new program planning, staffing, organization, marketing, and recruitment: \$ 250,000.00

(B) for the construction or renovation necessary to create the Brattleboro Regional Academic Center designed to expand college access for students in southern Vermont, particularly for students who are unable or unlikely to travel outside the state or to other parts of Vermont to enroll in postsecondary programs; provided, however, that if the Board of Trustees of the Vermont State Colleges determines that the project is not feasible, then the appropriation shall be deposited into the Vermont State College endowment fund to provide non-loan scholarships to Vermont students in teacher preparation programs that shall be awarded on a combination of merit and financial need: \$1,000,000.00

(2) \$3,250,000.00 to the University of Vermont:

(A) for further development of the Complex Systems Center to increase student access to participation in a spire consisting of world-class complex systems researchers and scholars in areas such as complex economics, food systems, climate change, health care, bioinformatics, cyber security, and disaster recovery; to include secondary school outreach efforts to bridge students into the university's spire of excellence and using similar successful existing outreach efforts as models; and also to include non-loan scholarships

to Vermont students who become involved in this complex system spire:  
\$2,000,000.00

(B) to expand the existing Senior Experience in Engineering Design (“SEED”) capstone program for engineering students, in which students work in a yearlong partnership with public and private organizations to address real-world problems and which connects highly qualified, imminent graduates with potential employers:

\$1,000,000.00

(C) for the establishment of a Science, Technology, Engineering, and Mathematics (“STEM”) Professions Re-Entry Program to engage individuals who have obtained a professional degree, who are unemployed or underemployed, and who wish to obtain high-level, productive STEM jobs; provided that the program will focus in part on attracting Vermont women with engineering degrees who wish to return to the engineering workforce and on returning Vermont servicemen and servicewomen who are interested in refresher courses or retraining; and further provided that this appropriation shall be used exclusively to assist Vermont residents:      \$ 250,000.00

Sec. 3. 16 V.S.A. § 1545(c) is amended to read:

(c) For any resident 12th grade student attending the Vermont academy for science and technology pursuant to subsection 4011(e) of this title or enrolled in an early college program at one of the Vermont State Colleges, the credits and grades earned shall, upon request of the student or the student's parent or guardian, be applied toward graduation requirements at the Vermont high school which the student attended prior to enrolling in the academy.

Sec. 4. 16 V.S.A. § 4011(e) is amended to read:

(e) The commissioner shall pay an amount equal to 87 percent of the base education amount to the Vermont Academy of Science and Technology for each ~~Vermont resident~~, 12th grade Vermont student who is enrolled. Notwithstanding any provision of section 4025 of this title, for each 12th grade Vermont student enrolled in an early college program at one of the Vermont State Colleges, the commissioner shall pay tuition to the college from the education fund in an amount equal to the lesser of 87 percent of the base education amount or the tuition charged by the college.

Sec. 5. REPORT

Beginning in January 2014, the Vermont State Colleges shall report annually to the senate and house committees on education regarding the level of participation in the early college program, the Colleges’ overall success in achieving the stated goals of the program to enhance secondary students’

educational experiences and prepare them for success in college and beyond, and specific outcomes for participating students relating to programmatic goals.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1, 2, and 5 of this act shall take effect on passage, provided that the early college program to which funds are appropriated in Sec. 2 of this act shall be available to students beginning no later than in the 2013–2014 academic year.

(b) Sec. 3 of this act shall take effect on July 1, 2013.

(c) Sec. 4 of this act shall take effect on July 1, 2019.

(Committee vote: 4-1-0)

**S. 246.**

An act relating to preserving Vermont's working landscape.

**Reported favorably with recommendation of amendment by Senator Starr for the Committee on Agriculture.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 2966 (Vermont agricultural development board) is repealed in its entirety and new §§ 2966 is added to read:

§ 2966. ESTABLISHMENT OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Board Established. The Vermont working lands enterprise board is hereby established as the successor in interest to the Vermont agricultural development board.

(b) Goals. The Vermont working lands enterprise board shall perform its duties pursuant to sections 2967 and 2968 of this title:

(1) to promote job creation and the economic viability, growth, and sustainability of the working landscape;

(2) to attract a new generation of entrepreneurs to agriculture and forestry, food and forest systems, and value-added production as a foundation for rural job creation and working lands conservation;

(3) to increase the value and sales of the products of the working landscape by means which reward sound farm and forest management, including appropriate increases in the proportion of value-added farm and forest products relative to raw material exports; and

(4) to build Vermont's reputation as the national leader in food systems development, environmental quality, land stewardship, access to outdoor recreation, and working lands entrepreneurship.

(c) Board Composition. The board shall be composed of the following 24 members:

(1) six members appointed by the governor:

(A) a person with expertise in rural economic development issues;

(B) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture or forestry;

(C) a person familiar with the agricultural or forest tourism industry;

(D) a member of the Northeast Organic Farming Association of Vermont;

(E) a member of the Vermont Forest Products Association; and

(F) a member of the Vermont Wood Manufacturers Association;

(2) six members appointed by the speaker of the house of representatives:

(A) a person who produces an agricultural commodity other than dairy products;

(B) a person who creates a value-added product using ingredients substantially produced on Vermont farms or from Vermont forests;

(C) a person with expertise in sales and marketing;

(D) a person representing the feed, seed, fertilizer, or equipment enterprises;

(E) a member of the Vermont Woodlands Association; and

(F) a member of the Vermont Forest Stewardship Committee;

(3) six members appointed by the committee on committees of the senate:

(A) a representative of Vermont's dairy industry who is also a dairy farmer;

(B) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;

(C) a representative from a Vermont agricultural or forestry advocacy organization;

(D) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture or forestry;

(E) a member of the Green Mountain Division, Society of American Foresters; and

(F) a member of the Forest Guild who is a resident of Vermont.

(4) the following three members from the executive branch:

(A) the secretary of agriculture, food and markets;

(B) the secretary of commerce and community development; and

(C) the commissioner of forest, parks and recreation; and

(5) the following three members who shall serve as ex officio, non-voting members:

(A) the manager of the Vermont economic development authority;

(B) the executive director of the Vermont sustainable jobs fund; and

(C) the executive director of the Vermont housing conservation board.

(d) Governance.

(1) Eleven voting members of the board shall constitute a quorum, and an action of the board shall be taken by a majority of those members present and voting at a meeting of the members at which a quorum is present.

(2)(A) The chair of the board shall be elected by the board from its membership at the first meeting. The chair shall serve for the duration of his or her member term, until his or her earlier resignation, or until his or her unanimous removal by the governor, the speaker of the house, and the president pro tempore of the senate. A chair may be reappointed, provided that no individual may serve more than two consecutive three-year terms as chair.

(3) Each member of the board shall serve a term of three years, or until his or her earlier resignation. A member shall not serve more than two consecutive three-year terms. Any vacancy occurring among the members shall be filled by the respective appointing authority, and shall be filled for the balance of the unexpired term.

(e) Compensation. Members who are not state employees or whose membership is not supported by their employer or association may receive reimbursement for actual and necessary expenses incurred in the performance of their duties pursuant to 32 V.S.A. § 1010.

Sec. 2. 6 V.S.A. § 2967 is added to read:



§ 2967. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) The Vermont working lands enterprise board shall have the authority to promote job creation and the economic viability, growth, and sustainability of the working landscape through three mechanisms:

(1) Direct grants and investments in agricultural and forestry enterprises;

(2) Services and assistance to agricultural and forestry enterprises, both through direct coordination with public and private partners, and through performance contracts with one or more persons, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) local, statewide, regional, national, or international marketing of the Vermont working landscape, its entrepreneurs and sectors, and the public and private programs and partners supporting the working landscape;

(D) organizational, regulatory, and development assistance; and

(E) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies.

(3) Direct grants and investments in food and forest systems infrastructure.

(b) The board shall have the additional authority:

(1) to pursue, receive, and accept any type of funding from public or private funding sources for the performance of its work;

(2) to use the services and staff of the agency of agriculture, food and markets to assist in the performance of the board's duties, with the concurrence of the secretary of agriculture, food and markets;

(3) to contract for support, technical, or other professional services necessary to complete its work; and

(4) to advise and make recommendations to the secretary of agriculture, food and markets and to the commissioner of forests, parks and recreation on the adoption and amendment of laws, regulations, and governmental policies that affect agriculture and forestry.

Sec. 3. 6 V.S.A. § 2968 is added to read:

§ 2968. VERMONT WORKING LANDS ENTERPRISE FUND

There is created a special fund in the state treasury to be known as the “Vermont working lands enterprise fund.” Notwithstanding any contrary provisions of 32 V.S.A. Chapter 7, subchapter 5:

(1) the fund shall be administered, and the monies of the funds shall be expended, by the Vermont working lands enterprise board created in section 2966 of this title;

(2) the fund shall be composed of moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public, approved by the board, and unexpended balances and any earnings shall remain in the fund from year to year; and

(3) the board shall make expenditures from the fund consistent with the duties and authority of the board to promote job creation and the economic viability, growth, and sustainability of the working landscape consistent with section 2967 of this title.

#### Sec. 4. TRANSITION

Notwithstanding any provision of Sec. 1. of this act to the contrary, upon the effective date of this act, each member of the Vermont agricultural development board shall become a member of the Vermont working lands enterprise board and shall serve the remainder of his or her current term, upon the expiration of which a member may be reappointed or replaced as provided in 6 V.S.A. § 2966, as amended by this act.

Sec. 5. 10 V.S.A. chapter 15 is amended to read:

#### CHAPTER 15. VERMONT HOUSING AND CONSERVATION TRUST FUND

\* \* \*

#### § 302. POLICY, FINDINGS, AND PURPOSE

(a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont’s agricultural ~~land~~ and forest land, historic properties, important natural areas, and recreational lands are of primary importance to the economic vitality and quality of life of the state.

(b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, Vermont should encourage and assist in creating affordable housing and in preserving the state’s agricultural ~~land~~ and forest land, historic properties, important natural areas, and recreational lands.

(c) It is the purpose of this chapter to create the Vermont housing and conservation trust fund to be administered by the Vermont housing and conservation board to further the policies established by subsections (a) and (b) of this section.

### § 303. DEFINITIONS

As used in this chapter:

(1) “Board” means the Vermont housing and conservation board established by this chapter.

(2) “Fund” means the Vermont housing and conservation trust fund established by this chapter.

(3) “Eligible activity” means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:

(A) the preservation, rehabilitation or development of residential dwelling units which are affordable to lower income Vermonters;

(B) the retention of agricultural land for agricultural use, and of forest land for forestry use;

(C) the protection of important wildlife habitat and important natural areas;

(D) the preservation of historic properties or resources;

(E) the protection of areas suited for outdoor public recreational activity;

(F) the development of capacity on the part of an eligible applicant to engage in an eligible activity.

\* \* \*

### § 311. CREATION OF THE VERMONT HOUSING AND CONSERVATION BOARD

(a) There is created and established a body politic and corporate to be known as the “Vermont housing and conservation board” to carry out the provisions of this chapter. The board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state. The board is exempt from licensure under § V.S.A. chapter 73 ~~of Title 8~~.

(b) The board shall consist of the following 11 members:

- (1) The secretary of agriculture, food and markets or his or her designee.
- (2) The secretary of human services or his or her designee.
- (3) The secretary of natural resources or his or her designee.

(4) The executive director of the Vermont housing finance agency or his or her designee.

(5) Three public members appointed by the governor with the advice and consent of the senate, who shall be residents of the state and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural ~~land~~ and forest land, historic properties, important natural areas, or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in 32 V.S.A. § 3752(7).

(6) One public member appointed by the speaker of the house, who shall not be a member of the general assembly at the time of appointment.

(7) One public member appointed by the senate committee on committees, who shall not be a member of the general assembly at the time of appointment.

(8) Two public members appointed jointly by the speaker of the house and the president pro tempore of the senate as follows:

(A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or board member of any of those organizations at the time of appointment.

(B) One member from the nonprofit conservation organizations whose activities are eligible under subdivision 303(3) of this title who shall not be an employee or member of the board of any of those organizations at the time of appointment.

\* \* \*

## § 321. GENERAL POWERS AND DUTIES

\* \* \*

(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of

this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the board shall seek to maximize state participation in the federal wetlands reserve program ~~in order~~ and such other programs as is appropriate to allow for increased or additional implementation of conservation practices on farmland and forestland protected or preserved under this chapter.

\* \* \*

#### § 324. STEWARDSHIP

If an activity funded by the board involves acquisition by the state of an interest in real property for the purpose of conserving and protecting agricultural ~~land~~ and or forest land, important natural areas, or recreation lands, the board, in its discretion, may make a one-time grant to the appropriate state agency or municipality. The grant shall not exceed ten percent of the current appraised value of that property interest and shall be used to support its proper management or maintenance or both.

\* \* \*

#### Sec. 6. APPROPRIATIONS

(a) The amount of \$1,500,000.00 is appropriated from the general fund to the Vermont working lands enterprise fund in the amounts and for the purposes as follows:

(1) \$500,000.00 for direct grants and investments in agricultural or forestry enterprises pursuant to 6 V.S.A. § 2966(a)(1).

(2) \$375,000.00 to provide services and assistance to agricultural and forestry enterprises pursuant to 6 V.S.A. § 2966(a)(2).

(3) \$500,000.00 for direct grants and investments in food and forest systems infrastructure pursuant to 6 V.S.A. § 2966(a)(3).

(b) The amount of \$125,000.00 is appropriated from the general fund to the agency of agriculture, food and markets to provide funding for one full-time position of "Vermont working landscape development director," support staff, and for fiscal management and operations costs.

#### Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

## CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

David Luce of Waterbury Center – Member of the Community High School of Vermont Board- By Sen. Kittell for the Committee on Education. (1/13/12)

Patrick Flood of East Calais – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/8/12)

John Snow of Charlotte – Member of the Vermont Economic Development Authority – By Sen. Fox for the Committee on Finance. (2/8/12)

Martin Maley of Colchester – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (2/9/12)

Alison Arms of South Burlington – Superior Court Judge – By Sen. Snelli8lmg for the Committee on Judiciary. (2/16/12)

Robert Bishop of St. Johnsbury – Member of the State Infrastructure Bank Board – By Sen. MacDonald for the Committee on Finance. (2/21/12)

John Valente of Rutland – Member of the Vermont Municipal Bond Bank – By Sen. McCormack for the Committee on Finance. (2/21/12)

James Volz of Plainfield – Chair of the Public Service Board – By Sen. Cummings for the Committee on Finance. (2/21/12)

Ed Amidon of Charlotte – Member of the Valuation Appeals Board – By Sen. Ashe for the Committee on Finance. (2/21/12)

## FOR INFORMATION ONLY

### CROSSOVER DEADLINES

The following bill reporting deadlines are established for the 2012 session:

(1) From the standing committee of last reference (excluding the Committees on Appropriations and Finance), all Senate bills must be reported out of committee on or before March 16, 2012 and filed with the Secretary of

the Senate so that they may be placed on the Calendar for Notice the next legislative day.

(2) For bills referred pursuant to Senate Rule 31, all Senate bills must be reported out of the Committees on Appropriations and Finance on or before March 23, 2012 and filed with the Secretary of the Senate.

(3) All bills to be referenced from the House not meeting the respective applicable dates shall be referred to the Senate Rules Committee.

(4) These deadlines may be waived for any bill or committee **only** by consent given by the Committee on Rules.

**Exceptions to the foregoing deadlines include the major money bills (Appropriations, Transportation, Capital, and Miscellaneous Taxes).**