

Journal of the Senate

THURSDAY, MAY 3, 2012

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 78

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

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 39. Joint resolution requesting major lending institutions to appoint a single ombudsman to work with victims of the spring 2011 flood and Tropical Storm Irene.

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

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 778. An act relating to structured settlements.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Koch of Barre Town
Rep. Waite-Simpson of Essex
Rep. French of Shrewsbury

Rules Suspended; Bills on Notice Calendar for Immediate Consideration

On motion of Senator Campbell, the rules were suspended, and the following bills, appearing on the Calendar for notice, were ordered to be brought up for immediate consideration:

S. 189, H. 496, H. 524, H. 600, H. 769, H. 780.

Joint Resolution Referred**J.R.H. 38.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution expressing concern over the *Reader's Digest* portrayal of mental illness.

Whereas, the *Reader's Digest* has published a series of articles on the theme "Normal or Nuts," most recently in March 2012, and

Whereas, the text of this latest article clearly intends to educate the public concerning the distinction between personal behaviors that may and may not require mental health intervention or support, and

Whereas, educating the public on mental health issues enables readers to assess episodes of personal behavior that they may find too embarrassing to discuss with others, and

Whereas, the articles' flippant references to "nuts" in contrast to "normal" seems intended to attract public attention, and

Whereas, the March 2012 article contains illustrations and text that promote a negative view of mental illness by referring to persons with a symptom of mental illness as "nuts" and using the term "certifiable," which carries the stigmatizing connotation that persons with a mental illness frequently require court-ordered involuntary treatment, and

Whereas, according to the World Health Organization, "mental illnesses (including depression, bipolar disorder, and schizophrenia) account for nearly 25% of all disability across major industrialized countries," and

Whereas, there is broad recognition by such national organizations as the National Alliance for Mental Illness that humorous references to the trauma of mental illness are detrimental to the goal of supporting those who may need psychiatric treatment, and

Whereas, the Vermont general assembly has heard testimony from groups such as the Vermont Psychiatric Survivors regarding the hurt experienced by those with a mental illness when the illness is minimized by derogatory comments, and

Whereas, as stated on the website of the federal Substance Abuse and Mental Health Services Administration (SAMHSA), "words have power to teach . . . to wound . . . to shape the way people think, feel, and act toward others . . . [and] when a stigmatized group of people, such as those with mental illnesses, is struggling for increased understanding and acceptance, attention to

the language used in talking and writing about them is particularly important,” and

Whereas, SAMHSA has stated that “stigma impedes people from getting the care they need” and “is a pervasive barrier to understanding the gravity of mental illnesses,” and

Whereas, the state has striven to address the barriers preventing persons from receiving treatment through the enactment of Act 25 of 1997, which mandated that mental health treatment receive insurance coverage equal to other areas of health care, and

Whereas, in 2011, Act 24 provided for a study to “recommend guidelines for using respectful language when referring to people with disabilities” in order to eliminate in state law any negative terms used to describe individuals with a mental health condition, and

Whereas, this legislative body wishes to stand beside those persons who are hurt by negative portrayals of mental illness and to reinforce this state’s commitment as a national leader in the effort to establish equality for mental health as part of the robustness of our health care system, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly encourages the *Reader’s Digest* to consider the harm and pain that derogatory or flippant language regarding disabilities can cause to millions of Americans, and be it further

Resolved: That the General Assembly urges *Reader’s Digest* to reconsider the language used in its series titled “Are You Normal or Nuts?” in order that its public awareness efforts are not unintentionally hurtful, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to *Reader’s Digest* Association President and Chief Executive Officer Robert E. Guth in New York.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Health and Welfare.

Joint Resolution Referred

J.R.H. 39.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution requesting major lending institutions to appoint a single ombudsman to work with victims of the spring 2011 flood and Tropical Storm Irene.

Whereas, 2011 marked a difficult year for Vermont homeowners, as many homes were destroyed during either the spring flooding or Tropical Storm Irene, and

Whereas, as a result of this destruction, some Vermont families have been rebuilding or purchasing new homes, and

Whereas, because payments from the Federal Emergency Management Agency and homeowner's insurance often do not cover the entire cost of housing replacement, homeowners must frequently turn to state and federally regulated lending institutions to complete their financing packages, and

Whereas, in developing their financing packages, some Vermonters have experienced frustration in working with the larger lending institutions, and

Whereas, officials from the department of financial regulation and the Vermont Bankers Association have attempted to assist Vermonters in their dealings with larger lending institutions with a degree of success, and

Whereas, one of the nation's largest lending institutions, Bank of America, has appointed a customer advocate in the office of the bank's president, and

Whereas, the Bank of America's customer advocate has worked directly with Vermonters and state officials from the department of financial regulation to solve problems associated with home reconstruction financing, and

Whereas, if more major lending institutions were to follow the lead of Bank of America and appoint a designated ombudsman to work with Vermonters developing post-flood and -Irene home reconstruction financing, it would greatly reduce the difficulties associated with this complex process, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests major lending institutions to appoint a single ombudsman to work with victims of the spring 2011 flood and Tropical Storm Irene, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the department of financial regulation, the Vermont Bankers Association, and the American Bankers Association.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Finance.

Joint Resolution Placed on Calendar**J.R.S. 62.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senate Committee on Agriculture,

J.R.S. 62. Joint resolution relating to federal agriculture policy.

Whereas, the dairy industry, a keystone industry in Vermont and the United States, supports rural communities, water recharge areas, valuable open space, recreational and sports opportunities, and tourism, and

Whereas, the dairy industry has an economic impact of an estimated \$14,000.00 per cow per year, primarily in the local economy, and

Whereas, the instability of fluid milk prices, the concentration of processing capacity, outdated regulations, and labor shortages are creating a crisis in the industry, and

Whereas, a significant loss of capacity would create a dependence on imported milk and other dairy products, would cause prices to consumers to increase, and would reduce our nation's food security, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress and the U.S. Department of Agriculture to acknowledge the importance of the dairy industry nationwide as well as the unique aspects of the dairy industry region by region through:

(1) addressing the problems of labor shortages within the dairy industry by providing more opportunity for training and education as well as a fair and sensible approach to migrant labor;

(2) adopting legislation that creates a uniform definition of the ownership of milk as it leaves the farm;

(3) ensuring that all dairy producers receive, with reasonable advance notice, the information related to any referendum on the federal milk marketing orders and that they have the opportunity to cast individual ballots on such a referendum;

(4) supporting the dairy section of the current proposed federal farm bill to include Dairy Gross Margin Insurance directly tied to the Dairy Stabilization Program to stabilize the price and provide an adequate safety net for Vermont dairy producers; and

(5) supporting an effective supply management program that utilizes a fixed base, which is critical to reforming the current dairy safety net and that in

combination with the current Milk Income Loss contract program would provide a fiscally responsible way to manage risk in dairy production, *and be it further*

Resolved: That the General Assembly urges the U.S. Department of Justice and the Commodity Futures Trading Commission to inquire into the concentration in the milk processing sectors of the dairy industry and to determine whether anticompetitive conduct is working to the detriment of producers and consumers, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Agriculture Tom Vilsack, to U.S. Attorney General Eric Holder, to U.S. Commodity Futures Trading Corporation Chairman Gary Gensler, to Secretary of Agriculture, Food and Markets Chuck Ross, and to the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 780.

Senator Flory, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to compensation for certain state employees.

H.780. An act relating to compensation for certain state employees.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Exempt Employees in the Executive Branch * * *

Sec. 1. RESTORATION OF SALARY

(a) The amount equal to the three-percent reduction in salaries taken on July 1, 2010 by exempt employees in the executive branch who earned less than \$60,000.00 annually may be restored to those salaries in fiscal year 2013.

(b) The amount equal to the five-percent reduction in salaries taken on January 1, 2009 by exempt employees in the executive branch who earned

\$60,000.00 or more annually may be restored to those salaries in fiscal year 2013.

(c) If the secretary of administration determines that the salary of an exempt employee in the executive branch who earns less than \$60,000.00 annually and was hired or promoted after July 1, 2010 reflects a three-percent reduction in pay, the secretary may restore the amount equal to the three-percent reduction to that salary in fiscal year 2013.

(d) If the secretary of administration determines that the salary of an exempt employee in the executive branch who earns \$60,000.00 or more annually and was hired or promoted after January 1, 2009 reflects a five-percent reduction in pay, the secretary may restore the amount equal to the five-percent reduction to that salary in fiscal year 2013.

Sec. 2. COST-OF-LIVING ADJUSTMENTS

(a) Exempt employees in the executive branch earning less than \$60,000.00 annually may receive a cost-of-living adjustment in fiscal year 2013 of two percent.

(b) Exempt employees in the executive branch earning \$60,000.00 or more annually may or may not receive a cost-of-living adjustment in fiscal year 2013.

(c) Exempt employees in the executive branch may receive a cost-of-living adjustment in fiscal year 2014.

Sec. 3. RATE OF ADJUSTMENT

For purposes of determining annual salary adjustments, special salary increases, and bonuses under 32 V.S.A. §§ 1003(b) and 1020(b), the "total rate of adjustment available to classified employees under the collective bargaining agreement" shall be deemed to be 2.85 percent in fiscal year 2013 and 3.7 percent in fiscal year 2014.

* * * Defender General and Veterans' Home * * *

Sec. 4. 32 V.S.A. § 1003(b)(1) is amended to read:

(1) Heads of the following departments, ~~offices~~ and agencies:

	<u>Base Salary as of July 8, 2007</u>	<u>Base Salary as of July 1, 2012</u>
(A) Administration	\$90,745	\$90,745

(B) Agriculture, food and markets	90,745	<u>90,745</u>
(C) Banking, insurance, securities, and health care administration <u>Financial regulation</u>	84,834	<u>84,834</u>
(D) Buildings and general services	84,834	<u>84,834</u>
(E) Children and families	84,834	<u>84,834</u>
(F) Commerce and community development	90,745	<u>90,745</u>
(G) Corrections	84,834	<u>84,834</u>
(H) Defender general	76,953	<u>84,834</u>
(I) Disabilities, aging, and independent living	84,834	<u>84,834</u>
(J) <u>Economic, housing, and community Development</u>	76,953	<u>76,953</u>
(K) Education	84,834	<u>84,834</u>
(L) Environmental conservation	84,834	<u>84,834</u>
(M) Finance and management	84,834	<u>84,834</u>
(N) Fish and wildlife	76,953	<u>76,953</u>
(O) Forests, parks and recreation	76,953	<u>76,953</u>
(P) Health	84,834	<u>84,834</u>
(Q) Housing and community affairs	76,953	[Repealed.]
(R) Human resources	84,834	<u>84,834</u>
(S) Human services	90,745	<u>90,745</u>
(T) Information and innovation	84,834	<u>84,834</u>
(U) Labor	84,834	<u>84,834</u>
(V) Libraries	76,953	<u>76,953</u>
(W) Liquor control	76,953	<u>76,953</u>
(X) Lottery	76,953	<u>76,953</u>
(Y) Mental Health	84,834	<u>84,834</u>
(Z) Military	84,834	<u>84,834</u>
(AA) Motor vehicles	76,953	<u>76,953</u>
(BB) Natural resources	90,745	<u>90,745</u>

(CC) Natural resources board chairperson	76,953	<u>76,953</u>
(DD) Public Safety	84,834	<u>84,834</u>
(EE) Public service	84,834	<u>84,834</u>
(FF) Taxes	84,834	<u>84,834</u>
(GG) Tourism and marketing	76,953	<u>76,953</u>
(HH) Transportation	90,745	<u>90,745</u>
(II) Vermont health access	84,834	<u>84,834</u>
(JJ) Veterans Veterans' home	76,953	<u>84,834</u>

* * * Judicial Branch * * *

Sec. 5. 32 V.S.A. § 1003(c) is amended to read:

(c) The annual salaries of the officers of the judicial branch named below shall be as follows:

Annual	<u>Annual</u>	<u>Annual</u>	
Salary	<u>Salary</u>	<u>Salary</u>	
as of	<u>as of</u>	<u>as of</u>	
July 8,	<u>July 1,</u>	<u>July 14,</u>	
2007	<u>2012</u>	<u>2013</u>	
(1) Chief justice of supreme court	\$135,421	<u>\$139,280</u>	<u>\$144,434</u>
(2) Each associate justice	129,245	<u>132,928</u>	<u>137,847</u>
(3) Administrative judge	129,245	<u>132,928</u>	<u>137,847</u>
(4) Each superior judge	122,867	<u>126,369</u>	<u>131,045</u>
(5) Each district judge	122,867	[Repealed.]	
(6) Each magistrate	92,641	<u>95,281</u>	<u>98,807</u>
(7) Each judicial bureau hearing officer	92,641	<u>95,281</u>	<u>98,807</u>

Sec. 6. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES

(a)(1) The compensation of each assistant judge of the superior court shall be ~~\$142.04~~ \$146.09 a day as of ~~July 8, 2007,~~ July 1, 2012 and \$151.49 a day as of July 14, 2013 for time spent in the performance of official duties and necessary expenses as allowed to classified state employees. Compensation under this section shall be based on a two-hour minimum and hourly thereafter.

* * *

Sec. 7. 32 V.S.A. § 1142 is amended to read:

§ 1142. PROBATE JUDGES

(a) The annual salaries of the probate judges in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 1,</u> <u>2012</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 14,</u> <u>2013</u>	
(1) Addison	\$48,439	<u>\$49,820</u>	<u>\$51,663</u>
(2) Bennington	61,235	<u>62,980</u>	<u>65,310</u>
(3) Caledonia	42,956	<u>44,180</u>	<u>45,815</u>
(4) Chittenden	91,395	<u>105,104</u>	<u>108,993</u>
(5) Essex	12,000	<u>12,342</u>	<u>12,799</u>
(6) Franklin	48,439	<u>49,820</u>	<u>51,663</u>
(7) Grand Isle	12,000	<u>12,342</u>	<u>12,799</u>
(8) Lamoille	33,816	<u>34,780</u>	<u>36,067</u>
(9) Orange	40,214	<u>41,360</u>	<u>42,890</u>
(10) Orleans	39,300	<u>40,420</u>	<u>41,916</u>
(11) Rutland	86,825	<u>89,300</u>	<u>92,604</u>
(12) Washington	66,718	<u>68,619</u>	<u>71,158</u>
(13) Windham	53,923	<u>55,460</u>	<u>57,512</u>
(14) Windsor	73,116	<u>75,200</u>	<u>77,982</u>

* * *

(c) ~~A probate judge whose salary is less than 50 percent of the salary of the most highly paid probate judge shall be eligible only for the least expensive medical benefit plan option available to state employees or may apply the state share of the premium for which the judge is eligible toward the purchase of another state or private health insurance plan. A probate judge whose salary is less than 50 percent of the salary of the most highly paid probate judge may participate in other state employee benefit plans~~ All probate judges, regardless

of the number of hours worked annually, shall be eligible to participate in all employee benefits that are available to exempt employees of the judicial department.

Sec. 8. COURT ADMINISTRATOR; WEIGHTED CASELOAD STUDY

The court administrator shall conduct a weighted caseload study of the probate division and report its findings to the senate and house committees on government operations by January 31, 2013.

* * * Sheriffs * * *

Sec. 9. 32 V.S.A. § 1182 is amended to read:

§ 1182. SHERIFFS

(a) The annual salaries of the sheriffs of all counties except Chittenden shall be ~~\$65,812.00~~ \$67,688.00 as of ~~July 8, 2007~~ July 1, 2012 and ~~\$70,192.00~~ \$71,631.00 as of ~~July 14, 2013~~ July 1, 2012 and ~~\$74,281.00~~ \$74,281.00 as of ~~July 14, 2013~~ July 14, 2013.

(b) Compensation under subsection (a) of this section shall be reduced by 10 percent for any sheriff who has not completed the full-time training requirements under 20 V.S.A. § 2358.

* * * State's Attorneys * * *

Sec. 10. 32 V.S.A. § 1183 is amended to read:

§ 1183. STATE'S ATTORNEYS

(a) The annual salaries of state's attorneys shall be:

	<u>Annual Salary as of July 8, 2007</u>	<u>Annual Salary as of July 1, 2012</u>	<u>Annual Salary as of July 14, 2013</u>
(1) Addison County	\$89,020	<u>\$91,557</u>	<u>\$94,945</u>
(2) Bennington County	89,020	<u>91,557</u>	<u>94,945</u>
(3) Caledonia County	89,020	<u>91,557</u>	<u>94,945</u>
(4) Chittenden County	93,069	<u>95,721</u>	<u>99,263</u>
(5) Essex County	66,766	<u>68,669</u>	<u>71,210</u>
(6) Franklin County	89,020	<u>91,557</u>	<u>94,945</u>
(7) Grand Isle County	66,766	<u>68,669</u>	<u>71,210</u>

(8) Lamoille County	89,020	<u>91,557</u>	<u>94,945</u>
(9) Orange County	89,020	<u>91,557</u>	<u>94,945</u>
(10) Orleans County	89,020	<u>91,557</u>	<u>94,945</u>
(11) Rutland County	89,020	<u>91,557</u>	<u>94,945</u>
(12) Washington County	89,020	<u>91,557</u>	<u>94,945</u>
(13) Windham County	89,020	<u>91,557</u>	<u>94,945</u>
(14) Windsor County	89,020	<u>91,557</u>	<u>94,945</u>

(b) In settlement of their accounts the commissioner of finance and management shall allow the state's attorneys the expense of printing briefs in cases in which the state's attorney has represented the state and their necessary and actual expenses under the rules and regulations pertaining to classified state employees.

* * * Appropriations * * *

Sec. 11. PAY ACT FUNDING

The compensation provided in this act shall be funded by appropriations made in H.781 of the 2011–2012 session of the general assembly in Sec. B.1200 for fiscal year 2013 and in Sec. BB.1200 for fiscal year 2014.

* * * Study * * *

Sec. 12. COMMISSIONER OF HUMAN RESOURCES; CASELOAD AND WORKLOAD STUDY; ATTORNEYS IN THE EXECUTIVE BRANCH; PAY PLANS

(a) The commissioner of human resources shall conduct a caseload and workload study that assesses the caseloads and workloads of deputy state's attorneys, public defenders, assistant attorneys general, and staff attorneys in the executive branch and shall report his or her findings to the general assembly on or before March 15, 2013.

(b) The secretary of administration shall create a new pay plan for all exempt attorneys in the executive branch employed by the state who perform legal services in order to create parity and equity in the compensation paid to these attorneys. In creating the pay plan, the secretary shall consider the results of the study in subsection (a) of this section and the relative caseloads and workloads of the attorneys. Notwithstanding any provision of law to the contrary, the secretary shall have final authority over and shall be required to approve all salaries paid to exempt attorneys employed by the state in the executive branch and shall administer the pay plan to ensure that parity and equity in compensation are maintained.

Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

*MARGARET K FLORY
ALICE W. NITKA
JEANETTE K. WHITE*

Committee on the part of the Senate

*KENNETH W. ATKINS
DENNIS J. DEVEREUX
LINDA J. MARTIN*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Senate Bill Committed

H. 691.

Senate bill entitled:

An act relating to prohibiting collusion as an antitrust violation.

Was taken up.

Thereupon, pending second reading of the bill, on motion of Senator Nitka, the bill was committed to the Committee on Judiciary.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 189.

Senator Nitka, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 189. An act relating to expanding confidentiality of cases accepted by the court diversion project.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and 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 prosecuting 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 prosecuting 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 prosecuting 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 offenses, 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, absent a court order:

(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 prosecuting 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 prosecuting 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 prosecuting 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 prosecuting attorney.

~~(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 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.

*ALICE W. NITKA
RICHARD W. SEARS
DIANE B. SNELLING*

Committee on the part of the Senate

*MAXINE JO GRAD
LINDA J. WAITE-SIMPSON
GERALD W. REIS*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 496.

Senator Illuzzi, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 496. An act relating to preserving Vermont's working landscape.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposals of amendment and 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. chapter 207 is amended to read:

CHAPTER 207. PROMOTION AND MARKETING OF VERMONT
FOODS AND PRODUCTS

Subchapter 1. Agricultural Practices and Production

* * *

Subchapter 2. The Vermont Working Lands Enterprise Program

§ 4603. LEGISLATIVE FINDINGS

The general assembly finds:

(1) The report issued by the Council on the Future of Vermont indicates that over 97 percent of Vermonters polled endorsed the value of the “working landscape” as key to our future.

(2) Vermont’s unique agricultural and forest assets—its working landscape—are crucial to the state’s economy, communities, character, and culture. These assets provide jobs, food and fiber, energy, security, tourism and recreational opportunities, and a sense of well-being. They contribute to Vermont’s reputation for quality, resilience, and self-reliance.

(3) Human activity involving Vermont’s agricultural and forestland has been integral to the development of Vermont’s economy, culture, and image. Sustainable land use will need to balance economic development demands with the other services the land provides, many of which have economic benefits beyond the agriculture and forest product sectors. Some of these benefits include clean air and water, recreational opportunities, ecosystem restoration, scenic vistas, and wildlife habitat.

(4) The agriculture and forest product sectors are similar and share many of the same challenges. There are potential benefits to be realized by the joining of these sectors in development planning and coordination, making policy decisions, and leveraging economic opportunities.

(5) The agriculture and forest product sectors provide renewable and harvestable products that form the basis of Vermont’s land-based economy. The conversion of these raw commodities into value-added products within our borders represents further economic and employment opportunities.

(6) Vermont is in the midst of an agricultural renaissance and is at the forefront of the local foods movement. The success has been due to the efforts of skilled and dedicated farmers, creative entrepreneurs, and the strategic investment of private and public funds.

(7) State investment in a given industry or economic sector is often essential to stimulate and attract additional private and philanthropic

investment. The combination of public, private, and foundation support can create enterprise opportunities that any one of them alone cannot. Grants issued as a result of No. 52 of the Acts of 2011 helped create jobs and economic activity in the agricultural sector. They also leveraged private and foundation investments.

(8) Vermont's land-based economy has proven to be a driver for Vermont's ongoing economic recovery.

(9) Value-added and specialty Vermont products are a growing source of revenue for Vermont's agricultural producers, many of whom have benefited from the existing infrastructure requirements of commodity producers. Both export and instate markets are necessary options for the agriculture and forest product sectors' economic development.

(10) The Vermont brand is highly regarded both nationally and internationally. Forest management is seen as crop management by those active in the forest product industry. An actively managed forest is a healthy and productive one.

(11) Vermont's agriculture and forest product sectors have not been perceived or treated as businesses by the traditional business and lending communities. They often lack available capital and financial package options that match their stage of development.

(12) Financial service and workforce development programs need to be customized to meet the unique needs of Vermont's agriculture and forest product sectors. Landowner education and labor skills training are also important for future productive management of forestlands.

(13) Scale is an important determining factor for the successful development of businesses that utilize Vermont's agriculture and forest products. Other limiting factors include labor and transportation costs, support services, resource base, and the regulatory environment.

(14) Workers' compensation, health care, energy costs, and regulatory requirements are a major concern to the agriculture and forest product sectors. For example, workers' compensation premiums for loggers may run as high as 48 percent of each dollar of wages.

(15) The amount of land in Vermont is finite, and part of its community and economic value is tied to the way it is used. Farmland and forestland that are developed for other uses affect the future viability of remaining farms and forest enterprises.

(16) A forestland owner is often not the person actively engaged in the business of land management, such as planning, harvesting, or marketing the

raw product, whereas in agricultural operations, the farmer often owns both the land and the business. Many farm operations have woodlots that have traditionally been used for syrup, timber, and firewood production.

(17) Vermonters' perception of and support for local wood and forest products is not at the same level as it is for local food. Public outreach and education efforts need to be created to address the public's perception of actively managed working lands and the people who perpetuate them. Over the last decade, consumers of wood products have become more interested in production and management methods, certification programs, and the source of the raw materials.

(18) Vermont's forest products industry has been in decline for many years, in part due to rising costs, a poor housing market, and a lack of manufacturing. The total value of the forest product industry has dropped from \$1.8 billion to \$1.3 billion since 2007. If wood chips were priced at the equivalent BTU replacement value of oil, they would command a higher price. The number of active sawmills has also declined to fewer than 20 today.

(19) The average age of Vermont's farmers and loggers is over 55 years and the average age of forestland owners is over 65. Attention needs to be brought to efforts that will ensure intergenerational succession and lower those averages. Economically viable farm and forest-based operations are critical to that goal. "Legacy" skills such as farming and logging are disappearing, as the children of those making a living from those skills often aspire to different employment opportunities.

(20) Access to land is a challenge for many, especially younger, people who want the opportunity to make a living from productive use of the land. Farm and forestland ownership is often out of reach for young people who do not have some sort of assistance.

(21) The Vermont forest product sector contains approximately 7,000 jobs, and approximately 57,000 jobs are in Vermont's food system.

(22) Regulations for forest product enterprises need to reflect a balance between economic development and responsible land use practices. There is a need to assess regulations involving the primary processing and transportation elements of the forest product sector.

(23) Seventy-six percent of Vermont's 4.5 million acres is forested, 84 percent of which is privately owned. Sustainable management of state-owned forestlands represents an opportunity for private sector forest businesses.

(24) Forest product sector representatives have identified needs for their industry including market development, additional secondary processing facilities, lower energy and transportation costs, and capital for growth

enterprises as well as research and development for new and improved value-added products that make use of Vermont's forest resources. Factors such as health care, labor, and energy policies in Canada contribute to the northward flow of Vermont logs. Research is needed in order to develop strategies that will help keep Vermont's forest product sector competitive.

(25) Vermont's Use Value Appraisal (Current Use) Program is critically important to every component of Vermont's agriculture and forest product sectors. It also helps keep Vermont forestland productive and healthy through the requirement of active forest management plans.

(26) Dairy enterprises remain Vermont's leading source of agricultural revenues, with an estimated annual economic impact of over \$2 billion or approximately 75 percent of total gross agricultural output.

(27) Recent grants and educational programs have started to address the lack of slaughter and meat-processing facilities in the state; however, there continues to be a strong need to further these efforts.

§ 4604. LEGISLATIVE INTENT

It is the intent of the general assembly in adopting this subchapter to:

(1) stimulate a concerted economic development effort on behalf of Vermont's agriculture and forest product sectors by systematically advancing entrepreneurship, business development, and job creation;

(2) recognize and build on the similarities and unique qualities of Vermont's agriculture and forest product sectors;

(3) increase the value of Vermont's raw and value-added products through the development of in-state and export markets;

(4) attract a new generation of entrepreneurs to Vermont's farm, food system, forest, and value-added chain by facilitating more affordable access to the working landscape;

(5) provide assistance to agricultural and forest product businesses in navigating the regulatory process;

(6) use Vermont's brand recognition and reputation as a national leader in food systems development, innovative entrepreneurship, and as a "green" state to leverage economic development and opportunity in the agriculture and forest product sectors;

(7) promote the benefits of Vermont's working lands, from the economic value of raw and value-added products to the public value of ecological stability, land stewardship, recreational opportunities, and quality of life;

(8) increase the amount of state investment in working lands enterprises, particularly when it leverages private and philanthropic funds; and

(9) support the people and businesses that depend on Vermont's renewable land-based resources and the sustainable and productive use of the land by coordinating and integrating financial products and programs.

§ 4605. 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 4606 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 established by section 4607 of this title.

§ 4606. VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Creation. There is created a Vermont working lands enterprise board, which for administrative purposes shall be attached to the agency of agriculture, food and markets.

(b) Organization of board. The board shall be composed of:

(1) the secretary of agriculture, food and markets or designee, who shall serve as chair;

(2) the commissioner of forests, parks and recreation or designee;

(3) the secretary of commerce and community development or designee;

(4) the following members appointed by the speaker of the house:

(A) one member who is a representative of the Vermont forest industry who is also a forester;

(B) one member who is actively engaged in commodity maple production;

(5) the following members appointed by the senate committee on committees:

(A) one member who is actively engaged in wood products manufacturing;

(B) one member who is a representative of one of the two largest membership-based agricultural organizations in Vermont who is not a dairy farmer;

(6) the following members appointed by the governor:

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

(B) one member who is a representative of a membership-based forestland owner organization;

(7) the following members appointed by the Vermont agricultural and forest products development board:

(A) one member who is actively engaged in value-added agricultural products manufacturing; and

(B) two members actively engaged in providing marketing assistance, market development, or business and financial planning;

(8) the following members, who shall serve as ex officio, nonvoting members:

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

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

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

(c) Member terms. The members designated in subdivisions (b)(4)–(7) of this section shall be appointed to initial terms of one year for members appointed by the governor, two years for members appointed by the senate committee on committees, and three years for members appointed by the speaker of the house. Thereafter, each appointed member shall serve a term of three years or until his or her earlier resignation or removal. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. An appointed member shall not serve more than three consecutive three-year terms.

(d) Officers; committees. The board may elect officers, establish one or more committees or subcommittees, and adopt such procedural rules as it shall determine necessary and appropriate to perform its work.

(e) Quorum; meetings; voting. A majority of the sitting members shall constitute a quorum, and action taken by the board may be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present. The board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all members participating may simultaneously or sequentially communicate with each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

(f) Compensation. Private sector members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010(b) for each day spent in the performance of their duties, and each member shall be reimbursed from the fund for his or her actual and necessary expenses incurred in carrying out his or her duties.

§ 4607. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) The Vermont working lands enterprise board shall have the authority:

(1) to establish an application process and eligibility criteria for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems;

(2) to award grants and other investments, which may include loans underwritten and administered through the Vermont economic development authority;

(3) to enter into performance contracts with one or more persons in order to provide investment and services to agricultural and forestry enterprises, including:

(A) technical assistance and product research services;

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

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

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

(4) to identify workforce needs and programs in order to develop training and incentive opportunities for the agriculture and forest product sectors after consulting with the department of labor;

(5) to identify strategic statewide infrastructure and investment priorities considering:

(A) leveraging opportunities;

(B) economic clusters;

(C) return-on-investment analysis;

(D) other considerations the board determines appropriate; and

(6) to pursue and accept grants or other funding from any public or private source and to administer such grants or funding consistent with their terms.

(b) The agency of agriculture, food and markets shall provide administrative support to the extent authorized by the secretary of agriculture, food and markets, and with the assistance of the department of forests, parks and recreation to the extent authorized by the commissioner of forests, parks and recreation, in order to support the board in the performance of its duties pursuant to this section.

Sec. 2. 6 V.S.A. § 2966 is amended to read:

§ 2966. AGRICULTURAL AND FOREST PRODUCTS DEVELOPMENT BOARD; ORGANIZATION; DUTIES AND AUTHORITY

(a) Purpose. The purpose of this section is to create a permanent Vermont agricultural and forest products development board that is authorized and empowered as the state's primary agricultural and forest products development entity.

(1) The board is charged with:

(A) optimizing the agricultural and forestry use of Vermont lands and other agricultural resources;

* * *

(2) The board shall:

(A) review existing strategies and plans and develop, ~~implement~~, and continually update a comprehensive statewide plan to guide and encourage agricultural and forest products development and new and expanded markets for agricultural and forest products;

(B) advise and make recommendations to the secretaries of relevant state agencies, the governor, the director of the state experiment station, the University of Vermont extension service, and the general assembly on the adoption and amendment of laws, regulations, and governmental policies that affect agricultural development, land use, access to capital, the economic

opportunities provided by Vermont agriculture and forest products, and the well-being of the people of Vermont;

(C) monitor and report on Vermont's progress in achieving the agricultural economic development goals identified by the board; ~~and~~

(D) balance the needs of production methods with the opportunities to market products that enhance Vermont agriculture and forest products; and

(E) prepare a comprehensive report, in consultation with the agency of agriculture, food and markets and the department of forests, parks and recreation, indicating the progress made by the working lands enterprise board with regard to all activities authorized by this section. The report shall be presented to the senate and house committees on agriculture, the senate committees on economic development, housing and general affairs and on natural resources and energy, and the house committee on commerce and economic development on or before January 15, 2013.

(b) Board created. The Vermont agricultural and forest products development board is hereby created. The exercise by the board of the powers conferred upon it in this section constitutes the performance of essential governmental functions.

(c) Powers and duties. The board shall have the authority and duty to:

* * *

(5) obtain information from other planning entities, including the ~~farm to plate~~ farm to plate investment program;

* * *

(d) Comprehensive agricultural and forest products economic development plan.

(1) Using information available from previous and ongoing agricultural and forest products development planning efforts, such as the ~~farm to plate~~ farm to plate investment program's strategic plan, and the board's own data and assumptions, the board shall develop and implement a comprehensive agricultural and forest products economic development plan for the state of Vermont. The plan shall include, at minimum, the following:

(A) an assessment of the current status of agriculture and forestry in Vermont;

(B) current and projected workforce composition and needs;

(C) a profile of emerging business and industry sectors projected to present future agricultural and forest products economic development

opportunities, and a cost-benefit analysis of strategies and resources necessary to capitalize on these opportunities;

(D) a profile of current components of physical and social infrastructure affecting agricultural and forest products economic development;

(E) a profile of government-sponsored programs, agricultural and forest products economic development resources, and financial incentives designed to promote and support agricultural and forest products economic development, and a cost-benefit analysis of continued support, expansion, or abandonment of these programs, resources, and incentives;

(F) the use of the Vermont brand to further agricultural and forest products economic development;

* * *

(2) Based on its research and analysis, the board shall establish in the plan a set of clear strategies with defined and measurable outcomes for agricultural and forest products economic development, the purpose of which shall be to guide long-term agricultural and forest products economic development policymaking and planning.

* * *

(4) The board shall conduct a periodic review and revision of the comprehensive agricultural and forest products economic development plan as often as is necessary in its discretion, but at minimum every five years, to ensure the plan remains current, relevant, and effective for guiding and evaluating agricultural and forest products economic development policy.

* * *

(e) Annual report. The board shall make available a report, at least annually, to the administration, the house committee on agriculture, the senate committee on agriculture, the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the people of Vermont on the state's progress toward attaining the goals and outcomes identified in the comprehensive agricultural and forest products economic development plan.

(f) Composition of board.

(1) The board shall be composed of ~~12~~ 16 members. In making appointments to the board pursuant to this section, the governor, the speaker of the house, and the president pro tempore of the senate shall coordinate their selections to ensure, to the greatest extent possible, that the board members selected by them reflect the following qualities:

(A) proven leadership in a broad range of efforts and activities to promote and improve the Vermont agricultural or forest products economy and the quality of life of Vermonters;

(B) demonstrated innovation, creativity, collaboration, pragmatism, and willingness to make long-term commitments of time, energy, and effort;

(C) geographic, gender, ethnic, social, political, and economic diversity;

(D) diversity of agricultural and forest products enterprise location, size, and sector of the for-profit agricultural and forest products business community members; and

(E) diversity of interest of the nonprofit or nongovernmental organization community members.

(2) Members of the board shall include the following:

(A) ~~four~~ five members appointed by the governor:

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

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

(iii) a person familiar with the agricultural or forest tourism industry; ~~and~~

(iv) an agricultural lender; and

(v) a person with expertise and professional experience in forest products manufacturing.

(B) ~~four~~ six members appointed by the speaker of the house of representatives:

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

(ii) a person who creates a value-added product using ingredients substantially produced on Vermont farms;

(iii) a person with expertise in sales and marketing; ~~and~~

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

(v) a forester; and

(vi) a sawmill operator.

(C) ~~four~~ five members appointed by the committee on committees of the senate:

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

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

(iii) a representative from a Vermont agricultural advocacy organization; ~~and~~

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

(v) a logger.

(3) The secretary of agriculture, food and markets or his or her designee shall be ~~a nonvoting,~~ an ex officio, nonvoting member. The secretary may provide staff support from the agency of agriculture, food and markets as resources permit.

(4) The secretary of commerce and community development or his or her designee shall be ~~a nonvoting,~~ an ex officio, nonvoting member.

(5) The commissioner of forests, parks and recreation or his or her designee shall be an ex officio, nonvoting member. The commissioner may provide staff support from the department of forests, parks and recreation as resources permit.

* * *

Sec. 3. 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 forestland, 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 forestland, 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 forestland 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 forestland, 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 or forestland, 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. 4. REPEAL

The following sections are repealed in their entirety:

(1) 6 V.S.A. chapter 162, subchapter 1 (Vermont agricultural innovation center).

(2) 6 V.S.A. § 2963a (comprehensive plan for the future development of diversified agriculture).

(3) 6 V.S.A. § 2964 (Vermont seal of quality).

Sec. 5. FUNDING PRIORITIES

(a) The amounts appropriated from the general fund to the Vermont working lands enterprise fund established in 6 V.S.A. § 4605 shall be used by the working lands enterprise board for the following purposes:

(1) For enterprise grants to entrepreneurs, including grants to leverage private capital, jump-start new businesses, help beginning farmers access land, and support diversification projects that add value to farm and forest commodities. These initial investments are intended to fund an enterprise grant pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(2) For wraparound services to growth companies, including technical assistance, business planning, financial packaging, and other services required by companies ready to transition to the next stage of growth. These initial investments are intended to fund a growth company services pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(3) For state infrastructure investments, including investment in private and nonprofit sectors for creative diversification projects, value-added manufacturing, processing, storage, distribution, and collaborative ventures. These initial investments are intended to fund an infrastructure investment pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(b) In designing its application process and criteria, and in awarding funding pursuant to its authority under 6 V.S.A. § 4607, the board shall consider the most effective means of encouraging participation in the process by individuals and enterprises that have not availed themselves of these opportunities in the past, and by individuals and enterprises who have not recently received funding from the state or a state-funded entity, as the board deems appropriate.

(c) The agency of agriculture, food and markets shall utilize funds appropriated to it for the purposes of this act to perform its full duties to the Vermont working lands enterprise board, to provide administrative support to the Vermont agricultural and forest products development board, and to provide reimbursement for travel expenses incurred by Vermont agricultural and forest products development board members pursuant to 6 V.S.A. § 2966(h).

Sec. 6. IMPLEMENTATION; EFFECTIVE DATE

(a) This act shall take effect on passage, except that Sec. 4(1) (repeal of agriculture innovation center) of this act shall take effect on March 31, 2013.

(b) Board members appointed pursuant to 6 V.S.A. § 4606 shall be appointed no later than June 30, 2012.

*VINCENT ILLUZZI
VIRGINIA V. LYONS
HAROLD W. GIARD*

Committee on the part of the Senate

*CAROLYN W. PARTRIDGE
WILLIAM C. STEVENS
RICHARD H. LAWRENCE*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 769.

Senator Ashe, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to department of environmental conservation fees.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Department of environmental conservation * * *
* * * Environmental permits * * *

Sec. 1. 3 V.S.A. § 2822 is amended to read:

§ 2822. BUDGET AND REPORT; POWERS

* * *

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the agency of natural resources.

(1) For air pollution control permits or registrations issued under 10 V.S.A. chapter 23 of Title 10:

(A) Any persons subject to the provisions of 10 V.S.A. § 556 shall submit with each permit application or with each request for a permit amendment, a base service fee in accordance with the base fee schedule in subdivision (i) of this subdivision (1)(A). Prior to taking final action under 10 V.S.A. § 556 on any application for a permit for a nonmajor stationary source or on any request for an amendment of a permit for such a source, the secretary shall assess each applicant for any additional fees due to the agency, assessed in accordance with the base fee schedule and the supplementary fee schedule in subdivision (ii) of this subdivision (1)(A). The applicant shall submit any fees so assessed to the secretary prior to issuance of the final permit, notwithstanding the provisions of subsection (i) of this section. The

base fee schedule and the supplementary fee schedule are applicable to all applications on which the secretary makes a final decision on or after the date on which this section is operative.

- (i) Base fee schedule
 - (I) Application for permit to construct or modify source
 - (aa) Major stationary source ~~\$ 12,500.00~~ \$ 15,000.00
 - (bb) Nonmajor stationary source ~~\$ 1,000.00~~ \$ 2,000.00
 - (II) Amendments
 - Change in business name, division name or plant name; mailing address; or company stack designation; or other administrative amendments ~~\$ 100.00~~ \$ 150.00
- (ii) Supplementary fee schedule for nonmajor stationary sources
 - (I) Engineering review ~~\$ 1,750.00~~ \$ 2,000.00
 - (II) Air quality impact analysis
 - Review refined modeling ~~\$ 1,250.00~~ \$ 2,000.00
 - (III) Observe and review source emission testing ~~\$ 1,750.00~~ \$ 2,000.00
 - (IV) Audit performance of continuous emissions monitors ~~\$ 1,750.00~~ \$ 2,000.00
 - (V) Audit performance of ambient air monitoring ~~\$ 1,750.00~~ \$ 2,000.00
 - (VI) Implement public comment requirement \$ 500.00₂

(B) Any person required to register an air contaminant source under 10 V.S.A. § 555(c) shall submit an annual registration fee in accordance with the following registration fee schedule, where the sum of a source’s emissions of the following air contaminants is greater than five tons per year: sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, and hydrocarbons:

Registration: ~~\$0.024~~ \$0.0335 per pound of emissions of any of these contaminants. Where the sum of a source’s emission of these contaminants is greater than ten tons per year, provided that a plant producing renewable energy as defined in 30 V.S.A. § 8002 shall pay an annual fee not exceeding \$64,000.00:

Base registration fee ~~\$1,000.00~~ \$1,500.00; and ~~\$0.024~~ \$0.0335 per pound of emissions of any of these contaminants.

(2) For discharge permits issued under 10 V.S.A. chapter 47 ~~of Title 10~~ and orders issued under 10 V.S.A. § 1272, an administrative processing fee of ~~\$100.00~~ \$120.00 shall be paid at the time of application for a discharge permit in addition to any application review fee and any annual operating fee, except for permit applications under subdivisions (2)(A)(iii)(III), ~~(IV)~~, and (V) of this subsection:

(A) Application review fee.

* * *

(iii) Stormwater discharges.

- | | |
|--|--|
| (I) Individual operating permit or application to operate under general operating permit for collected stormwater runoff which is discharged to Class B waters: original application; amendment for increased flows; amendment for change in treatment process. | \$360.00 <u>\$430.00</u> per acre impervious area; minimum \$180.00 <u>\$220.00</u> per application. |
| (II) Individual operating permit or application to operate under general operating minimum permit for collected stormwater runoff which is discharged to Class A waters; original application; amendment for increased flows; amendment for change in treatment process. | \$1,170.00 <u>\$1,400.00</u> per acre impervious area; minimum \$1,170.00 <u>\$1,400.00</u> per application. |
| (III) Individual permit or application to operate under general permit for construction activities; original application; amendment for increased acreage. | |

-
- (aa) Projects with low risk to waters of the state. ~~\$36.00~~ \$50.00 per project; original application.
 - (bb) Projects with moderate risk to waters of the state. ~~\$300.00~~ \$360.00 per project original application.
 - (cc) Projects that require an individual permit. ~~\$600.00~~ \$720.00 per project original application.
 - (IV) Individual permit or application to operate under general permit for stormwater runoff associated with industrial activities with specified SIC codes; original application; amendment for change in activities. ~~\$180.00~~ \$220.00 per facility.
 - (V) Individual permit or application to operate under general permit for stormwater runoff associated with municipal separate storm sewer systems; original application; amendment for change in activities. ~~\$1,000.00~~ \$1,200.00 per system.
 - (VI) Individual operating permit or application to operate under a general permit for a residually designated stormwater discharge original application; amendment; for increased flows amendment; for change in treatment process.
 - (aa) For discharges to Class B water; \$430.00 per acre of impervious area, minimum \$220.00.
 - (bb) For discharges to Class A water; \$1,400.00 per acre of impervious area, minimum \$1,400.00.
 - (VII) Renewal, transfer, or minor amendment of individual permit or approval under general permit. \$0.00

- (iv) Indirect discharge or
underground injection control,
excluding stormwater discharges.

* * *

(II) Nonsewage.

- | | |
|--|---|
| (aa) Individual permit:
original application;
amendment for increased
flows; amendment for
modification or
replacement of system. | \$0.06 per gallon design
capacity; minimum \$235.00
<u>\$400.00</u> per application. |
| (bb) Renewal, transfer or
minor amendment of
individual permit. | \$0.00 |
| (cc) General permit | \$0.00. |
| | |
| (B) Annual operating fee. | |
| (i) Industrial, noncontact
cooling water and
thermal discharges. | \$0.001 per gallon design
capacity. \$150.00
minimum; maximum
\$105,000.00. <u>\$210,000.00</u> |

* * *

(iv) Stormwater

* * *

- | | |
|---|--|
| (II) Individual operating permit
or approval under general
operating permit for
collected stormwater runoff
which is discharged to
Class B waters. | \$66.00 <u>\$80.00</u> per acre
impervious area;
\$60.00 <u>\$80.00</u> minimum. |
| (III) Individual permit or
approval under general
permit for stormwater
runoff from industrial
facilities with
specified SIC codes. | \$66.00 <u>\$80.00</u> per
facility. |

(IV) Individual permit or application to operate under general permit for stormwater runoff associated with municipal separate storm sewer systems. ~~\$66.00~~ \$80.00 per system.

(V) Individual permit or approval under general permit for residually designated stormwater discharges.

(aa) For discharges to Class A water; \$255.00 per acre of impervious area, minimum \$255.00.

(bb) For discharges to Class B water; \$80.00 per acre of impervious area, minimum \$80.00.

(v) Indirect discharge or underground injection control, excluding stormwater discharges:

* * *

(II) Nonsewage

(aa) Individual permit \$0.013 per gallon of design capacity. ~~\$100.00~~ \$250.00 minimum; maximum \$5,500.00.

* * *

(4) For potable water supply and wastewater permits issued under 10 V.S.A. chapter 64. Projects under this subdivision include: a wastewater system, including a sewerage connection; and a potable water supply, including a connection to a public water supply:

(A) ~~Subdivision of land~~

~~(i) Original application; major amendments.~~

~~(I) Municipal or private sewerage system and public water supply. \$0.25 per gallon per lot of design flow of potable water or wastewater, whichever is greater. Minimum per lot \$105.00.~~

- | | |
|------------------------------------|---|
| (H) All other projects: | \$0.50 per gallon per lot of design flow of potable water or wastewater, whichever is greater. Minimum per lot \$210.00. |
| (ii) Minor amendments: | \$50.00 |

Original applications, or major amendments for a project with the following proposed design flows. In calculating the fee, the highest proposed design flow whether wastewater or water shall be used:

- (i) design flows 560 gpd or less: \$245.00 per application.
- (ii) design flows greater than 560 and less than or equal to 2,000 gpd: \$580.00 per application.
- (iii) design flows greater than 2,000 and less than or equal to 6,500 gpd: \$2,000.00 per application.
- (iv) design flows greater than 6,500 and less than or equal to 10,000 gpd: \$5,000.00 per application.
- (v) design flows greater than 10,000 gpd: \$9,500.00 per application.

~~(B) Potable water supply or wastewater system~~

- ~~(i) Original application or major amendment when both potable water and wastewater are being constructed.
New or replacement systems.~~

- | | |
|--|--|
| (I) Municipal or private sewerage system and public water supply: | \$0.25 per gallon of design flow of potable water or wastewater, whichever is greater. Minimum per application \$105.00. Maximum per application \$15,000.00. |
| (H) All other projects: | \$0.50 per gallon of design flow of potable water or wastewater, whichever is greater. Minimum per application \$210.00. |

- Maximum per application
\$15,000.00.
- (ii) ~~Original application or major amendment when either potable water or wastewater, but not both, is being constructed. New or replacement systems.~~
- (I) ~~Municipal or private sewerage system and public water supply. \$105.00. Maximum per application \$15,000.00.~~ \$0.15 per gallon per application of design flow. Minimum per application
- (II) ~~All other projects.~~ \$0.30 per gallon of design flow. Minimum per application \$210.00. Maximum per application \$15,000.00.
- (iii) ~~Original application or major amendment when design flow of potable water or wastewater is increased but no construction is required.~~
- (I) ~~Municipal or private sewerage system and public water supply.~~ \$0.25 per gallon of increased design flow of potable water or wastewater, whichever is greater. Minimum per application \$67.50. Maximum per application \$15,000.00.
- (II) ~~All other projects.~~ \$0.50 per gallon of increased design flow of potable water or wastewater, whichever is greater. Minimum per application \$135.00. Maximum per application \$15,000.00.

~~(iv)~~ Minor amendments. ~~\$50.00~~ \$100.00.

(C) Special fees

* * *

~~(iv) Original application or amendment for subdivision of land where the lot or lots subject to the fee are owned or will be owned by the applicant or a person related to the applicant by blood, civil marriage, or civil union. If the lot or lots are subsequently transferred within a period of two years to an individual who is not related by blood, civil marriage, or civil union to the owner of the lot or lots, the full fee for the lots that were created shall be paid.~~ ~~\$35.00~~ per lot.

(I) Minor projects: \$180.00.

(II) As used in this subdivision (j)(4)(C)(iv), "minor project" means a project that meets the following: there is an increase in design flow but no construction is required; there is no increase in design flow, but construction is required, excluding replacement potable water supplies and wastewater systems; or there is no increase in design flow and no construction is required, excluding applications that contain designs that require technical review.

(D) Notwithstanding the other provisions of this subdivision:

~~(i) when a wastewater system is subject to the fee provisions of this subdivision and subdivision (j)(2)(A)(iv)(I) of this section, only the higher of the two fees shall be assessed;~~

~~(ii) when a potable water supply is subject to the fee provisions of this subdivision and subdivision (j)(7)(A) of this section, only the fee required by subdivision (j)(7)(A) shall be assessed;~~

~~(iii) when a project is subject to the fee provision for the subdivision of land and the fee provision for potable water supplies and wastewater systems of this subdivision, only the higher of the two fees shall be assessed; and~~

~~(iv)~~ when a project is located in a Vermont neighborhood, as designated under 24 V.S.A. chapter 76A, the fee shall be no more than \$50.00

in situations in which the application has received an allocation for sewer capacity from an approved municipal system. This limitation shall not apply in the case of fees charged as part of a duly delegated municipal program.

(5) For well drillers licenses issued under 10 V.S.A. chapter 48:

~~\$105.00~~ \$140.00 per year.

Fees shall be paid on an annual basis over the term of the license.

(6) For solid waste treatment, storage, transfer or disposal facility certifications issued under 10 V.S.A. chapter 159:

* * *

(D) original and renewal applications for categorical disposal facilities ~~\$0.00~~ \$100.00.

* * *

(G) insignificant waste management event approvals \$100.00 per event.

(7) For public water supply and bottled water permits and approvals issued under 10 V.S.A. chapter 56 ~~of Title 10~~ and interim groundwater withdrawal permits and approvals issued under 10 V.S.A. chapter 48 ~~of Title 10~~:

(A) For public water supply construction permit applications: ~~\$275.00~~ \$375.00 per application plus \$0.0055 per gallon of design capacity. Amendments ~~\$110.00~~ \$150.00 per application.

(B) For water treatment plant applications, except those applications submitted by a municipality as defined in 1 V.S.A. § 126 or a consolidated water district established under 24 V.S.A. § 3342: \$0.003 per gallon of design capacity. Amendments ~~\$110.00~~ \$150.00 per application.

(C) For source permit applications:

(i) Community water systems: ~~\$615.00~~ \$945.00 per source.

(ii) Transient noncommunity: ~~\$250.00~~ \$385.00 per source.

(iii) Nontransient, noncommunity: ~~\$500.00~~ \$770.00 per source.

(iv) Amendments. ~~\$110.00~~ \$150.00 per application.

(D) For public water supplies and bottled water facilities, annually:

(i) Transient noncommunity: ~~\$45.00~~ \$50.00

- (ii) Nontransient, noncommunity: ~~\$0.0294~~ \$0.0355 per 1,000 gallons of water produced annually or \$70.00, whichever is greater.
- (iii) Community: ~~\$0.0295~~ per 1,000 gallons of water produced annually for fiscal year 2005; ~~\$0.0325~~ per 1,000 gallons of water produced annually for fiscal year 2006; and ~~\$0.0359~~ \$0.0439 per 1,000 gallons of water produced annually for fiscal year 2007 and thereafter.
- (iv) Bottled water: ~~\$900.00~~ \$1,390.00 per permitted facility.

(E) Amendment to bottled water facility permit, ~~\$110.00~~ \$150.00 per application.

(F) For facilities permitted to withdraw groundwater pursuant to 10 V.S.A. § 1418: ~~\$1,500.00~~ \$2,300.00 annually per facility.

* * *

(8) For public water system operator certifications issued under 10 V.S.A. § 1674:

Class IA and IB	\$40.00 per initial certificate or renewal. Fee is waived for operators who are permittees under the transient noncommunity water system general permit.
All Other Classes	\$70.00 per initial certificate or renewal

(A) For class IA and IB operators: \$45.00 per initial certificate or renewal. Operators who are also permittees under the transient noncommunity water system general permit are not subject to this fee.

(B) For all other classes: \$80.00 per initial certificate or renewal.

(9)(A) For a solid waste hauler ~~permits issued under 10 V.S.A. § 6607a~~ \$35.00: an annual operating fee of \$50.00 per vehicle used, by the commercial hauler that is permitted, for transporting waste. This fee shall be submitted with the permit application and each year thereafter for the duration of the

~~permit, at the time of the filing of the annual statement required by 10 V.S.A. § 6605f(m).~~

~~(B) For a hazardous waste hauler permits issued under 10 V.S.A. § 6607a: \$100.00: an annual operating fee of \$125.00 per vehicle used, by the commercial hauler that is permitted, for transporting waste. This fee shall be submitted with the permit application and each year thereafter for the duration of the permit, at the time of the filing of the annual statement required by 10 V.S.A. § 6605f(m).~~

* * *

(16) For underground storage tank permits issued under 10 V.S.A. chapter 59:

~~\$100.00~~ \$125.00 per tank per year.

* * *

~~(21) For site technician certifications issued under 3 V.S.A. § 2827(f)~~
For class A and B designer licenses issued under 10 V.S.A. § 1975:

(A) ~~Type A site technicians~~ Class A:

- (i) original application ~~\$100.00~~ \$150.00
- (ii) renewal application ~~\$40.00~~ \$50.00 per year.
- (iii) provisional license \$50.00.

(B) ~~Type B site technicians~~ Class B:

- (i) original application ~~\$40.00~~ \$75.00
- (ii) renewal application ~~\$40.00~~ \$50.00 per year.
- (iii) provisional license \$50.00.

(C) Renewal late fee. The following fees shall be charged in addition to the renewal fees established in subdivisions (A) and (B) of this subdivision (21):

(i) application received within 30 days after expiration of license: \$25.00.

(ii) application received 31 days or later after expiration of license: \$50.00.

(iii) application received two years or more after expiration of license shall be considered a new application for the designer license.

(D) Potable water supply exam fee: \$50.00.

* * *

(25) For hazardous waste generator registrations required by 10 V.S.A. § 6608(f).

(A) small quantity generators ~~\$100.00 per year~~ \$125.00 per year.

(B) large quantity generators ~~\$500.00 per year~~ \$600.00 per year.

(C) conditionally exempt generators \$75.00 per year.

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection (j) and an application fee of:

(A) ~~\$0.12~~ \$0.75 per square foot of proposed impact to Class I or II wetlands;

(B) ~~\$0.09~~ \$0.25 per square foot of proposed impact to Class I or II wetland buffers;

(C) maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use, \$200.00 per application. For purposes of this subdivision, "cropland" means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees, or vines and the production of Christmas trees;

(D) \$0.25 per square foot of proposed impact to Class I or II wetlands or Class I or II wetland buffer for utility line, pipeline, and ski trail projects when the proposed impact is limited to clearing forested wetlands in a corridor and maintaining a cleared condition in that corridor for the project life;

(E) minimum fee, \$50.00 per application.

* * *

(30) For review of a project requiring water quality certification under Section 401 of the Clean Water Act: one percent of project costs; minimum fee \$200.00; maximum fee \$20,000.00. For an application seeking review of multiple projects under this subdivision, the fee shall apply to each project.

(k) Commencing with registration year 1993 and for each year thereafter, any person required to pay a fee to register an air contaminant source under 10 V.S.A. § 555(c) in addition shall pay fees for any emissions of the following types of hazardous air contaminants. The following fees shall not be

assessed for emissions resulting from the combustion of any fuels, except solid waste, in fuel burning or manufacturing process equipment.

(1) Contaminants which cause short-term irritant effects — ~~\$0.008~~ \$0.012 per pound of emissions;

(2) Contaminants which cause chronic systemic toxicity (low potency) — ~~\$0.015~~ \$0.0225 per pound of emissions;

(3) Contaminants which cause chronic systemic toxicity (high potency) — ~~\$0.02~~ \$0.03 per pound of emissions;

(4) Contaminants known or suspected to cause cancer (low potency) — ~~\$0.55~~ \$0.825 per pound of emissions;

(5) Contaminants known or suspected to cause cancer (high potency) — ~~\$10.00~~ \$15.00 per pound of emissions.

(1) Commencing with registration year 1993 and for each year thereafter, any person required to pay a fee to register an air contaminant source under 10 V.S.A. § 555(c) in addition shall pay the following fees for emissions of hazardous air contaminants resulting from the combustion of any of the following fuels in fuel burning or manufacturing process equipment.

(1) Coal — ~~\$0.43~~ \$0.645 per ton burned;

(2)(A) Wood — ~~\$0.103~~ \$0.155 per ton burned; or

(B) Wood burned with an operational electrostatic precipitator and NOx reduction technologies — ~~\$0.025~~ \$0.0375 per ton burned;

(3) No. 6 grade fuel oil — ~~\$0.0005~~ \$0.00075 per gallon burned;

(4) No. 4 grade fuel oil — ~~\$0.0004~~ \$0.0006 per gallon burned;

(5) No. 2 grade fuel oil — ~~\$0.0002~~ \$0.0003 per gallon burned;

(6) Liquid propane gas — ~~\$0.0002~~ \$0.0003 per gallon burned;

(7) Natural gas — ~~0.87~~ \$1.305 per million cubic feet burned.

* * *

Sec. 2. 10 V.S.A. § 1922 is amended to read:

§ 1922. DEFINITIONS

For purposes of this chapter:

* * *

(16) “Acceptable piping” means:

(A) double-wall pressurized piping; or

(B) single-wall piping that operates under suction, is pitched evenly uphill from the tank top, and has only one check valve which is located at the dispenser, fuel burner, generator, or other piping termination point.

(17) "Double-wall tank system" means an underground storage tank system consisting of a double-wall tank and acceptable piping.

(18) "Combination tank system" means an underground storage tank system consisting of a single-wall tank and acceptable piping.

(19) "Single-wall tank system" means an underground storage tank system consisting of a single-wall tank and single-wall pressurized piping.

Sec. 3. 10 V.S.A. § 1943 is amended to read:

§ 1943. PETROLEUM TANK ASSESSMENT

(a) Each owner of a category one tank used for storage of petroleum products shall remit to the secretary on October 1 of each year ~~beginning October 1, 1988,~~ \$100.00 per double-wall tank system; \$150.00 per combination tank system; and \$200.00 per single-wall tank system, which shall be deposited to the petroleum cleanup fund established by section 1941 of this title, except that:

(1) ~~The fee shall be \$50.00 per tank for~~ For retail gasoline outlets that sell less than 40,000 gallons of motor fuel per month, ~~the fee shall be:~~

(A) \$75.00 per double-wall tank system;

(B) \$125.00 per combination tank system; and

(C) \$175.00 per single-wall tank system.

(2) The fee shall be reduced by 50 percent if the owner or permittee provides to the satisfaction of the secretary evidence of financial responsibility to allow the taking of corrective action in the amount of \$100,000.00 per occurrence and the compensation of third parties for bodily injury and property damage in the amount of \$300,000.00 per occurrence.

(3) The fee shall be relieved if the owner provides to the satisfaction of the secretary, evidence of financial responsibility to allow the taking of corrective action and the compensation of third parties for bodily injury and property damage each in the amount of \$1,000,000.00 per occurrence.

(4) The fee for retail motor fuel outlets selling 20,000 gallons or less per month shall not exceed \$100.00 per year for all double-wall tanks at a single location and shall not exceed \$300.00 for all combination tank systems at a single location. This cap shall not apply to a retail motor fuel outlet utilizing a single-wall tank system.

(5) ~~The fee shall be \$50.00 per tank for~~ For any municipality that uses an annual average of less than an annual average of 40,000 gallons of motor fuel per month, provided that all of the tanks of that municipality meet the requirements of this chapter, the fee shall be:

(A) \$50.00 per double-wall tank system;

(B) \$100.00 per combination tank system; and

(C) \$150.00 per single-wall tank system.

(b) For purposes of this section, an occurrence is an accident, including continuous or repeated exposure to conditions, which results in the release of petroleum from one or more underground storage tanks at the same site.

(c) This tank assessment shall terminate on July 1, 2014.

(d) The secretary shall establish forms and procedures for the payment of the petroleum tank assessment, including a notice of the obligation 30 days prior to being due. Failure to receive notice shall not waive the payment obligation.

Sec. 4. PETROLEUM ADVISORY COMMITTEE REPORT

In the 2013 report of the petroleum cleanup advisory committee, the committee shall make recommendations on how to reduce risks to the fund posed by an aboveground or underground storage tank. In making its recommendation, the committee shall consider:

(1) Appropriate tank assessment fees for single-wall and combination underground storage tanks.

(2) Appropriate deductibles when there is a release from a single-wall or combination underground storage tank.

(3) A time line laying out a process to remove single-wall and combination underground storage tanks from service.

(4) For tank system owners that have low throughputs or limited income from their underground storage tank system, the use of grants or negative interest loans for the upgrade of those systems.

(5) Current tank technology and its impact on safety and the rate of current tank fees.

Sec. 5. 10 V.S.A. § 6628 is amended to read:

§ 6628. PLAN, PLAN SUMMARY AND PERFORMANCE REPORT REVIEW

* * *

(j) Fees shall be submitted annually on March 31st. Fees shall be submitted to the secretary and deposited into the hazardous waste management account of the waste management assistance fund established under section 6618 of this title. Fees shall be computed according to the following:

(1) ~~\$300.00~~ \$350.00 per toxic chemical identified pursuant to subdivision 6629(c)(4) of this title.

(2) ~~\$300.00~~ \$350.00 per hazardous waste stream identified pursuant to subdivision 6629(c)(3) of this title.

(3) Up to a maximum amount of:

(A) ~~\$1,500.00~~ \$1,750.00 per plan; for Class A generators.

(B) ~~\$300.00~~ \$350.00 per plan for Class B generators.

(C) ~~\$1,500.00~~ \$1,750.00 per plan for large users.

(D) ~~\$3,000.00~~ \$3,500.00 per plan for Class A generators that are large users.

(E) ~~\$900.00~~ \$1,050.00 per plan for Class B generators that are large users.

Sec. 6. 10 V.S.A. § 7553 is amended to read:

§ 7553. SALE OF COVERED ELECTRONIC DEVICES;
MANUFACTURER REGISTRATION

* * *

(h) Implementation fee.

(1) ~~For the program year of Beginning July 1, 2011, through June 30, 2012,~~ each manufacturer that seeks coverage under the standard plan shall pay to the secretary an implementation fee that shall be assessed on a quarterly basis and that shall be determined by multiplying the manufacturer's market share by the prior quarter's cost of implementing the electronic waste collection and recycling program adopted under the standard plan. For purposes of this section, the electronic waste and recycling program includes collection, transportation, recycling, and the reasonable cost of contract administration.

(2) ~~Beginning with the program year starting July 1, 2012, a proposed methodology for calculating the implementation fee for manufacturers seeking coverage under the standard plan shall be included in the executive branch fee report and approved by the general assembly according to the requirements of subchapter 6 of chapter 7 of Title 32.~~

(3) The fee collected under this subsection shall be deposited into the electronic waste collection and recycling account of the waste management assistance fund.

(4)(3) At the end of each program year, the secretary shall review the total costs of collection and recycling for the program year and shall reappropriate the implementation fee assessed under this subsection to accurately reflect the actual cost of the program and the manufacturer's market share of covered electronic devices sold in the state during the program year.

* * *

Sec. 7. FORMAT CHANGES AND ADJUSTMENTS TO THE AGENCY OF NATURAL RESOURCES FEES

The legislative council may, in consultation with the agency of natural resources, modify the format of the fees established by 3 V.S.A. § 2822. In making the modifications, the legislative council may make changes to the sections that do not affect the amount or scope of a fee. The legislative council may make changes to improve the readability of the proposed fees. Prior to codification of the reformatted fees, copies shall be presented to the house committee on ways and means and the senate committee on finance.

* * * Natural resources board * * *
* * * Act 250 fees * * *

Sec. 8. 10 V.S.A. § 6083a is amended to read:

§ 6083a. ACT 250 FEES

(a) All applicants for a land use permit under section 6086 of this title shall be directly responsible for the costs involved in the publication of notice in a newspaper of general circulation in the area of the proposed development or subdivision and the costs incurred in recording any permit or permit amendment in the land records. In addition, applicants shall be subject to the following fees for the purpose of compensating the state of Vermont for the direct and indirect costs incurred with respect to the administration of the Act 250 program:

* * *

(4) For projects involving the extraction of earth resources, including but not limited to sand, gravel, peat, topsoil, crushed stone, or quarried material, the greater of: a fee as determined under subdivision (1) of this subsection; or a fee equivalent to the rate of ~~\$0.20~~ \$0.02 per cubic yard of ~~maximum estimated annual extraction whichever is greater~~ the first million cubic yards of the total volume of earth resources to be extracted over the life of the permit, and \$0.01 per cubic yard of any such earth resource extraction

above one million cubic yards. Extracted material that is not sold or does not otherwise enter the commercial marketplace shall not be subject to the fee. The fee assessed under this subdivision for an amendment to a permit shall be based solely upon any additional volume of earth resources to be extracted under the amendment.

* * *

* * * Vermont web portal * * *

Sec. 9. 22 V.S.A. § 953 is amended to read:

§ 953. VERMONT WEB PORTAL BOARD; DUTIES

* * *

(c) Any charges created or changed by the board shall be approved as follows:

(1) All such charges shall be submitted to the governor who shall send a copy of the approval or rejection to the joint fiscal committee through the joint fiscal office together with the following information with respect to those items:

(A) the costs, direct and indirect, for the present and future years related to the charge;

(B) the department or program which will utilize the charge;

(C) a brief statement of purpose;

(D) the impact on existing programs if the charge is not accepted.

(2) The governor's approval shall be final unless within 30 days of receipt of the information a member of the joint fiscal committee requests the charge be placed on the agenda of the joint fiscal committee or, when the general assembly is in session, be held for legislative approval. In the event of such request, the charge shall not be accepted until approved by the joint fiscal committee or the legislature. During the legislative session, the joint fiscal committee shall file a notice with the house clerk and senate secretary for publication in the respective calendars of any charge approval requests that are submitted by the administration. Beginning on July 1, 2012, and every three years thereafter, all web portal fees shall be included in the annual consolidated executive branch fee report pursuant to 32 V.S.A. § 605.

Sec. 10. DEPARTMENT OF INFORMATION AND INNOVATION REPORT

The department of information and innovation shall report to the house committee on ways and means and the senate committee on finance by

January 15, 2013 regarding the Vermont web portal. The report shall include an analysis of whether the Vermont web portal fee structure is appropriate and whether there are more cost-effective ways for the state to contract for web portal services. The report shall include any recommended changes to the web portal business model.

* * * Wastewater supply and potable water supply
loan program * * *

Sec. 11. TRANSFER OF FUNDS TO WASTEWATER SUPPLY AND POTABLE WATER SUPPLY LOAN PROGRAM

The amount of \$275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited annually in the fund established in 24 V.S.A. § 4753a(c) to provide loans for the repair of failed wastewater supply systems and potable water supply systems.

Sec. 12. 3 V.S.A. § 2809 is amended to read:

§ 2809. REIMBURSEMENT OF AGENCY COSTS

(a)(1) The secretary may require an applicant for a permit, license, certification, or order issued under a program that the secretary enforces under 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, programmatic, or engineering expertise ~~or services that the~~ provided by the agency of natural resources, provided:

(A) the secretary does not have when such expertise or services and such expertise are is required for the processing of the application for the permit, license, certification, or order; or

(B) the secretary does have such expertise but has made a determination that it is beyond the agency's internal capacity to effectively utilize that expertise to process the application for the permit, license, certification, or order. In addition, the secretary shall determine that such expertise is required for the processing of the application for the permit, license, certification, or order.

(2) The secretary may require an applicant under chapter 151 of Title 10 to pay for the time of agency of natural resources personnel providing research, scientific, or engineering services or for the cost of expert witnesses when agency personnel or expert witnesses are required for the processing of the permit application.

(3) ~~Except as~~ In addition to the authority set forth under chapters 59 and 159 of Title 10 and 10 V.S.A. § 1283, the secretary may require a person who caused the agency to incur expenditures or a person in violation of a permit, license, certification, or order issued by the secretary to pay for the time of

agency personnel or the cost of other research, scientific, or engineering services incurred by the agency in response to a threat to public health or the environment presented by an emergency or exigent circumstance.

(b) Prior to commencing or contracting for research, scientific, or engineering expertise or services or contracting for expert witnesses for which the secretary intends to seek cost reimbursement under subdivisions (a)(1) and (2) of this section, the secretary shall notify the applicant for a permit, license, certification, or order of the secretary's authority to assess costs under this section.

(c)(1) Within 15 days of issuance of notice under subsection (b) of this section, an applicant for a permit, license, certification, or order may request a meeting with the secretary to identify and review the proposed agency services or contracting services that may be assessed to the applicant.

(2) The secretary may enter into agreements with an applicant for a permit, license, certification, or order under which either the applicant or the agency of natural resources shall provide or pay for the necessary research, scientific, or engineering expertise or services or expert witnesses.

(3) When the secretary meets with an applicant under this subsection, the secretary shall provide the applicant in writing a preliminary estimate of the costs to be assessed and the purpose of the funds. In the case of requests to pay costs under subdivision (a)(1)(B) of this section, the secretary shall be limited to a reimbursement of not more than \$50,000.00.

(d) The following apply to the authority established under subsection (a) of this section:

~~(1)(A) The secretary may assess costs under subdivisions (a)(1) and (2) of this section to the applicant or applicants for the permit only with the approval of the governor. Costs assessed under subdivision (a)(3) shall not require approval of the governor.~~

~~(2) The secretary may require reimbursement only of costs in excess of \$3,000.00 except as provided in subdivision (B) of this subdivision(1).~~

(B) Where the secretary has requested reimbursement of programmatic expertise pursuant to subdivision (a)(1)(B) of this section. The secretary may require reimbursement only of costs in excess of \$3,000.00 or one-half of the permit application fee assessed under section 2822 of this title, whichever is greater.

~~(3)(2) The secretary may revise estimates previously noticed as necessary from time to time during the progress of the work and shall notify the applicant in writing of any revision.~~

~~(4)~~(3) The secretary shall provide the applicant with a detailed statement of a final assessment under this section showing the total amount of money expended or contracted for in the work and directing the manner and timing of payment by the applicant.

~~(5)~~(4) All funds collected from applicants shall be paid into the state treasury.

(e) The secretary may withhold a permit approval or suspend the processing of a permit application for failure to pay reasonable costs imposed under this subsection.

(f) An action or determination of the secretary under this section shall constitute an act or decision of the secretary that may be appealed in accordance with 10 V.S.A. § 8504.

* * *

Sec. 12a. COST REIMBURSEMENT REPORT

On or before January 15, 2013 the secretary of natural resources shall report to the house committee on ways and means and the senate committee on finance on the utilization of the cost reimbursement authority under 3 V.S.A. § 2809. The report shall include the name of the project, the town in which the project was located, the amount requested for reimbursement, and the purpose for which the funds were used. The secretary shall make recommendations for any changes to the cost reimbursement authority as part of the executive branch fee bill.

Sec. 13. 24 V.S.A. § 4753(a)(9) is added to read:

(9) The Vermont wastewater and potable water revolving loan fund which shall be used to provide loans to individuals, in accordance with section 4763a of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972. The amount of \$275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited on an annual basis into this fund.

Sec. 14. 24 V.S.A. § 4763a is added to read:

§ 4763a. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only one single-family residence on its own lot meets the definition of a failed supply or system, the secretary of natural resources may lend monies to the owner of the residence from the

Vermont wastewater and potable water revolving loan fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) loans may only be made to households with an income equal to or less than 200 percent of the state average median household income;

(2) loans may only be made to households where the recipient of the loan resides in the residence on a year-round basis;

(3) loans may only be made if the owner of the residence has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least two other financing entities;

(4) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the secretary of natural resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the secretary of natural resources that the proposed project has secured all state and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan.

(5) all funds from the repayment of loans made under this section shall be deposited into the Vermont wastewater and potable water revolving loan fund.

(b) The secretary of natural resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

Sec. 15. 24 V.S.A. § 4753a is amended to read:

§ 4753a. AWARDS FROM REVOLVING LOAN FUNDS

(a) Pollution control. The general assembly shall approve all categories of awards made from the special funds established by section 4753 of this title for water pollution control facility construction, in order to assure that such awards conform with state policy on water quality and pollution abatement, and with the state policy that, ~~except as provided in subsection (c) of this section,~~ municipal entities shall receive first priority in the award of public monies for such construction, including monies returned to the revolving funds from previous awards. To facilitate this legislative oversight, the secretary of

natural resources shall annually no later than January 15 report to the house and senate committees on institutions and on natural resources and energy on all awards made from the relevant special funds during the prior and current fiscal years, and shall report on and seek legislative approval of all the types of projects for which awards are proposed to be made from the relevant special funds during the current or any subsequent fiscal year. Where feasible, the specific projects shall be listed.

(b) Water supply. The secretary of natural resources shall no later than January 15, 2000 recommend to the house ~~and senate committees on institutions and~~ committee on corrections and institutions, the senate committee on institutions, and the house and senate committees on natural resources and energy a procedure for reporting to and seeking the concurrence of the legislature with regard to the special funds established by section 4753 of this title for water supply facility construction.

(c) ~~Notwithstanding other priorities established in law, the secretary may award up to \$500,000.00 of the funds from the Vermont environmental protection agency control fund and the Vermont pollution control revolving fund, combined, to a state agency, the Vermont housing finance agency, or a municipality for the administration of loans to households with income equal to or less than 200 percent of the state average median household income for the repair or replacement of failed wastewater systems and failed potable water supplies, as those terms are defined in section 1972 of Title 10. Upon award of funds under this section, the state agency, Vermont housing finance agency, or municipality shall agree, pursuant to a memorandum of understanding with the secretary of natural resources, to repay the funds awarded to the special fund from which they were drawn.~~

Sec. 15a. REPORT; POTABLE WATER SUPPLY AND WASTEWATER SYSTEMS

By January 15, 2013, the agency of natural resources and the agency of commerce and community development shall report to the house committees on ways and means and on fish, wildlife and water resources, and the senate committees on finance and on natural resources and energy regarding programs which address the replacement of failed potable water supply and wastewater systems. The report shall include a list of all programs regarding failed potable water supply and wastewater systems in existence for low and moderate income residents, the effectiveness of those programs in replacing failed potable water supply and wastewater systems and in serving residents of different income levels, and the extent gaps exist in existing programs. The agencies shall make recommendations, if any, for statutory changes regarding

programs which deal with replacement of failed potable water supply and wastewater systems

Sec. 16. ANR REPORT ON ENVIRONMENTAL IMPACT OF GROUNDWATER WITHDRAWALS FOR BOTTLING WATER

(a) On or before January 15, 2013, the secretary of natural resources shall report to the senate and house committees on natural resources and energy, the senate committee on finance, and the house committee on ways and means and on fish, wildlife and water resources regarding the impact of bulk groundwater withdrawals in the state. The report shall include:

(1) An analysis of the environmental effect of withdrawing and transferring out of the state large volumes of groundwater for the purposes of bottling, including the impact of such withdrawals on drinking water supplies, agricultural use, groundwater tables, and surface water recharge.

(2) A summary of the fees charged by other states for the withdrawal of groundwater for bottling or bulk water transfer and a comparison of the fees of other states to the groundwater withdrawal fees charged in Vermont.

(b) In preparing the report required under subsection (a) of this section, the secretary of natural resources shall consult with interested parties, including owners of property in the proximity of public water systems withdrawing groundwater for the purposes of bottling water, public water systems, bottled water companies, environmental groups, and representatives of agriculture.

Sec. 17. STUDY; DEPARTMENT OF PUBLIC SAFETY

(a) The department of public safety shall study how it assesses fees or charges for services provided by the department to municipalities, fire departments, and other entities. The study shall also examine how fees or charges can be equitably assessed and what mechanism can be employed to collect fees or charges.

(b) The department shall report its findings and any recommendations to the house committee on ways and means and the senate committee on finance by January 15, 2013.

Sec. 18. REPORT; AGENCY OF NATURAL RESOURCES; AGENCY OF TRANSPORTATION

On or before January 15, 2013, the secretary of natural resources (ANR) and the secretary of transportation (AOT) shall jointly report to the house committee on ways and means and the senate committee on finance with a recommendation as to whether or not agency of natural resources fees and agency of transportation fees should be adjusted so that air pollution fees paid to ANR proportionally reflect the contribution of ANR permittees to state air

pollution and so that air-pollution-related fees paid to AOT proportionally reflect the contribution of AOT licensees and permittees to state air pollution. If making adjustments to ANR and AOT fees is recommended for this purpose, the report shall recommend which fees should be adjusted and by what amount.

*TIMOTHY R. ASHE
RICHARD J. MCCORMACK
RANDOLPH D. BROCK*

Committee on the part of the Senate

*DAVID D. SHARPE
ALISON H. CLARKSON
JAMES W. MASLAND*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, Senator Ashe presented an addendum to the Committee of Conference.

Addendum to Committee of Conference

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

H.769. An act relating to department of environmental conservation fees.

Respectfully reports that it has met and considered the same and recommends that the Report of the Committee of Conference be amended by striking out Sec. 11 and inserting in lieu thereof a new Sec. 11 to read:

Sec. 11. [Deleted.]

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference and Addendum?, was decided in the affirmative.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 766.

Consideration was resumed on House bill entitled:

An act relating to the national guard.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Economic Development, Housing and General Affairs?, was taken up.

Senator MacDonald moved that the question be divided and that Sec. 1 be voted on separately. Thereupon, the question, Shall the Senate propose to the

House to amend the bill as recommended by the Committee on Economic Development, Housing and General Affairs in Sec. 1?, was decided in the affirmative.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Economic Development, Housing and General Affairs, as amended in Secs. 2-8?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Adjournment

On motion of Senator Campbell, the Senate adjourned until two o'clock in the afternoon.

Called to Order

The Senate was called to order by the President.

Proposals of Amendment; Third Reading Ordered

H. 774.

Senator Kittell, for the Committee on Agriculture, to which was referred House bill entitled:

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

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

First: In Sec. 4, subsection (b) in the first sentence after the word "fuels", by inserting the following: sold at retail, as defined by 32 V.S.A. § 9701(5),

Second: In Sec. 9, subsection (b)(1) in the first sentence after the word "the" and before the word "commissioner", by inserting the following: commissioner of the department of environmental conservation and the

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

Senator Carris, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Agriculture.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture?,

Senator Kittell moved to amend the proposal of amendment of the Committee on Agriculture, as follows:

First: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. AGENCY OF AGRICULTURE, FOOD AND MARKETS;
EDUCATION AND OUTREACH REGARDING HUMANE HANDLING
AND SLAUGHTER

(a) On or before October 15, 2012, the secretary of agriculture, food and markets, after consultation with representatives of organizations with an interest in itinerant or custom slaughter, shall:

(1) conduct regional outreach regarding humane treatment of livestock, humane slaughter of livestock, and sanitary slaughtering and processing methods; and

(2) make available to the public informational materials regarding humane treatment of livestock, humane slaughter of livestock, and sanitary slaughtering and processing methods.

(b) On or before January 15, 2013, the secretary of agriculture, food and markets shall report back to the senate and house committees on agriculture regarding how the secretary of agriculture, food and markets complied with the requirements of subsection (a) of this section.

Second: In Sec. 9, in 6 V.S.A. § 796, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b)(1) The secretary shall adopt rules to implement regulation of animal foot baths for livestock, including:

(A) if appropriate, a ban on the use of certain chemicals, such as formaldehyde, as foot baths; and

(B) requirements for the administration of foot baths, the type of chemicals used, disposal of the chemicals found in used foot baths, and additional requirements deemed necessary by the secretary.

(2) The secretary shall work with the commissioner of health and the secretary of natural resources in drafting the rules to be adopted under this subsection.

(3) In adopting the rules required by this subsection, the secretary shall utilize information regarding the use of formaldehyde from the federal Department of Health and Human Services Agency for Toxic Substances and Disease Registry and from the ongoing investigation of the use of formaldehyde for agricultural practices conducted by the commissioner of

health in collaboration with the secretary of agriculture, farms and markets and the secretary of natural resources.

(4) The secretary may adopt emergency rules for the use of foot baths on Vermont farms if the secretary determines such rules are necessary to protect the public health, safety, and welfare.

Third: By adding two new sections to be numbered Secs. 10a and 10b to read as follows:

Sec. 10a. STATEMENT OF PURPOSE; HUMANE TREATMENT; GESTATION

It shall be the purpose of this part of the act related to humane treatment of animals to prohibit the cruel confinement of sows during gestation in a manner that does not allow them to turn around freely, lie down, stand up, or fully extend their limbs.

Sec. 10b. 6 V.S.A. chapter 201 is amended to read:

CHAPTER 201. HUMANE SLAUGHTER OF LIVESTOCK

* * *

§ 3134. PENALTY

A person who violates section 3132 or 3135 of this title shall be guilty of a misdemeanor and shall be fined upon conviction not more than \$ \$1,000.00 for the first violation, not more than \$5,000.00 for the second violation, and not more than \$10,000.00 per violation for the third and any subsequent violations, or imprisoned not more than two years, or both. In addition to the penalties provided in this subsection, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 or 3135 of this title, by application to the superior court for the county in which such slaughterer, packer, or stockyard operator resides, or where such violations occur. The secretary may refer a violation of section 3132 or 3135 of this title to the attorney general or the state's attorney for criminal prosecution. The secretary may also take any action authorized under chapter 1 of this title.

§ 3135. DEFINITIONS

(a) In this section:

(1) "Enclosure" means a cage, crate, or other structure used to confine an animal, including what is commonly described as a "gestation crate" for sows.

(2) "Farm" means the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of

animals or animal products used for food or fiber and does not include live animal markets.

(3) "Farm owner or operator" means any person who owns or controls the operations of a farm and does not include any nonmanagement employee, contractor, or consultant.

(4) "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure.

(5) "Sow in gestation" means a pregnant animal of the porcine species kept for the primary purpose of breeding.

(6) "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

(b) Prohibition. Notwithstanding any other provision of law, a person is guilty of unlawful confinement of a sow during gestation if the person is a farm owner or operator who knowingly tethers or confines the sow in an enclosure in a manner that prevents the sow from turning around freely, lying down, standing up, and fully extending its limbs.

(c) Exceptions. The prohibition in subsection (b) of this section shall not apply:

(1) During examination or testing or individual treatment of or operation on an animal for veterinary purposes;

(2) During transportation;

(3) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions or educational programs;

(4) To the humane slaughter of an animal in accordance with this chapter and the rules adopted pursuant to section 3133 of this title pertaining to the slaughter of animals; and

(5) To a sow during the seven-day period prior to the sow's expected date of giving birth.

(d) Relation to other laws.

(1) The provisions of this section are in addition to and not in lieu of any other laws protecting animal welfare.

(2) It is not an affirmative defense to alleged violations of this section that the sow was kept as part of an agricultural operation and in accordance with customary animal husbandry or farming practices.

Which were severally agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture, as amended?, Senator Kittell moved to amend the proposal of amendment of the Committee on Agriculture, be amended in Sec. 3a, subsection (a), subdivision (2), before the word “informational” by inserting the following: , including itinerant slaughterers and their customers,

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Agriculture, as amended?, Senator Benning asked that the question be divided and that the *third* proposal of amendment separately.

Thereupon, without objection consideration of the bill was postponed until later this legislative day.

**House Proposals of Amendment to Senate Proposal of Amendment
Concurred In**

H. 524.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to the regulation of professions and occupations.

Were taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: By striking out Sec. 70 (director of the office of professional regulation; preliminary assessments) in its entirety and inserting in lieu thereof a new Sec. 70 to read as follows:

Sec. 70. DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION; PRELIMINARY ASSESSMENT

Pursuant to 26 V.S.A. § 3105, the director of the office of professional regulation shall make a preliminary assessment of whether the profession of home inspection should be regulated.

Second: By striking Sec. 66 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 71. EFFECTIVE DATES

This act shall take effect on July 1, 2012 except that:

(1) this section and Sec. 64(d) (transitional provisions; formulary review) of this act shall take effect on passage; and

(2) Sec. 48, 26 V.S.A. § 2821b(b) (practice in postprimary modalities), of this act shall take effect on May 31, 2015.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Committee Relieved of Further Consideration; Joint Senate Resolution Committed

J.R.S. 38.

On motion of Senator Ayer, the Committee on Health and Welfare was relieved of further consideration of joint Senate resolution entitled:

Joint resolution relating to weekend adjournment,

and the joint resolution was committed to the Committee on Government Operations.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the third day of May, he approved and signed a bill originating in the Senate of the following title:

S. 115. An act relating to ineffective assistance claims against assigned counsel.

Recess

On motion of Senator Campbell the Senate recessed until three o'clock in the afternoon.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Ayer the Senate recessed until four o'clock in the afternoon.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Mazza the Senate recessed until five o'clock in the afternoon.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Campbell the Senate recessed until six o'clock in the evening.

Called to Order

The Senate was called to order by the President.

Appointment Confirmed

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

Arms, Alison of South Burlington - Superior Court Judge - August 18, 2011, to March 31, 2017.

Consideration Postponed**S. 93.**

House proposal of amendment to Senate bill entitled:

An act relating to labeling maple products.

Was taken up.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Labeling of Maple Products * * *

Sec. 1. FINDINGS

The general assembly finds and declares that for the purposes of the maple products labeling part of this act:

(1) Maple syrup production capacity has increased significantly in recent years.

(2) There is increased interest in maple syrup that is certified for food safety.

(3) The Vermont sugaring industry has requested the creation of a voluntary certification program.

Sec. 2. 6 V.S.A. § 488a is added to read:

§ 488a. VOLUNTARY CERTIFICATION

The secretary may establish by rule a voluntary program for maple syrup production certification which shall be made available upon the request of a person engaged in producing maple syrup or maple products, a dealer, or a processor. The secretary may obtain from the person engaged in producing maple syrup or maple products, the dealer, or the processor reimbursement for the cost of the inspection certification incurred by the agency. The reimbursement fee charged for certification shall be reasonably proportionate to the cost of performing the inspection.

* * * Vermont's Working Landscape * * *

Sec. 3. 6 V.S.A. chapter 207 is amended to read:

CHAPTER 207. PROMOTION AND MARKETING OF VERMONT
FOODS AND PRODUCTS

Subchapter 1. Agricultural Practices and Production

* * *

Subchapter 2. The Vermont Working Lands Enterprise Program

§ 4603. LEGISLATIVE FINDINGS

The general assembly finds:

(1) The report issued by the Council on the Future of Vermont indicates that over 97 percent of Vermonters polled endorsed the value of the "working landscape" as key to our future.

(2) Vermont's unique agricultural and forest assets—its working landscape—are crucial to the state's economy, communities, character, and culture. These assets provide jobs, food and fiber, energy, security, tourism and recreational opportunities, and a sense of well-being. They contribute to Vermont's reputation for quality, resilience, and self-reliance.

(3) Human activity involving Vermont's agricultural and forestland has been integral to the development of Vermont's economy, culture, and image. Sustainable land use will need to balance economic development demands with the other services the land provides, many of which have economic benefits beyond the agriculture and forest product sectors. Some of these benefits include clean air and water, recreational opportunities, ecosystem restoration, scenic vistas, and wildlife habitat.

(4) The agriculture and forest product sectors are similar and share many of the same challenges. There are potential benefits to be realized by the joining of these sectors in development planning and coordination, making policy decisions, and leveraging economic opportunities.

(5) The agriculture and forest product sectors provide renewable and harvestable products that form the basis of Vermont's land-based economy. The conversion of these raw commodities into value-added products within our borders represents further economic and employment opportunities.

(6) Vermont is in the midst of an agricultural renaissance and is at the forefront of the local foods movement. The success has been due to the efforts of skilled and dedicated farmers, creative entrepreneurs, and the strategic investment of private and public funds.

(7) State investment in a given industry or economic sector is often essential to stimulate and attract additional private and philanthropic investment. The combination of public, private, and foundation support can create enterprise opportunities that any one of them alone cannot. Grants issued as a result of No. 52 of the Acts of 2011 helped create jobs and economic activity in the agricultural sector. They also leveraged private and foundation investments.

(8) Vermont's land-based economy has proven to be a driver for Vermont's ongoing economic recovery.

(9) Value-added and specialty Vermont products are a growing source of revenue for Vermont's agricultural producers, many of whom have benefited from the existing infrastructure requirements of commodity producers. Both export and instate markets are necessary options for the agriculture and forest product sectors' economic development.

(10) The Vermont brand is highly regarded both nationally and internationally. Forest management is seen as crop management by those active in the forest product industry. An actively managed forest is a healthy and productive one.

(11) Vermont's agriculture and forest product sectors have not been perceived or treated as businesses by the traditional business and lending communities. They often lack available capital and financial package options that match their stage of development.

(12) Financial service and workforce development programs need to be customized to meet the unique needs of Vermont's agriculture and forest product sectors. Landowner education and labor skills training are also important for future productive management of forestlands.

(13) Scale is an important determining factor for the successful development of businesses that utilize Vermont's agriculture and forest products. Other limiting factors include labor and transportation costs, support services, resource base, and the regulatory environment.

(14) Workers' compensation, health care, energy costs, and regulatory requirements are a major concern to the agriculture and forest product sectors. For example, workers' compensation premiums for loggers may run as high as 48 percent of each dollar of wages.

(15) The amount of land in Vermont is finite, and part of its community and economic value is tied to the way it is used. Farmland and forestland that are developed for other uses affect the future viability of remaining farms and forest enterprises.

(16) A forestland owner is often not the person actively engaged in the business of land management, such as planning, harvesting, or marketing the raw product, whereas in agricultural operations, the farmer often owns both the land and the business. Many farm operations have woodlots that have traditionally been used for syrup, timber, and firewood production.

(17) Vermonters' perception of and support for local wood and forest products is not at the same level as it is for local food. Public outreach and education efforts need to be created to address the public's perception of actively managed working lands and the people who perpetuate them. Over the last decade, consumers of wood products have become more interested in production and management methods, certification programs, and the source of the raw materials.

(18) Vermont's forest products industry has been in decline for many years, in part due to rising costs, a poor housing market, and a lack of manufacturing. The total value of the forest product industry has dropped from \$1.8 billion to \$1.3 billion since 2007. If wood chips were priced at the equivalent BTU replacement value of oil, they would command a higher price. The number of active sawmills has also declined to fewer than 20 today.

(19) The average age of Vermont's farmers and loggers is over 55 years and the average age of forestland owners is over 65. Attention needs to be brought to efforts that will ensure intergenerational succession and lower those averages. Economically viable farm and forest-based operations are critical to that goal. "Legacy" skills such as farming and logging are disappearing, as the children of those making a living from those skills often aspire to different employment opportunities.

(20) Access to land is a challenge for many, especially younger, people who want the opportunity to make a living from productive use of the land.

Farm and forestland ownership is often out of reach for young people who do not have some sort of assistance.

(21) The Vermont forest product sector contains approximately 7,000 jobs, and approximately 57,000 jobs are in Vermont's food system.

(22) Regulations for forest product enterprises need to reflect a balance between economic development and responsible land use practices. There is a need to assess regulations involving the primary processing and transportation elements of the forest product sector.

(23) Seventy-six percent of Vermont's 4.5 million acres is forested, 84 percent of which is privately owned. Sustainable management of state-owned forestlands represents an opportunity for private sector forest businesses.

(24) Forest product sector representatives have identified needs for their industry including market development, additional secondary processing facilities, lower energy and transportation costs, and capital for growth enterprises as well as research and development for new and improved value-added products that make use of Vermont's forest resources. Factors such as health care, labor, and energy policies in Canada contribute to the northward flow of Vermont logs. Research is needed in order to develop strategies that will help keep Vermont's forest product sector competitive.

(25) Vermont's use value appraisal (current use) program is critically important to every component of Vermont's agriculture and forest product sectors. It also helps keep Vermont forestland productive and healthy through the requirement of active forest management plans.

(26) Dairy enterprises remain Vermont's leading source of agricultural revenues, with an estimated annual economic impact of over \$2 billion or approximately 75 percent of total gross agricultural output.

(27) Recent grants and educational programs have started to address the lack of slaughter and meat-processing facilities in the state; however, there continues to be a strong need to further these efforts.

§ 4604. LEGISLATIVE INTENT

It is the intent of the general assembly in adopting this subchapter to:

(1) stimulate a concerted economic development effort on behalf of Vermont's agriculture and forest product sectors by systematically advancing entrepreneurship, business development, and job creation;

(2) recognize and build on the similarities and unique qualities of Vermont's agriculture and forest product sectors;

(3) increase the value of Vermont's raw and value-added products through the development of in-state and export markets;

(4) attract a new generation of entrepreneurs to Vermont's farm, food system, forest, and value-added chain by facilitating more affordable access to the working landscape;

(5) provide assistance to agricultural and forest product businesses in navigating the regulatory process;

(6) use Vermont's brand recognition and reputation as a national leader in food systems development, innovative entrepreneurship, and as a "green" state to leverage economic development and opportunity in the agriculture and forest product sectors;

(7) promote the benefits of Vermont's working lands, from the economic value of raw and value-added products to the public value of ecological stability, land stewardship, recreational opportunities, and quality of life;

(8) increase the amount of state investment in working lands enterprises, particularly when it leverages private and philanthropic funds; and

(9) support the people and businesses that depend on Vermont's renewable land-based resources and the sustainable and productive use of the land by coordinating and integrating financial products and programs.

§ 4605. 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 4606 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 established by section 4607 of this title.

§ 4606. VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Creation and purpose. There is created a Vermont working lands enterprise board, which for administrative purposes shall be attached to the agency of agriculture, food and markets. The board shall:

(1) serve as a driving force for working lands enterprise development in Vermont;

(2) systematically advance entrepreneurship, business development, and job creation in the agricultural and forest product sectors by:

(A) supporting development of new land-based and value-added businesses;

(B) supporting the expansion of existing businesses and potentially high-growth enterprises;

(C) providing infrastructure investments that will support cluster development and spur business success and rural prosperity;

(D) acting as a clearinghouse of support for innovation and growth in the food, farm, forest product and biomass energy sectors including:

(i) regulatory issues;

(ii) financial and investment opportunities; and

(iii) technical assistance services;

(E) supporting outreach and communication of enterprise opportunities;

(3) evaluate quality and breadth of workforce development, technical assistance, and investment service programs to the agriculture and forest product service sectors;

(4) target financial products that are in line with infrastructure investment priorities;

(5) establish and evaluate criteria and benchmarks of investments and actions; and

(6) solicit appropriate perspectives and information from experts.

(b) Organization of board. The board shall be composed of the following members:

(1) the secretary of agriculture, food and markets or designee, who shall serve as chair;

(2) the secretary of commerce and community development or designee;

(3) the commissioner of forests, parks and recreation or designee;

(4) eleven members appointed by the Vermont agriculture and forest products development board as follows:

(A) four members each representing one of the four highest-grossing agricultural commodities produced in Vermont as determined on the basis of annual gross cash sales;

(B) three members representing the forest products industry; and

(C) four members each representing one of the following four sectors:

(i) energy;

(ii) workforce development;

(iii) private capital; and

(iv) distribution and marketing;

(5) two members, one appointed by each of the two largest membership-based agricultural organizations in Vermont;

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

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

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

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

(c) Members appointed pursuant to subdivisions (b)(4) and (b)(5) of this section shall serve a term of three years or until his or her earlier resignation or removal for cause by a two-thirds vote of the sitting members of the board. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. A member shall not serve more than three consecutive three-year terms.

(d) The board may elect officers, establish one or more committees or subcommittees, and adopt such procedural rules as it shall determine necessary and appropriate to perform its work.

(e) A majority of the sitting members shall constitute a quorum, and action taken by the board may be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(f) Private-sector members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each member shall be reimbursed from the fund for his or her actual and necessary expenses incurred in carrying out his or her duties.

§ 4607. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

The Vermont working lands enterprise board shall have the authority:

(1) to establish an application process and eligibility criteria for awarding grants, loans, incentives, and other investment in agricultural and forestry enterprises and in food and forest systems;

(2) to award grants and loans and to recommend incentives that support the purposes of the board under subsection 4606(a) of this title;

(3) to develop application criteria that will encourage individuals and enterprises that have not availed themselves of these opportunities in the past to apply for such grants, loans, and incentives;

(4) to give priority for awarding grants, loans, and incentives to applicants who have not recently received the same from the state or a state-funded entity;

(5) to establish formal public-private partnerships, coordinate the joint provision of investment and services with public or private entities, and enter into performance contracts with one or more persons in order to provide investment and services to agricultural and forestry enterprises, including:

(A) technical assistance and product research services;

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

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

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

(6) to identify workforce needs and programs in order to develop training and incentive opportunities for the agriculture and forest product sectors;

(7) to identify strategic statewide infrastructure and investment priorities considering:

(A) leveraging opportunities;

(B) economic clusters;

(C) return-on-investment analysis; and

(D) other considerations the board determines appropriate;

(8) to pursue and accept grants or other funding from any public or private source and to administer such grants or funding consistent with their terms;

(9) to promote the products and services it provides to as many people and land-based enterprises as possible;

(10) 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; and

(11) to contract for support, technical, or other professional services necessary to perform its duties pursuant to this section.

Sec. 4. INITIAL APPOINTMENTS TO VERMONT WORKING LANDS ENTERPRISE BOARD

Notwithstanding any provision of law to the contrary:

(1) the initial members of the Vermont working lands enterprise board to be appointed pursuant to 6 V.S.A. § 4606(b)(4)–(5) shall be appointed as follows:

(A) of the eleven members of the board appointed by the Vermont agriculture and forest products development board:

(i) four members shall be appointed to an initial term of one year;

(ii) four members shall be appointed to an initial term of two years; and

(iii) three members shall be appointed to an initial term of three years; and

(B) of the two members appointed by the two largest membership-based agricultural organizations in Vermont:

(i) the member representing the organization with the largest membership shall be appointed for an initial term of two years; and

(ii) the member representing the organization with the second largest membership shall be appointed for an initial term of three years; and

(2) the initial one-year and two-year member terms authorized in subdivisions (1)(A) and (1)(B) of this section shall not qualify as a full-term for purposes of the three-term limit established in 6 V.S.A. § 4606(c).

Sec. 5. REPEAL

6 V.S.A. chapter 162, subchapter 1 (Vermont agricultural innovation center) is repealed.

Sec. 6. 6 V.S.A. § 2966 is amended to read:

§ 2966. AGRICULTURAL AND FOREST PRODUCTS DEVELOPMENT BOARD; ORGANIZATION; DUTIES AND AUTHORITY

(a) Purpose. The purpose of this section is to create a permanent Vermont agricultural and forest products development board that is authorized and empowered as the state's primary agricultural and forest products development entity.

(1) The board is charged with:

(A) optimizing the agricultural and forestry use of Vermont lands and other agricultural resources;

* * *

(2) The board shall:

(A) review existing strategies and plans and develop, ~~implement~~, and continually update a comprehensive statewide plan to guide and encourage agricultural and forest products development and new and expanded markets for agricultural and forest products;

(B) advise and make recommendations to the secretaries of relevant state agencies, the governor, the director of the state experiment station, the University of Vermont extension service, and the general assembly on the adoption and amendment of laws, regulations, and governmental policies that affect agricultural development, land use, access to capital, the economic opportunities provided by Vermont agriculture and forest products, and the well-being of the people of Vermont;

(C) monitor and report on Vermont's progress in achieving the agricultural economic development goals identified by the board; ~~and~~

(D) balance the needs of production methods with the opportunities to market products that enhance Vermont agriculture and forest products; and

(E) prepare a comprehensive report, in consultation with the agency of agriculture, food and markets, indicating the progress made by the working lands enterprise board with regard to all activities authorized by this section. The report shall be presented to the senate and house committees on agriculture, the senate committee on economic development, housing and general affairs, and the house committee on commerce and economic development on or before January 15, 2013.

(b) Board created. The Vermont agricultural and forest products development board is hereby created. The exercise by the board of the powers

conferred upon it in this section constitutes the performance of essential governmental functions.

(c) Powers and duties. The board shall have the authority and duty to:

* * *

(5) obtain information from other planning entities, including the ~~farm-to-plate~~ farm to plate investment program;

* * *

(d) Comprehensive agricultural and forest products economic development plan.

(1) Using information available from previous and ongoing agricultural and forest products development planning efforts, such as the ~~farm-to-plate~~ farm to plate investment program's strategic plan, and the board's own data and assumptions, the board shall develop and implement a comprehensive agricultural and forest products economic development plan for the state of Vermont. The plan shall include, at minimum, the following:

(A) an assessment of the current status of agriculture and forestry in Vermont;

(B) current and projected workforce composition and needs;

(C) a profile of emerging business and industry sectors projected to present future agricultural and forest products economic development opportunities, and a cost-benefit analysis of strategies and resources necessary to capitalize on these opportunities;

(D) a profile of current components of physical and social infrastructure affecting agricultural and forest products economic development;

(E) a profile of government-sponsored programs, agricultural and forest products economic development resources, and financial incentives designed to promote and support agricultural and forest products economic development, and a cost-benefit analysis of continued support, expansion, or abandonment of these programs, resources, and incentives;

(F) the use of the Vermont brand to further agricultural and forest products economic development;

* * *

(2) Based on its research and analysis, the board shall establish in the plan a set of clear strategies with defined and measurable outcomes for agricultural and forest products economic development, the purpose of which

shall be to guide long-term agricultural and forest products economic development policymaking and planning.

* * *

(4) The board shall conduct a periodic review and revision of the comprehensive agricultural and forest products economic development plan as often as is necessary in its discretion, but at minimum every five years, to ensure the plan remains current, relevant, and effective for guiding and evaluating agricultural and forest products economic development policy.

* * *

(e) Annual report. The board shall make available a report, at least annually, to the administration, the house committee on agriculture, the senate committee on agriculture, the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the people of Vermont on the state's progress toward attaining the goals and outcomes identified in the comprehensive agricultural and forest products economic development plan.

(f) Composition of board.

(1) The board shall be composed of ~~12~~ 16 members. In making appointments to the board pursuant to this section, the governor, the speaker of the house, and the president pro tempore of the senate shall coordinate their selections to ensure, to the greatest extent possible, that the board members selected by them reflect the following qualities:

(A) proven leadership in a broad range of efforts and activities to promote and improve the Vermont agricultural and forest products economy and the quality of life of Vermonters;

(B) demonstrated innovation, creativity, collaboration, pragmatism, and willingness to make long-term commitments of time, energy, and effort;

(C) geographic, gender, ethnic, social, political, and economic diversity;

(D) diversity of agricultural and forest products enterprise location, size, and sector of the for-profit agricultural and forest products business community members; and

(E) diversity of interest of the nonprofit or nongovernmental organization community members.

(2) Members of the board shall include the following:

(A) ~~four~~ five members appointed by the governor:

-
- (i) a person with expertise in rural economic development issues;
 - (ii) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture;
 - (iii) a person familiar with the agricultural tourism industry; ~~and~~
 - (iv) an agricultural lender; and
 - (v) a person with expertise and professional experience in forest products manufacturing.

(B) ~~four~~ six members appointed by the speaker of the house of representatives:

- (i) a person who produces an agricultural commodity other than dairy products;
- (ii) a person who creates a value-added product using ingredients substantially produced on Vermont farms;
- (iii) a person with expertise in sales and marketing; ~~and~~
- (iv) a person representing the feed, seed, fertilizer, or equipment enterprises;
- (v) a forester; and
- (vi) a sawmill operator.

(C) ~~four~~ five members appointed by the committee on committees of the senate:

- (i) a representative of Vermont's dairy industry who is also a dairy farmer;
- (ii) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;
- (iii) a representative from a Vermont agricultural advocacy organization; ~~and~~
- (iv) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture; and
- (v) a logger.

(3) The secretary of agriculture, food and markets or his or her designee shall be a nonvoting, ex officio member. The secretary may provide staff support from the agency of agriculture, food and markets as resources permit.

(4) The secretary of commerce and community development or his or her designee shall be a nonvoting, ex officio member.

* * *

Sec. 7. APPROPRIATIONS

(a) The amount of \$1,700,000.00 is appropriated from the general fund to the Vermont working lands enterprise fund established in 6 V.S.A. § 4605 in the amounts and for the purposes as follow:

(1) \$550,000.00 for enterprise grants to entrepreneurs, including grants to leverage private capital, jump-start new businesses, help beginning farmers access land, and support diversification projects that add value to farm and forest commodities. This initial sum is intended to fund an enterprise grant pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(2) \$350,000.00 for wraparound services to growth companies, including technical assistance, business planning, financial packaging, and other services required by companies ready to transition to the next stage of growth. This initial sum is intended to fund a growth company services pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(3) \$800,000.00 for state infrastructure investments, including investment in private and nonprofit sectors for creative diversification projects, value-added manufacturing, processing, storage, distribution, and collaborative ventures. This initial sum is intended to fund an infrastructure investment pilot program, and it is the intent of the general assembly to commit additional investment in subsequent years upon demonstration of success of the program.

(b) The amount of \$382,400.00 is appropriated from the general fund to the agency of agriculture, food and markets to provide funding for support staff, including a wraparound services advisor and regulatory ombudsman, and for fiscal management and operations costs. The agency shall utilize the funds appropriated to perform its full duties to the Vermont working lands enterprise board.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 5 (repeal of agriculture innovation center) shall take effect on March 31, 2013.

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

An act relating to miscellaneous agricultural subjects

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Campbell moved consideration of the bill was postponed until the next legislative day.

**House Proposal of Amendment Not Concurred In; Committee of
Conference Requested**

H. 600.

House proposal of amendment to Senate bill entitled:

An act relating to mandatory mediation in foreclosure proceedings.

Was taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 2, 12 V.S.A. § 4631, in subsection (c), by striking the words “a randomized” and inserting in lieu thereof the words “an objective and neutral”

Second: By striking Sec. 4a in its entirety

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 774.

Consideration was resumed on Senate bill entitled:

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

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture, as amended? Senator Sears moved to substitute the proposal of amendment of the Committee on Agriculture as follows:

First: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. AGENCY OF AGRICULTURE, FOOD AND MARKETS;
EDUCATION AND OUTREACH REGARDING HUMANE HANDLING
AND SLAUGHTER

(a) On or before October 15, 2012, the secretary of agriculture, food and markets, after consultation with representatives of organizations with an interest in itinerant or custom slaughter, shall:

(1) conduct regional outreach regarding humane treatment of livestock, humane slaughter of livestock, and sanitary slaughtering and processing methods; and

(2) make available to the public, including itinerant slaughterers and their customers, informational materials regarding humane treatment of livestock, humane slaughter of livestock, and sanitary slaughtering and processing methods.

(b) On or before January 15, 2013, the secretary of agriculture, food and markets shall report back to the senate and house committees on agriculture regarding how the secretary of agriculture, food and markets complied with the requirements of subsection (a) of this section.

Second: In Sec. 4, subsection (b) in the first sentence after the word “fuels” by inserting the following: sold at retail, as defined by 32 V.S.A. § 9701(5)

Third: In Sec. 9, in 6 V.S.A. § 796, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b)(1) The secretary shall adopt rules to implement regulation of animal foot baths for livestock, including:

(A) if appropriate, a ban on the use of certain chemicals, such as formaldehyde, as foot baths; and

(B) requirements for the administration of foot baths, the type of chemicals used, disposal of the chemicals found in used foot baths, and additional requirements deemed necessary by the secretary.

(2) The secretary shall work with the commissioner of health and the secretary of natural resources in drafting the rules to be adopted under this subsection.

(3) In adopting the rules required by this subsection, the secretary shall utilize information regarding the use of formaldehyde from the federal Department of Health and Human Services Agency for Toxic Substances and Disease Registry and from the ongoing investigation of the use of formaldehyde for agricultural practices conducted by the commissioner of health in collaboration with the secretary of agriculture, food and markets and the secretary of natural resources.

(4) The secretary may adopt emergency rules for the use of foot baths on Vermont farms if the secretary determines such rules are necessary to protect the public health, safety, and welfare.

Fourth: By adding new Secs. 10a–10e to read as follows:

Sec. 10a. STATEMENT OF PURPOSE; HUMANE TREATMENT; GESTATION

It shall be the purpose of Secs. 10b through 10e of this act related to humane treatment of animals to prohibit the cruel confinement of sows during

gestation in a manner that does not allow them to turn around freely, lie down, stand up, or fully extend their limbs.

Sec. 10b. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

- (1) “Animal” means all living sentient creatures, not human beings.
- (2) “Secretary” means the secretary of agriculture, food and markets.

* * *

(13) “Livestock and poultry husbandry practices” means the raising, management, and using of animals to provide humans with food, fiber, or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

* * *

(14) “Enclosure” means a cage, crate, or other structure used to confine an animal, including what is commonly described as a “gestation crate” for sows.

(15) “Farm” means the land, buildings, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food or fiber and does not include live animal markets.

(16) “Farm owner or operator” means any person who owns or controls the operations of a farm and does not include any nonmanagement employee, contractor, or consultant.

(17) “Fully extending the animal’s limbs” means fully extending all limbs without touching the side of an enclosure.

(18) “Sow in gestation” means a pregnant animal of the porcine species kept for the primary purpose of breeding.

(19) “Turning around freely” means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

Sec. 10c. 13 V.S.A. § 351b is amended to read:

§ 351b. SCOPE OF SUBCHAPTER

This subchapter shall not apply to:

(1) activities regulated by the department of fish and wildlife pursuant to 10 V.S.A. Part 4 of Title 10;

(2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;

(3) livestock and poultry husbandry practices for raising, management and use of animals, provided that livestock and husbandry practices for raising, management, and use of animals shall not be an exception to a violation of section 367 of this title;

(4) veterinary medical or surgical procedures; and

(5) the killing of an animal as provided by ~~sections~~ 20 V.S.A. §§ 3809 and 3545 of Title 20.

Sec. 10d. 13 V.S.A. § 353 is amended to read:

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

* * *

(4)(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(B) A law enforcement officer shall issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than \$500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in the criminal division of the superior court.

(b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:

(1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.

(2) Repay the reasonable costs incurred by any person, municipality, or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

(4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

(6) Enjoin a slaughterer, packer, or stockyard operator, as those terms are defined in 6 V.S.A. § 3131, from operating due to a violation of section 367 of this title.

* * *

Sec. 10e. 13 V.S.A. § 367 is added to read:

§ 367. UNLAWFUL CONFINEMENT OF SOW DURING GESTATION

(a) Prohibition. No farm owner or operator may knowingly tether or confine a sow during gestation in an enclosure in a manner that prevents the sow from turning around freely, lying down, standing up, and fully extending its limbs.

(b) Exceptions. The prohibition in subsection (a) of this section shall not apply:

(1) During examination or testing or individual treatment of or operation on an animal for veterinary purposes;

(2) During transportation;

(3) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions or educational programs;

(4) To the humane slaughter of an animal in accordance with 6 V.S.A. chapter 201 and the rules adopted pursuant to 6 V.S.A. § 3133 pertaining to the slaughter of animals; and

(5) To a sow during the seven-day period prior to the sow's expected date of giving birth.

Which was agreed to.

Thereupon, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture, as substituted?, was decided in the affirmative.

Thereupon, third time reading of the bill was ordered, on a roll call, Yeas 29, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Miller.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

Thereupon, the bill was read a third time and the bill was passed in concurrence with proposal of amendment.

Committee of Conference Appointed

H. 600.

An act relating to mandatory mediation in foreclosure proceedings.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Campbell
Senator Sears
Senator White

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 189, H. 496, H. 524, H. 600, H. 769, H. 774, H. 780.

Adjournment

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