

# Senate Calendar

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MONDAY, MAY 11, 2015

**SENATE CONVENES AT: 11:00 A.M.**

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF THURSDAY, MAY 7, 2015**

**House Proposal of Amendment**

**S. 44**

An act relating to creating flexibility in early college enrollment numbers.

The House proposes to the Senate to amend the bill as follows:

By striking out Sec. 2. (effective date) in its entirety and inserting in lieu thereof four new sections to be Secs. 2–5 to read as follows:

Sec. 2. 16 V.S.A. chapter 87, subchapter 8 is added to read:

Subchapter 8. Vermont Universal Children’s Higher Education  
Savings Account Program

§ 2880. DEFINITIONS

As used in this subchapter:

(1) “Approved postsecondary education institution” means any institution of postsecondary education that is:

(A) certified by the State Board of Education as provided in section 176 or 176a of this title;

(B) accredited by an accrediting agency approved by the U.S. Secretary of Education pursuant to the Higher Education Act;

(C) a non-U.S. institution approved by the U.S. Secretary of Education as eligible for use of education loans made under Title IV of the Higher Education Act; or

(D) a non-U.S. institution designated by the Corporation as eligible for use of its grant awards.

(2) “Committee” means the Vermont Universal Children’s Higher Education Savings Account Program Fund Advisory Committee.

(3) “Corporation” means Vermont Student Assistance Corporation.

(4) “Eligible child” means a minor who is Vermont resident at the time the Corporation deposits or allocates funds pursuant to this subchapter for his or her benefit.

(5) “Postsecondary education costs” means the qualified costs of tuition, fees, and other expenses for attendance at an institution of postsecondary education, as defined in the Internal Revenue Code of 1986, as amended, together with the regulations promulgated thereunder.

(6) “Program” means the Vermont Universal Children’s Higher Education Savings Account Program.

(7) “Program beneficiary” means an individual who is or who was at one time an eligible child for whom the Corporation deposited or allocated funds pursuant to this subchapter and who has not yet attained 29 years of age or, for national service program participants, the extended maturity date.

(8) “Program Fund” means the Vermont Universal Children’s Higher Education Savings Account Program Fund.

(9) “Vermont Higher Education Investment Plan” or “Investment Plan” means the plan created pursuant to subchapter 7 of this chapter.

(10) “Vermont resident” means an individual who is domiciled in Vermont as evidenced by the individual’s intent to maintain a principal dwelling place in Vermont indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent. A minor is a Vermont resident if his or her parent or legal guardian is a Vermont resident, unless a parent or legal guardian with sole legal and physical parental rights and responsibilities lives outside the State of Vermont.

§ 2880a. VERMONT UNIVERSAL CHILDREN’S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM ESTABLISHED; POWERS AND DUTIES OF THE VERMONT STUDENT ASSISTANCE CORPORATION

(a) It is the policy of the State to expand educational opportunity for all children. Consistent with this policy, the Vermont Student Assistance Corporation shall partner with one or more foundations or other philanthropies to establish and fund the Vermont Universal Children’s Higher Education Savings Account Program to expand educational opportunity and financial capability for Vermont children and their families.

(b) Pursuant to this subchapter, the Corporation shall establish and administer the Program, which shall include the Vermont Universal Children’s Higher Education Savings Account Program Fund and financial education for Program beneficiaries and their families and legal guardians. The Corporation, in addition to its other powers and authority, shall have the power and authority to adopt rules, policies, and procedures, including those pertaining to

residency in the State, to implement this subchapter in conformance with federal and State law.

(c) The Vermont Departments of Health and of Taxes and the Vermont Agencies of Education and of Human Services shall enter into agreements with the Corporation to enable the exchange of such information as may be necessary for the efficient administration of the Program.

(d) The Corporation's obligations under this subchapter are limited to funds deposited in the Program Fund specifically for the purpose of the Program.

(e) The Corporation shall annually on or before January 15 release a written report with a detailed description of the status and operation of the Program and management of accounts.

§ 2880b. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM FUND

(a) The Vermont Universal Children's Higher Education Savings Account Program Fund is established as a fund to be held, directed, and administered by the Corporation. The Corporation shall invest and reinvest, or cause to be invested and reinvested, funds in the Program Fund for the benefit of the Program.

(b) The following sources of funds shall be deposited into the Program Fund:

(1) any grants, gifts, and other funds intended for deposit into the Program Fund from any individual or private or public entity, provided that contributions may be limited in application to specified age cohorts of beneficiaries; and

(2) all interest, dividends, and other pecuniary gains from investment of funds in the Program Fund.

(c) Funds in the Program Fund shall be used solely to carry out the purposes and provisions of this subchapter, including payment by the Corporation of the administrative costs of the Program and the Program Fund and of the costs associated with providing financial education to benefit Program beneficiaries and their parents and legal guardians. Funds in the Program Fund may not be transferred or used by the Corporation or the State for any purposes other than the purposes of the Program.

§ 2880c. INITIAL DEPOSITS TO THE PROGRAM FUND

(a) Each year, the Corporation shall deposit \$250.00 into the Program Fund for each eligible child born that year, beginning on or after January 1, 2016.

(b) In addition, if the eligible child has a family income of less than 250 percent of the federal poverty level at the time the deposit under subsection (a) of this section is made, the Corporation shall make an additional deposit into the Program Fund for the child that is equal to the deposit made under subsection (a).

(c) Notwithstanding subsections (a) and (b) of this section, if the available funds in a given calendar year are insufficient to provide for the maximum deposits under this section, the Corporation shall prorate the deposits accordingly.

§ 2880d. VERMONT HIGHER EDUCATION INVESTMENT PLAN  
ACCOUNTS; MATCHING ALLOCATIONS FOR FAMILIES  
WITH LIMITED INCOME

(a) The Corporation shall invite the parents or legal guardians of each Program beneficiary to open a Vermont Higher Education Investment Plan account on the beneficiary's behalf.

(b) The beneficiary, his or her parents or legal guardians, other individuals, and private and public entities may make additional deposits into a beneficiary's Investment Plan account.

(c) Annually, the Corporation shall deposit into the Program Fund a matching allocation of up to \$250.00 per eligible child on a dollar-to-dollar basis for contributions made that year to a single Investment Plan account established for the child under this section, provided that at the time of deposit, the eligible child has a family income of less than 250 percent of the federal poverty level.

(d) Notwithstanding subsection (c) of this section, if the available funds in a given calendar year are insufficient to provide for the maximum allocation amounts under this subsection, the Corporation shall prorate the allocations accordingly.

§ 2880e. WITHDRAWAL OF PROGRAM FUNDS

(a) Subject to the provisions of this section, the Investment Plan requirements under subchapter 7 of this chapter, and the rules, policies, and procedures adopted by the Corporation, a Program beneficiary shall be entitled to Program funds deposited or allocated by the Corporation for his or her benefit if:

(1) the beneficiary has attained 18 years of age or has enrolled full-time in an approved postsecondary education institution;

(2) the Corporation has sufficient proof that the beneficiary was an eligible child at the time the deposit or allocation was made;

(3) the funds are used for postsecondary education costs and made payable to an approved postsecondary education institution on behalf of the beneficiary; and

(4) the withdrawal is made prior to the beneficiary's attaining 29 years of age, provided that for a beneficiary who serves in a national service program, including in the U.S. Armed Forces, AmeriCorps, or the Peace Corps, each month of service shall increase the maturity date by one month.

(b) If a Program beneficiary does not use all of the funds deposited or allocated by the Corporation for his or her use prior to the maturity date, the beneficiary shall no longer be permitted to use these funds and the Corporation shall unallocate the unused funds from the beneficiary within the Program Fund.

(c) This section shall not apply to withdrawal of funds that are contributed to an Investment Plan account opened for the benefit of the account's beneficiary under subsection 2880d(a) and (b) of this title and that are not Program funds deposited or allocated by the Corporation.

#### § 2880f. RIGHTS OF BENEFICIARIES AND THEIR FAMILIES

(a) A parent or legal guardian shall be allowed to opt out of the Program on behalf of his or her child.

(b) An individual otherwise eligible for any benefit program for elders, persons who are disabled, families, or children shall not be subject to any State resource limit based on funds deposited, allocated, or contributed on behalf of an eligible child or Program beneficiary to the Program Fund or an Investment Plan.

#### § 2880g. FINANCIAL LITERACY PROGRAMS

State agencies and offices, including the Agencies of Education and of Human Services and the Office of the State Treasurer, in collaboration with existing statewide community partners and nonprofit partners that specialize in financial education delivery and have developed an available infrastructure to support financial education across multiple sectors, shall develop and support programs to encourage the financial literacy of Program beneficiaries and their families and legal guardians throughout the duration of the Program via mail, mass media, and in-person delivery methods.

#### § 2880h. PROGRAM FUND ADVISORY COMMITTEE

(a) There is created a Vermont Universal Children's Higher Education Savings Account Program Fund Advisory Committee to identify and solicit public and private funds for the Program and to advise the Corporation on disbursement of funds.

(b) The Committee shall be composed of the following 11 members:

(1) the Governor or designee, ex officio;

(2) the President of the Corporation or designee, ex officio;

(3) two representatives of the Vermont philanthropy community, appointed by the Governor;

(4) two representatives of the Vermont business community, appointed by the Governor;

(5) two members from Vermont advocacy organizations representing individuals and families with limited income, appointed by the Governor; and

(6) three members selected by the Committee.

(c) Non-ex-officio members shall serve four-year terms, appointed and selected in such a manner that no more than three terms shall expire annually.

### Sec. 3. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM; INITIAL MEETING

The President of the Corporation or designee shall call the first meeting of the Committee to occur on or before August 1, 2015. The Committee shall select three members pursuant to 16 V.S.A. § 2880h(b)(6), and a chair from among the Committee members, at the first meeting or as soon as possible thereafter.

### Sec. 4. VERMONT STUDENT ASSISTANCE CORPORATION; ELIGIBILITY, RESIDENCY, AND RECIPROCITY REPORT

(a) On or before January 15, 2016, the Vermont Student Assistance Corporation shall report to the House and Senate Committees on Education with its findings on the following:

(1) whether the Program established in 16 V.S.A. chapter 87, subchapter 8 provides for Program eligibility in a manner that adequately and equitably serves the Program's purposes;

(2) whether the Corporation has encountered, or expects to encounter, any difficulties in administering the Program on account of State residency issues;

(3) whether the Program could partner with children's savings account programs in other New England states to develop a system or systems of program reciprocity; and

(4) any other recommendations for legislative action.

(b) The reporting requirement of this section may be satisfied by providing testimony to the Committees.

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 shall take effect on passage and shall apply retroactively to enrollments beginning in the 2014–2015 academic year.

(b) Secs. 2–4 shall take effect on July 1, 2015.

(c) This section shall take effect on passage.

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

An act relating to creating flexibility in early college enrollment numbers and to creating the Vermont Universal Children’s Higher Education Saving Account Program.

**NEW BUSINESS**

**Second Reading**

**Favorable**

**H. 503.**

An act relating to approval of amendments to the charter of the City of Burlington.

**Reported favorably by Senator Pollina for the Committee on Government Operations.**

(Committee vote: 5-0-0)

(No House amendments)

**H. 504.**

An act relating to approval of the adoption and codification of the charter of the Town of Waitsfield.

**Reported favorably by Senator Pollina for the Committee on Government Operations.**

(Committee vote: 5-0-0)

(No House amendments)

## Favorable with Proposal of Amendment

### H. 11.

An act relating to the membership of the Commission on Alzheimer's Disease and Related Disorders.

#### **Reported favorably with recommendation of proposal of amendment by Senator Pollina for the Committee on Health & Welfare.**

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 1, 18 V.S.A. § 3085a, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) Eight of the members appointed by the Governor shall serve terms of two years and eight of the members shall serve terms of three years. Members shall serve until their successors are appointed. Members first appointed to the Commission prior to January 1, 2015, may apply to serve no more than one additional term of either two or three years following the expiration of their current term. Members first appointed to the Commission after January 1, 2015, shall serve a maximum of two terms. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed only for the unexpired portion of the term, and if the unexpired portion of the term is less than or equal to one year, the member appointed to fill the vacancy occurring other than by expiration of a term may thereafter apply to serve a maximum of two additional terms.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 31, 2015, page 689)

#### **Reported favorably with recommendation of proposal of amendment by Senator Snelling for the Committee on Appropriations.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Health & Welfare with the following amendments thereto:

First: In Sec. 1, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The Commission shall be composed of ~~17~~ 18 members: the ~~Commissioner~~ Commissioners of Disabilities, Aging, and Independent Living and of Health or a designee ~~designees~~, ~~one Senator chosen by the Committee on Committees of the Senate~~, ~~one Representative chosen by the Speaker of the House~~, and ~~14~~ 16 members appointed by the Governor. The members appointed by the Governor shall represent the following groups and organizations: physicians, social workers, nursing home managers, including

the administrators of the Vermont Veterans' Home, the clergy, adult day center providers, the business community, registered nurses, residential care home operators, family care providers, the home health agency, the legal profession, mental health service providers, the area agencies on aging, University of Vermont's Center on Aging, the Support and Services at Home (SASH) program, and the Alzheimer's Association. The members appointed by the Governor shall represent, to the degree possible, the five regions of the State.

Second: In Sec. 1, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) ~~Legislative members shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406 for no more than six meetings per year; the remaining members~~ Members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for no more than six ~~four~~ meetings per year. Payment to legislative members shall be from the appropriation to the Legislature. Payment to the remaining members shall be from the appropriation to the Department of Disabilities, Aging, and Independent Living.

(Committee vote: 7-0-0)

## NOTICE CALENDAR

### Second Reading

#### Favorable with Proposal of Amendment

#### H. 35.

An act relating to improving the quality of State waters.

**Reported favorably with recommendation of proposal of amendment by Senator Bray for the Committee on Natural Resources & Energy.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Findings and Purpose \* \* \*

#### Sec. 1. FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds that:

(1) Within the borders of Vermont there are 7,100 miles of rivers and streams and 812 lakes and ponds of at least five acres in size.

(2) Vermont's surface waters are vital assets that provide the citizens of the State with clean water, recreation, and economic opportunity.

(3) The federal Clean Water Act and the Vermont Water Quality Standards require that waters in the State shall not be degraded.

(4) To prevent degradation of waters and to preserve the uses, benefits, and values of the lakes, rivers, and streams of Vermont, the Vermont Water Quality Standards provide that it is the policy of the State to prevent, abate, or control all activities harmful to water.

(5) Despite the State and federal mandates to maintain and prevent degradation of State waters, multiple lakes, rivers, and streams in all regions of the State are impaired, at risk of impairment, or subject to water quality stressors, as indicated by the fact that:

(A) there are 81 waters or segments of waters in the State that are impaired and require a total maximum daily load (TMDL) plan;

(B) there are 114 waters or segments of waters in the State that are impaired and that have been issued a TMDL;

(C) there are at least 115 waters or water segments in the State that are stressed, meaning that there is one or more factor or influence that prohibits the water from maintaining a higher quality; and

(D) there are at least 56 waters in the State that are altered due to aquatic nuisance species, meaning that one or more of the designated uses of the water is prohibited due to the presence of aquatic nuisance species.

(6) Impairments and other alterations of water can significantly limit how a water is used and whether it can be maintained for traditional uses. For example:

(A) aquatic life is only fully supported in 59 percent of the State's inland lakes; and

(B) swimming is only fully supported on 76 percent of the State's inland lakes.

(7) Without State action to improve the quality of State waters and prevent further degradation of the quality of existing waters, the State of Vermont will be at risk of losing the valuable, if not necessary functions and uses that the State's waters provide;

(8) Sufficiently addressing, improving, and forestalling degradation of water quality in the State in a sustainable and effective manner will be expensive and the burden of the expense will be felt by all citizens of the State,

but without action the economic, cultural, and environmental losses to the State will be immeasurable;

(9) To protect the waters of the State and preserve the quality of life of the citizens of Vermont, the State of Vermont should:

(A) fully implement the antidegradation implementation policy in the Vermont Water Quality Standards;

(B) enhance, implement, and enforce regulatory requirements for water quality, and

(C) sufficiently and sustainably finance all water quality programs within the State.

(b) Purpose. It is the purpose of this act to:

(1) manage and regulate the waters of the State so that water quality is improved and not degraded;

(2) manage and plan for the use of State waters and development in proximity to State waters in manner that minimizes damage from and allows for rapid recovery from flooding events;

(3) authorize and prioritize proactive measures designed to implement and meet the impending total maximum daily load (TMDL) plan for Lake Champlain, meet impending TMDL plans for other State waters, and improve water quality across the State;

(4) identify and prioritize areas in the State where there is the greatest need to act in order to protect, maintain, or improve water quality;

(5) engage all municipalities, agricultural operations, businesses, and other interested parties as part of the State's efforts to improve the quality of the waters of the State; and

(6) provide mechanisms, staffing, and financing necessary for State waters to achieve and maintain compliance with the Vermont water quality standards.

\* \* \* Agricultural Water Quality;  
Definitions \* \* \*

Sec. 2. 6 V.S.A. § 4802 is amended to read:

§ 4802. ~~DEFINITION~~ DEFINITIONS

~~For purposes of~~ As used in this chapter, ~~the word “secretary,” when used by itself, means the secretary of agriculture, food and markets;~~

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Farming” shall have the same meaning as used in 10 V.S.A. § 6001(22).

(3) “Healthy soil” means soil that has a well-developed, porous structure, is chemically balanced, supports diverse microbial communities, and has abundant organic matter.

(4) “Manure” means livestock waste in solid or liquid form that may also contain bedding, spilled feed, water, or soil.

(5) “Secretary” means the Secretary of Agriculture, Food and Markets.

(6) “Top of bank” means the point along the bank of a stream where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during an annual flood event. Annual flood event shall be determined according to the Agency of Natural Resources’ Flood Hazard Area and River Corridor Protection Procedure.

(7) “Waste” or “agricultural waste” means material originating or emanating from a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including: sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste, animal mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated milkhouse waste; and any other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).

(8) “Water” shall have the same meaning as used in 10 V.S.A. § 1251(13).

\* \* \* Agricultural Water Quality; Small Farm Certification \* \* \*

Sec. 3. 6 V.S.A. subchapter 5a is added to read:

Subchapter 5a. Small Farm Certification

§ 4871. SMALL FARM CERTIFICATION

(a) Small farm definition. As used in this section, “small farm” means a parcel or parcels of land:

(1) on which 10 or more acres are used for farming;

(2) that houses no more than the number of animals specified under section 4857 of this title; and

(3)(A) that houses:

(i) 25 or more cattle, mature cow/calf pairs, youngstock, heifers, bulls, swine, sheep, goats, or horses;

(ii) 2,500 or more turkeys;

(iii) 1,250 or more laying hens or broilers with a liquid manure handling system;

(iv) 3,500 or more laying hens without a liquid manure handling system;

(v) 4,750 or more chickens other than laying hens without a liquid manure handling system;

(vi) 200 or more ducks with a liquid manure handling system;

(vii) 1,500 or more ducks without a liquid manure handling system; or

(B) that is used for the preparation, tilling fertilization, planting, protection, irrigation, and harvesting of crops for sale.

(b) Required small farm certification. A person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

(c) Certification due to water quality threat. The Secretary may require any person who owns or operates a farm to submit a small farm certification under this section if the person is not required to obtain a permit or submit a certification under this chapter and the Secretary determines that the farm poses a threat of discharge to a water of the State or presents a threat of contamination to groundwater. The Secretary may waive a small farm certification required under this subsection upon a determination that the farm no longer poses a threat of discharge to a water of the State or no longer presents a threat of contamination to groundwater.

(d) Rulemaking; small farm certification. On or before January 1, 2016, the Secretary of Agriculture, Food and Markets shall adopt by rule requirements for a small farm certification of compliance with the required agricultural practices. The rules required by this subsection shall be adopted as part of the required agricultural practices under section 4810 of this title.

(e) Small farm inspection. The Secretary may inspect a small farm in the State at any time, but no less frequently than once every five years, for the

purposes of assessing compliance by the small farm with the required agricultural practices and determining consistency with a certification of compliance submitted by the person who owns or operates the small farm. The Secretary may prioritize inspections of small farms in the State based on identified water quality issues posed by a small farm.

(f) Notice of change of ownership or change of lease. A person who owns or leases a small farm shall notify the Secretary of a change of ownership or change of lessee of a small farm within 30 days of the change. The notification shall include the certification of small farm compliance required under subsection (a) of this section.

(g)(1) Identification; ranking of water quality needs. During an inspection of a small farm under this section, the Secretary shall identify areas where the farm could benefit from capital, structural, or technical assistance in order to improve or come into compliance with the required agricultural practices and any applicable State water quality permit or certification required under this chapter.

(2) Notwithstanding the priority system established under section 4823 of this title, the Secretary annually shall establish a priority ranking system for small farms according to the water quality benefit associated with the capital, structural, or technical improvements identified as needed by the Secretary during an inspection of the farm.

(3) Notwithstanding the priority system established by subdivision (2) of this subsection, the Secretary may provide financial assistance to a small farm at any time, regardless of the priority ranking system, if the Secretary determines that the farm needs assistance to address a water quality issue that requires immediate abatement.

(h) Fees. A person required to submit a certification under this section shall submit an annual operating fee of \$250.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. The Secretary may waive or reduce the fee required under this subsection based on farm type or the income or ability to pay of a person required to submit a certification under this section.

Sec. 4. 6 V.S.A. § 4810a is added to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) On or before July 1, 2016, the Secretary of Agriculture, Food and Markets shall amend by rule the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification

program required by section 4871 of this title. At a minimum, the amendments to the required agricultural practices shall:

(1) Specify those farms that:

(A) are required to comply with the small certification requirements under section 4871 of this title due to the potential impact of the farm or type of farm on water quality as a result of livestock managed on the farm, agricultural inputs used by the farm, or tillage practices on the farm; and

(B) shall be subject to the required agricultural practices, but shall not be required to comply with small farm certification requirements under section 4871 of this title.

(2)(A) Prohibit a farm from stacking or piling manure, storing fertilizer, or storing other nutrients on the farm:

(i) in a manner and location that presents a threat of discharge to a water of the State or presents a threat of contamination to groundwater; or

(ii) on lands in a floodway or otherwise subject to annual flooding.

(B) In no case shall manure stacking or piling sites, fertilizer storage, or other nutrient storage be located within 200 feet of a private well or within 200 feet of a water of the State.

(3) Require the construction and management of barnyards, waste management systems, animal holding areas, and production areas in a manner to prevent runoff of waste to a surface water, to groundwater, or across property boundaries.

(4) Establish standards for nutrient management on farms, including:

(A) required nutrient management planning on all farms that manage agricultural wastes; and

(B) recommended practices for improving and maintaining soil quality and healthy soils in order to increase the capacity of soil to retain water, improve flood resiliency, reduce sedimentation, reduce reliance on fertilizers and pesticides, and prevent agricultural stormwater runoff.

(5) Require cropland on the farm to be cultivated in a manner that results in an average soil loss of less than or equal to the soil loss tolerance for the prevalent soil, known as 1T, as calculated through application of the Revised Universal Soil Loss Equation, or through the application of similarly accepted models.

(6)(A) Require a farm to comply with standards established by the Secretary for maintaining a vegetative buffer zone of perennial vegetation

between annual croplands and the top of the bank of an adjoining water of the State. At a minimum the vegetative buffer standards established by the Secretary shall prohibit the application of manure on the farm within 25 feet of the top of the bank of an adjoining water of the State or within 10 feet of a ditch that is not a surface water under State law and that is not a water of the United States under federal law.

(B) Establish standards for site-specific vegetative buffers that adequately address water quality needs based on consideration of soil type, slope, crop type, proximity to water, and other relevant factors.

(7) Prohibit the construction or siting of a farm structure for the storage of manure, fertilizer, or pesticide storage within a floodway area identified on a National Flood Insurance Program Map on file with a town clerk.

(8) Regulate, in a manner consistent with the Agency of Natural Resources' flood hazard area and river corridor rules, the construction or siting of a farm structure or the storage of manure, fertilizer, or pesticides within a river corridor designated by the Secretary of Natural Resources.

(9) Establish standards for the exclusion of livestock from the waters of the State to prevent erosion and adverse water quality impacts.

(10) Establish standards for soil conservation practices such as cover cropping.

(11) Allow for alternative techniques or practices, approved by the Secretary, for compliance by an owner or operator of a farm when the owner or operator cannot comply with the requirements of the required agricultural practices due to site-specific conditions. Approved alternative techniques or practices shall meet State requirements to reduce adverse impacts to water quality.

(b) On or before January 15, 2018, the Secretary of Agriculture, Food and Markets shall amend by rule the required agricultural practices in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage upon a determination that compliance is necessary to reduce adverse impacts to water quality from the subsurface tile drain.

## Sec. 5. REPORT ON MANAGEMENT OF SUBSURFACE TILE DRAINAGE

(a) The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources, after consultation with the U.S. Department of

Agriculture's Natural Resource Conservation Service, shall submit a joint report to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture regarding the status of current, scientific research relating to the environmental management of subsurface agriculture tile drainage and how subsurface agriculture tile drainage contributes to nutrient loading of surface waters. The report shall include a recommendation from the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources regarding how best to manage subsurface agriculture tile drainage in the State in order to mitigate and prevent the contribution of tile drainage to waters of the State.

(b) On or before January 15, 2016, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit an interim report that summarizes the progress of the Secretaries in preparing the report required by this section. The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit the final report required by this section on or before January 15, 2017.

\* \* \* Agricultural Water Quality; Permit Fees \* \* \*

Sec. 6. 6 V.S.A. § 4851 is amended to read:

§ 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

(a) No person shall, without a permit from the ~~secretary~~ Secretary, construct a new barn, or expand an existing barn, designed to house more than 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks without a liquid manure handling system. No permit shall be required to replace an existing barn in use for livestock or domestic fowl production at its existing capacity. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any application for a permit under this section with regard to water quality impacts and, prior to approval of a permit under this subsection, shall issue a written determination regarding whether the applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets

determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under ~~subsection 4810(b)~~ section 4810 of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a large farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations.

\* \* \*

(h) The Secretary may inspect a farm permitted under this section at any time, but no less frequently than once per year.

(i) A person required to obtain a permit under this section shall submit an annual operating fee of \$2,500.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 7. 6 V.S.A. § 4858 is amended to read:

§ 4858. ANIMAL WASTE PERMITS MEDIUM FARM OPERATION PERMITS

(a) No person shall operate a medium farm without authorization from the ~~secretary~~ Secretary pursuant to this section. Under exceptional conditions, specified in subsection ~~(e)~~(d) of this section, authorization from the ~~secretary~~ Secretary may be required to operate a small farm.

(b) Rules; general and individual permits. The ~~secretary~~ Secretary shall establish by rule, pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~, requirements for a “general permit” and “individual permit” to ~~ensure~~ assure that medium and small farms generating animal waste comply with the water quality standards of the ~~state~~ State.

\* \* \*

(2) The rules adopted under this section shall also address permit administration, public notice and hearing, permit enforcement, permit transition, revocation, and appeals consistent with provisions of sections 4859, ~~4860~~, and 4861 of this title and subchapter 10 of this chapter.

(3) Each general permit issued pursuant to this section shall have a term of no more than five years. Prior to the expiration of each general permit, the ~~secretary~~ Secretary shall review the terms and conditions of the general permit and may issue subsequent general permits with the same or different conditions as necessary to carry out the purposes of this subchapter. Each general permit

shall include provisions that require public notice of the fact that a medium farm has sought coverage under a general permit adopted pursuant to this section. Each general permit shall provide a process by which interested persons can obtain detailed information about the nature and extent of the activity proposed to receive coverage under the general permit. The Secretary may inspect each farm seeking coverage under the general permit at any time, but no less frequently than once every three years.

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the ~~secretary~~ Secretary within a period specified in the permit, and in a manner specified by the ~~secretary~~ Secretary, that the medium farm does comply with permit requirements regarding an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with ~~accepted~~ required agricultural practices adopted under this chapter. Any certification or notice of intent to comply submitted under this subdivision shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any certification or notice of intent to comply submitted under this subdivision with regard to the water quality impacts of the medium farm for which the owner or operator is seeking coverage, and, within 18 months of receiving the certification or notice of intent to comply, shall verify whether the owner or operator of the medium farm has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of a medium farm granted coverage under the general permit adopted pursuant to this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under ~~subsection 4810(b)~~ section 4810 of this title.

\* \* \*

(e) A person required to obtain a permit or coverage under this section shall submit an annual operating fee of \$1,500.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 8. 6 V.S.A. § 324 is amended to read:

§ 324. REGISTRATION AND FEES

(a) No person shall manufacture a commercial feed in this State unless that person has first filed with the Vermont Agency of Agriculture, Food and Markets, in a form and manner to be prescribed by rules by the Secretary:

- (1) the name of the manufacturer;
- (2) the manufacturer's place of business;
- (3) the location of each manufacturing facility; and
- (4) any other information which the Secretary considers to be necessary.

(b) A person shall not distribute in this State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~\$85.00~~ \$100.00 per product. ~~The~~ Of the registration fees collected, \$85.00 of each collected fee, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. Of the registration fees collected, \$15.00 of each collected fee shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

(c) No person shall distribute in this State any feed required to be registered under this chapter upon which the Secretary has placed a withdrawal from distribution order because of nonregistration. A surcharge of \$10.00, in addition to the registration fee required by subsection (b) of this section, shall accompany the application for registration of each product upon which a withdrawal from distribution order has been placed for reason of nonregistration, and must be received before removal of the withdrawal from distribution order.

Sec. 9. 6 V.S.A. § 328 is amended to read:

§ 328. TONNAGE REPORTING

(a) Every person who registers a commercial feed pursuant to the provisions of this chapter shall report to the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets annually the total amount of combined feed which is distributed within the ~~state~~ State and which is intended

for use within the ~~state~~ State. The report shall be made on forms and in a manner to be prescribed ~~by rules~~ by the ~~secretary~~ Secretary for calendar years ~~1986 2016~~ and ~~1987 2017~~.

(b) This reporting requirement shall not apply to pet foods, within the meaning of subdivisions 323(16) and (19) of this title, and shall not apply to feeds intended for use outside ~~of the~~ state State.

Sec. 10. 6 V.S.A. § 366 is amended to read:

§ 366. TONNAGE FEES

(a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~ fee at a rate of \$0.25 cents per ton.

(b) Persons distributing fertilizer shall report annually by January 15 for the previous year ending December 31 to the ~~secretary~~ Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this ~~state~~ State. Each report shall be accompanied with payment and written permission allowing the ~~secretary~~ Secretary to examine the person's books for the purpose of verifying tonnage reports.

(c) No information concerning tonnage sales furnished to the ~~secretary~~ Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(d) ~~A \$50.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this state. [Repealed.]~~

(e) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required in this section.

(f) Lime and wood ash mixtures may be registered as agricultural liming materials and guaranteed for potassium or potash provided that the wood ash totals less than 50 percent of the mixture.

(g) All fees collected under subsection (a) of this section shall be deposited in the revolving fund created by ~~section~~ subsection 364(e) of this title and used in accordance with its provisions.

(h) There shall be paid annually to the Secretary for all fertilizers distributed to a nonregistrant consumer in this State an annual fee at a rate of \$15.00 per ton for the purpose of supporting agricultural water quality programs in Vermont.

(1) Persons distributing fertilizer shall report annually on or before January 15 for the previous year ending December 31 to the Secretary

revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this State. Each report shall be accompanied with payment and written permission allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports.

(2) No information concerning tonnage sales furnished to the Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(3) A \$150.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this State.

(4) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required under this subsection.

(5) All fees collected under this subsection shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 11. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

(a) Every economic poison which is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the Office of the Secretary, and such registration shall be renewed annually; provided, that products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements during the current period of registration. It is further provided that any economic poison imported into this State, which is subject to the provisions of any federal act providing for the registration of economic poisons and which has been duly registered under the provisions of this chapter, may, in the discretion of the Secretary, be exempted from registration under this chapter, when sold or distributed in the unbroken immediate container in which it was originally shipped. The registrant shall file with the Secretary a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.

(2) The name of the economic poison.

(3) A complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including directions for use.

(4) If requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the economic poison was registered or last ~~re-registered~~ reregistered.

(b) The registrant shall pay an annual fee of ~~\$110.00~~ \$125.00 for each product registered, and \$110.00 of that amount shall be deposited in the special fund created in section 929 of this title, of which \$5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and \$5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. Of the registration fees collected under this subsection, \$15.00 of the amount collected shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. The annual registration year shall be from December 1 to November 30 of the following year.

\* \* \*

\* \* \* Agricultural Water Quality; Required Agricultural Practices; Best Management Practices \* \* \*

Sec. 12. 6 V.S.A. § 4810 is amended to read:

§ 4810. AUTHORITY; COOPERATION; COORDINATION

(a) Agricultural land use practices. In accordance with 10 V.S.A. § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A. chapter 25 of Title 3, and shall implement and enforce agricultural land use practices in order to ~~reduce the amount of agricultural pollutants entering the waters of the state~~ satisfy the requirements of 33 U.S.C. § 1329 that the State identify and implement best management practices to control nonpoint sources of agricultural waste to waters of the State. These agricultural land use practices shall be created in two categories, pursuant to ~~subdivisions (1) and (2) of this subsection~~ subsections (b) and (c) of this section.

~~(1)(b) Required Agricultural Practices. "Accepted Agricultural Practices"~~ (AAPs) Required Agricultural Practices (RAPs) shall be management standards to be followed in conducting agricultural activities by all persons engaged in farming in this state ~~State~~. These standards shall address activities which have a potential for causing agricultural pollutants to enter the groundwater and waters of the ~~state~~ State, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and processing activities. The ~~AAPs~~ RAPs shall include, as well as promote and encourage, practices for farmers in preventing

agricultural pollutants from entering the groundwater and waters of the state State when engaged in, but not limited to, animal waste management and disposal, soil amendment applications, plant fertilization, and pest and weed control. Persons engaged in farming, as defined in 10 V.S.A. § 6001, who follow are in compliance with these practices shall be presumed to be in compliance with water quality standards to not have a discharge of agricultural pollutants to waters of the State. AAs RAPs shall be designed to protect water quality and shall be practical and cost-effective cost-effective to implement, as determined by the Secretary. Where the Secretary determines, after inspection of a farm, that a person engaged in farming is complying with the RAPs but there still exists the potential for agricultural pollutants to enter the waters of the State, the Secretary shall require the person to implement additional, site-specific on-farm conservation practices designed to prevent agricultural pollutants from entering the waters of the State. When requiring implementation of a conservation practice under this subsection, the Secretary shall inform the person engaged in farming of the resources available to assist the person in implementing the conservation practice and complying with the requirements of this chapter. The AAs RAPs for groundwater shall include a process under which the agency Agency shall receive, investigate, and respond to a complaint that a farm has contaminated the drinking water or groundwater of a property owner. A farmer may petition the Secretary to reduce the size of a perennial buffer or change the perennial buffer type based on site-specific conditions.

(2)(c) Best Management Practices. “Best Management Practices” (BMPs) may be required by the secretary on a case by case basis. Before requiring BMPs, the secretary shall determine that sufficient financial assistance is available to assist farmers in achieving compliance with applicable BMPs. Best management practices (BMPs) are site-specific on-farm conservation practices implemented in order to address the potential for agricultural pollutants to enter the waters of the State. The Secretary may require any person engaged in farming to implement a BMP. When requiring implementation of a BMP, the Secretary shall inform a farmer of financial resources available from State or federal sources, private foundations, public charities, or other sources, including funding from the Clean Water Fund established under 10 V.S.A. § 1388, to assist the person in implementing BMPs and complying with the requirements of this chapter. BMPs shall be practical and cost effective to implement, as determined by the Secretary, and shall be designed to achieve compliance with the requirements of this chapter. The Secretary may require soil monitoring or innovative manure management as a BMP under this subsection. Soil monitoring or innovative manure management implemented as a BMP shall be eligible for State assistance under

section 2822 of this title. If a perennial buffer of trees or other woody vegetation is required as a BMP, the Secretary shall pay the farmer for a first priority easement on the land on which the buffer is located.

~~(b)~~(e) Cooperation and coordination. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the ~~secretary of natural resources~~ Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for reducing and eliminating agricultural non-point source pollutants and discharges from concentrated animal feeding operations. ~~The secretary of agriculture, food and markets~~ On or before July 1, 2016, the Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall ~~develop a~~ revise the memorandum of understanding for the non-point program describing program administration, grant negotiation, grant sharing, and how they will coordinate watershed planning activities to comply with Public Law 92-500. The memorandum of understanding shall describe how the agencies will implement the antidegradation implementation policy, including how the agencies will apply the antidegradation implementation policy to new sources of agricultural non-point source pollutants. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources shall also develop a memorandum of understanding according to the public notice and comment process of 10 V.S.A. § 1259(i) regarding the implementation of the federal concentrated animal feeding operation program and the relationship between the requirements of the federal program and the ~~state~~ State agricultural water quality requirements for large, medium, and small farms under this chapter ~~215 of this title~~. The memorandum of understanding shall describe program administration, permit issuance, an appellate process, and enforcement authority and implementation. The memorandum of understanding shall be consistent with the federal National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. The allocation of duties under this chapter between the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall be consistent with the ~~secretary's~~ Secretary's duties, established under the provisions of 10 V.S.A. § 1258(b), to comply with Public Law 92-500. ~~The secretary of natural resources~~ Secretary of Natural Resources shall be the ~~state~~ State lead person in applying for federal funds under Public Law 92-500, but shall consult with the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets during the process. The agricultural non-point source program may compete with other programs for competitive watershed projects funded from

federal funds. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be represented in reviewing these projects for funding. Actions by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets under this chapter concerning agricultural non-point source pollution shall be consistent with the water quality standards and water pollution control requirements of 10 V.S.A. chapter 47 of Title 10 and the federal Clean Water Act as amended. In addition, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the ~~secretary of natural resources~~ Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for the proper management of composting facilities when those facilities are located on a farm. On or before January 15, 2016, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall each develop three separate measures of the performance of the agencies under the memorandum of understanding required by this subsection. Beginning on January 15, 2017, and annually thereafter, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit separate reports to the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources regarding the success of each agency in meeting the performance measures for the memorandum of understanding.

Sec. 13. **LEGISLATIVE COUNCIL STATUTORY REVISION  
AUTHORITY; REQUIRED AGRICULTURAL PRACTICES**

The Office of Legislative Council, in its statutory revision capacity, is directed to make amendments to the cumulative supplements of the Vermont Statutes Annotated to change the terms “accepted agricultural practices” to “required agricultural practices” and “AAPs” to “RAPs” where appropriate. These changes shall also be made when new legislation is proposed or when there is a republication of the Vermont Statutes Annotated.

Sec. 14. 6 V.S.A. § 4813 is amended to read:

§ 4813. **BASIN MANAGEMENT; APPEALS TO THE WATER  
RESOURCES BOARD ENVIRONMENTAL DIVISION**

(a) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall cooperate with the ~~secretary of natural resources~~ Secretary of Natural Resources in the basin planning process with regard to the agricultural non-point source waste component of each basin plan. Any person with an interest in the agricultural non-point source component of the basin planning process may petition the ~~secretary of agriculture, food and markets~~

~~Secretary of Agriculture, Food and Markets~~ to require, and the ~~secretary~~ Secretary may require, best management practices in the individual basin beyond ~~accepted~~ required agricultural practices adopted by rule, in order to achieve compliance with the water quality goals in 10 V.S.A. § 1250 and any duly adopted basin plan. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall hold a public hearing within 60 days and shall issue a timely written decision that sets forth the facts and reasons supporting the decision.

(b) Any person engaged in farming that has been required by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to implement best management practices or any person who has petitioned the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets under subsection (a) of this section may appeal the ~~secretary of agriculture, food and market's~~ Secretary of Agriculture, Food and Markets' decision to the ~~environmental division~~ Environmental Division de novo.

(c) ~~Before requiring best management practices under this section, the secretary of agriculture, food and markets or the board shall determine that sufficient financial assistance is available to assist farmers in achieving compliance with applicable best management practices~~ When requiring implementation of a best management practice, the Secretary shall inform a farmer of the resources available to assist the farmer in implementing the best management practice and complying with the requirements of this chapter.

\* \* \* Agricultural Water Quality; Training \* \* \*

Sec. 15. 6 V.S.A. chapter 215, subchapter 8 is added to read:

Subchapter 8. Agricultural Water Quality Training

§ 4981. AGRICULTURAL WATER QUALITY TRAINING

(a) On or before July 1, 2016, as part of the revisions of the required agricultural practices, the Secretary of Agriculture, Food and Markets shall adopt by rule requirements for training classes or programs for owners or operators of small farms, medium farms, or large farms certified or permitted under this chapter regarding:

(1) the prevention of discharges, as that term is defined in 10 V.S.A. § 1251(3); and

(2) the mitigation and management of stormwater runoff, as that term is defined in 10 V.S.A. § 1264, from farms.

(b) Any training required under this section shall address:

(1) the existing statutory and regulatory requirements for operation of a large, medium, or small farm in the State;

(2) the management practices and technical and financial resources available to assist in compliance with statutory or regulatory agricultural requirements;

(3) the land application of manure or nutrients, methods or techniques to minimize the runoff of land-applied manure or nutrients to waters of the State; and identification of weather or soil conditions that increase the risk of runoff of land-applied manure or nutrients to waters of the State; and

(4) standards required for nutrient management, including nutrient management planning.

(c) The Secretary shall include the training required by this section as a condition of a large farm permit, medium farm permit, or small farm certification required under this chapter. The Secretary may phase in training requirements under this section based on farm size, permit or certification category, or available staffing. On or before January 1, 2017, the Secretary shall establish a schedule by which all owners or operators of small farms, medium farms, or large farms shall complete the training required by this section.

(d) The Secretary may approve or authorize the training required by this section to be conducted by other entities, including the University of Vermont Extension Service and the natural resources conservation districts.

(e) The Secretary shall not charge the owner or operator of a large, medium, or small farm for the training required by this section. The Secretary shall pay for the training required under this section from funds available to the Agency of Agriculture, Food and Markets for water quality initiatives.

\* \* \* Agricultural Water Quality;  
Certification of Custom Applicators \* \* \*

Sec. 16. 6 V.S.A. chapter 215, subchapter 9 is added to read:

Subchapter 9. Certification of Custom Applicators of Manure or Nutrients

§ 4987. DEFINITIONS

As used in this subchapter, “custom applicator” means a person who is engaged in the business of applying manure or nutrients to land and who charges or collects other consideration for the service. Custom applicator shall include full-time employees of a person engaged in the business of applying manure or nutrients to land, when the employees apply manure or nutrients to land.

§ 4988. CERTIFICATION OF CUSTOM APPLICATOR

(a) On or before July 1, 2016, as part of the revision of the required agricultural practices, the Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a custom applicator shall be certified to operate within the State. The certification process shall require a custom applicator to complete eight hours of training over each five-year period regarding:

(1) application methods or techniques to minimize the runoff of land-applied manure or nutrients to waters of the State; and

(2) identification of weather or soil conditions that increase the risk of runoff of land-applied manure or nutrients to waters of the State.

(b) A custom applicator shall not apply manure or nutrients unless certified by the Secretary of Agriculture, Food and Markets.

(c) A custom applicator certified under this section shall train seasonal employees in methods or techniques to minimize runoff to surface waters and to identify weather or soil conditions that increase the risk of runoff. A custom applicator that trains a seasonal employee under this subsection shall be liable for damages done and liabilities incurred by a seasonal employee who improperly applies manure or nutrients.

(d) The requirements of this section shall not apply to an owner or operator of a farm applying manure or nutrients to a field that he or she owns or controls, provided that the owner or operator has completed the agricultural water quality training required under section 4981 of this title.

\* \* \* Agricultural Water Quality; Enforcement; Corrective Actions \* \* \*

Sec. 17. 6 V.S.A. chapter 215, subchapter 10 is added to read:

Subchapter 10. Enforcement

§ 4991. PURPOSE

The purpose of this subchapter is to provide the Secretary of Agriculture, Food and Markets with the necessary authority to enforce the agricultural water quality requirements of this chapter. When the Secretary of Agriculture, Food and Markets determines that a person subject to the requirements of the chapter is violating a requirement of this chapter, the Secretary shall respond to and require discontinuance of the violation. The Secretary may respond to a violation of the requirements of this chapter by:

(1) issuing a corrective action order under section 4992 of this title;

(2) issuing a cease and desist order under section 4993 of this title;

- (3) issuing an emergency order under section 4993 of this title;
- (4) revoking or conditioning coverage under a permit or certification under section 4994 of this title;
- (5) bringing a civil enforcement action under section 4995 of this title;
- (6) referring the violation to the Secretary of Natural Resources for enforcement under 10 V.S.A. chapter 201; or
- (7) pursuing other action, such as consulting with a farmer, within the authority of the Secretary to assure discontinuance of the violation and remediation of any harm caused by the violation.

§ 4992. CORRECTIVE ACTIONS; ADMINISTRATIVE ENFORCEMENT

(a) When the Secretary of Agriculture, Food and Markets receives a complaint and determines that a farmer is in violation of the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter, the Secretary shall notify the farmer of the complaint, including the alleged violation. The Secretary shall not be required to identify the source of the complaint.

(b) When the Secretary of Agriculture, Food and Markets determines that a person is violating the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this subsection shall include:

- (1) a description of the alleged violation;
- (2) identification of this section;
- (3) identification of the applicable statute, rule, or permit condition violated;
- (4) the required corrective actions that the person shall take to correct the violation; and
- (5) a summary of federal and State assistance programs that may be utilized by the person to assist in correcting the violation.

(c) A person issued a warning under this section shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation.

(d) If a person who receives a warning under this subsection fails to respond in a timely manner to the written warning or to take corrective action,

the Secretary may act pursuant to section 4993 or section 4995 of this section in order to protect water quality.

§ 4993. ADMINISTRATIVE ENFORCEMENT; CEASE AND DESIST ORDERS; EMERGENCY ORDERS

(a) Notwithstanding the requirements of section 4992 of this title, the Secretary at any time may pursue one or more of the following enforcement actions:

(1) Issue a cease and desist order in accordance with the requirements of subsection (b) of this section to a person the Secretary believes to be in violation of the requirements of this chapter.

(2) Issue emergency administrative orders to protect water quality when an alleged violation, activity, or farm practice:

(A) presents an immediate threat of substantial harm to the environment or immediate threat to the public health or welfare;

(B) is likely to result in an immediate threat of substantial harm to the environment or immediate threat to the public health or welfare; or

(C) requires a permit or amendment to a permit issued under this chapter and a farm owner or operator has commenced an activity or is continuing an activity without a permit or permit amendment.

(3) Institute appropriate proceedings on behalf of the Agency of Agriculture, Food and Markets to enforce the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter.

(4) Order mandatory corrective actions, including a requirement that the owner or operator of a farm sell or otherwise remove livestock from a farm or production area when the volume of waste produced by livestock on the farm exceeds the infrastructure capacity of the farm or the production area to manage the waste or waste leachate and prevent runoff or leaching of wastes to waters of the State or groundwater, as required by this chapter.

(5) Seek administrative or civil penalties in accordance with the requirements of section 15, 16, 17, or 4995 of this title. Notwithstanding the requirements of section 15 of this title to the contrary, the maximum administrative penalty issued by the Secretary under this section shall not exceed \$5,000.00 for each violation, and the maximum amount of any administrative penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00.

(b) A person may request that the Secretary hold a hearing on a cease and desist order or an emergency order issued under this section within five days of receipt of the order. Upon receipt of a request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order or emergency order issued under this section shall not stay the order.

#### § 4994. PERMIT OR CERTIFICATION; REVOCATION; ENFORCEMENT

The Secretary may, after due notice and hearing, revoke or condition coverage under a general permit, an individual permit, a small farm certification, or other permit or certification issued under this chapter or rules adopted under this chapter when the person subject to the permit or certification fails to comply with a requirement of this chapter or any term, provision, or requirements of a permit or certification required by this chapter. The Secretary may also seek enforcement remedies and penalties under this subchapter against any person who fails to comply with any term, provision, or requirement of a permit or certification required by this chapter or who violates the terms or conditions of coverage under any general permit, any individual permit, or any certification issued under this chapter.

#### § 4995. CIVIL ENFORCEMENT

(a) The Secretary may bring an action in the Civil Division of the Superior Court to enforce the requirements of this chapter, or rules adopted under this chapter, or any permit or certification issued under this chapter, to assure compliance, and to obtain penalties in the amounts described in subsection (b) of this section. The action shall be brought by the Attorney General in the name of the State.

(b) The Court may grant temporary and permanent injunctive relief, and may:

(1) Enjoin future activities.

(2) Order corrective actions to be taken to mitigate or curtail any violation and to protect human health or the environment, including a requirement that the owner or operator of a farm sell or otherwise remove livestock from the farm or production area when the volume of wastes produced by livestock exceeds the infrastructure capacity of the farm or its production area to manage the waste or waste leachate to prevent runoff or leaching of wastes to waters of the State or groundwater as required by the standards in this chapter.

(3) Order the design, construction, installation, operation, or maintenance of facilities designed to mitigate or prevent a violation of this

chapter or to protect human health or the environment or designed to assure compliance.

(4) Fix and order compensation for any public or private property destroyed or damaged.

(5) Revoke coverage under any permit or certification issued under this chapter.

(6) Order reimbursement from any person who caused governmental expenditures for the investigation, abatement, mitigation, or removal of a hazard to human health or the environment.

(7) Levy a civil penalty as provided in this subdivision. A civil penalty of not more than \$85,000.00 may be imposed for each violation. In addition, in the case of a continuing violation, a penalty of not more than \$42,500.00 may be imposed for each day the violation continues. In fixing the amount of the penalty, the Court shall apply the criteria set forth in subsections (e) and (f) of this section. The cost of collection of penalties or other monetary awards shall be assessed against and added to a penalty assessed against a respondent.

(c)(1) In any civil action brought under this section in which a temporary restraining order or preliminary injunction is sought, relief shall be obtained upon a showing that there is the probability of success on the merits and that:

(A) a violation exists; or

(B) a violation is imminent and substantial harm is likely to result.

(2) In a civil action brought under this section in which a temporary restraining order or preliminary injunction is sought, the Secretary need not demonstrate immediate and irreparable injury, loss, or damage.

(d) Any balancing of the equities in actions under this section may affect the time by which compliance shall be attained, but not the necessity of compliance within a reasonable period of time.

(e)(1) In determining the amount of the penalty provided in subsection (b) of this section, the Court shall consider the following:

(A) the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation;

(B) the presence of mitigating circumstances, including unreasonable delay by the Secretary in seeking enforcement;

(C) whether the respondent knew or had reason to know the violation existed;

(D) the respondent's record of compliance;

- (E) the deterrent effect of the penalty;
- (F) the State's actual costs of enforcement; and
- (G) the length of time the violation has existed.

(2) In determining the amount of the penalty provided in subsection (b) of this section, the Court may consider additional relevant factors.

(f) In addition to any penalty assessed under subsection (b) of this section, the Secretary may also recapture economic benefit resulting from a violation.

#### § 4996. APPEALS; ENFORCEMENT

(a) Any person subject, under this subchapter, to an administrative enforcement order, an administrative penalty, or revocation of a permit or certification who is aggrieved by a final decision of the Secretary may appeal to the Civil Division of Superior Court within 30 days of the decision. The Chief Superior judge may specially assign an environmental judge to the Civil Division of Superior Court for the purpose of hearing an appeal.

(b) If the Secretary issues an emergency order under this chapter, the person subject to the order may request a hearing before the Civil Division of Superior Court. Notice of the request for hearing under this subdivision shall be filed with the Civil Division of Superior Court and the Secretary within five days of receipt of the order. A hearing on the emergency order shall be held at the earliest possible time and shall take precedence over all other hearings. The hearing shall be held within five days of receipt of the notice of the request for hearing. A request for hearing on an emergency order shall not stay the order. The Civil Division of the Superior Court shall issue a decision within five days from the conclusion of the hearing, and no later than 30 days from the date the notice of request for hearing was received by the person subject to the order.

(c) The Civil Division of the Superior Court shall review appeals under this section on the record pursuant to Rule 74 of the Vermont Rules of Civil Procedure.

Sec. 18. 6 V.S.A. § 4812 is amended to read:

#### § 4812. CORRECTIVE ACTIONS

~~(a) When the Secretary of Agriculture, Food and Markets determines that a person engaged in farming is managing a farm using practices which are inconsistent with the requirements of this chapter or rules adopted under this subchapter, the Secretary may issue a written warning which shall be served in person or by certified mail, return receipt requested. The warning shall include a brief description of the alleged violation, identification of this statute and~~

~~applicable rules, a recommendation for corrective actions that may be taken by the person, along with a summary of federal and State assistance programs which may be utilized by the person to remedy the violation. The person shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation. If the person fails to respond to the written warning within this period or to take corrective action to change the practices, the Secretary may act pursuant to subsection (b) of this section in order to protect water quality.~~

~~(b) The Secretary may:~~

~~(1) issue cease and desist orders and administrative penalties in accordance with the requirements of sections 15, 16, and 17 of this title; and~~

~~(2) institute appropriate proceedings on behalf of the Agency to enforce this subchapter.~~

~~(c) Whenever the Secretary believes that any person engaged in farming is in violation of this subchapter or rules adopted thereunder, an action may be brought in the name of the Agency in a court of competent jurisdiction to restrain by temporary or permanent injunction the continuation or repetition of the violation. The court may issue temporary or permanent injunctions, and other relief as may be necessary and appropriate to curtail any violations.~~

~~(d) [Repealed.]~~

~~(e) Any person subject to an enforcement order or an administrative penalty who is aggrieved by the final decision of the Secretary may appeal to the Superior Court within 30 days of the decision. The administrative judge may specially assign an Environmental judge to Superior Court for the purpose of hearing an appeal. [Repealed.]~~

Sec. 19. 6 V.S.A. § 4854 is amended to read:

#### § 4854. REVOCATION; ENFORCEMENT

~~The secretary may revoke a permit issued under this subchapter after following the same process prescribed by section 2705 of this title regarding the revocation of a handler's license. The secretary may also seek enforcement remedies under sections 1, 12, 13, 16, and 17 of this title as well as assess an administrative penalty under section 15 of this title to any person who fails to apply for a permit as required by this subchapter, or who violates the terms or conditions of a permit issued under this subchapter. However, notwithstanding the provisions of section 15 of this title to the contrary, the maximum administrative penalty assessed for a violation of this subchapter shall not exceed \$5,000.00 for each violation, and the maximum amount of any penalty~~

~~assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00. [Repealed.]~~

Sec. 20. 6 V.S.A. § 4860 is amended to read:

§ 4860. ~~REVOCATION; ENFORCEMENT~~

~~(a) The secretary may revoke coverage under a general permit or an individual permit issued under this subchapter after following the same process prescribed by section 2705 of this title regarding the revocation of a handler's license. The secretary may also seek enforcement remedies under sections 1, 11, 12, 13, 16, and 17 of this title as well as assess an administrative penalty under section 15 of this title from any person who fails to comply with any permit provision as required by this subchapter or who violates the terms or conditions of coverage under any general permit or any individual permit issued under this subchapter. However, notwithstanding provisions of section 15 of this title to the contrary, the maximum administrative penalty assessed for a violation of this subchapter shall not exceed \$5,000.00 for each violation, and the maximum amount of any penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00.~~

~~(b) Any person who violates any provision of this subchapter or who fails to comply with any order or the terms of any permit issued in accordance with this subchapter shall be fined not more than \$10,000.00 for each violation. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense.~~

~~(c) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by this subchapter or by any permit, rule, regulation, or order issued under this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained by this subchapter or by any permit, rule, regulation, or order issued under this subchapter shall upon conviction be punished by a fine of not more than \$5,000.00 for each violation. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense. [Repealed.]~~

Sec. 21. 10 V.S.A. § 8003 is amended to read:

(d) Upon the request of the Secretary of Agriculture, Food and Markets, the Secretary may take action under this chapter to enforce the agricultural water quality requirements of, rules adopted under, and permits and certifications issued under 6 V.S.A. chapter 215. The Secretary of Natural Resources and the Secretary of Agriculture, Food and Markets shall enter into a memorandum of understanding to implement this subsection.

\* \* \* Stream Alteration; Agricultural Activities \* \* \*

Sec. 22. 10 V.S.A. § 1021 is amended to read:

§ 1021. ALTERATION PROHIBITED; EXCEPTIONS

(a) A person shall not change, alter, or modify the course, current, or cross section of any watercourse or of designated outstanding resource waters, within or along the boundaries of this State either by movement, fill, or excavation of ten cubic yards or more of instream material in any year, unless authorized by the Secretary. A person shall not establish or construct a berm in a flood hazard area or river corridor, as those terms are defined in subdivisions 752(3) and (11) of this title, unless permitted by the Secretary or constructed as an emergency protective measure under subsection (b) of this section.

\* \* \*

(f) This subchapter shall not apply to:

(1) accepted agricultural or silvicultural practices, as defined by the Secretary of Agriculture, Food and Markets, or silvicultural practices, including the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation, respectively; or

(2) a farm that is implementing an approved U.S. Department of Agriculture Natural Resource Conservation Service streambank stabilization project or a streambank stabilization project approved by the Secretary of Agriculture, Food and Markets that is consistent with policies adopted by the Secretary of Natural Resources to reduce fluvial erosion hazards.

\* \* \*

\* \* \* Use Value Appraisal; Compliance with Agricultural Water Quality Requirements \* \* \*

Sec. 23. 32 V.S.A. § 3756(i) is amended to read:

(i)(1) The Director shall remove from use value appraisal an entire parcel of managed ~~forest land~~ forestland and notify the owner ~~in accordance with the procedure in subsection (b) of this section~~ when the ~~Department~~ Commissioner of Forests, Parks and Recreation has not received a management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

(2)(A) The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:

(i) found, after administrative hearing, or contested judicial hearing or motion, to be in violation of water quality requirements established under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215; or

(ii) who is not in compliance with the terms of an administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215.

(B) The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by mailing notification of removal to the owner or operator's last and usual place of abode. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application for use value appraisal for the agricultural land or farm building until the Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A. chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of section 3756 of this title.

Sec. 24. 32 V.S.A. § 3758 is amended to read:

§ 3758. APPEALS

(a) Whenever the Director denies in whole or in part any application for classification as agricultural land or managed forestland or farm buildings, or grants a different classification than that applied for, or the Director or assessing officials fix a use value appraisal or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision of the Director to the Commissioner within 30 days of the decision, and from there to Superior Court in the county in which the property is located.

\* \* \*

(e) When the Director removes agricultural land or a farm building pursuant to notification from the Secretary of Agriculture, Food and Markets

under section 3756 of this title, the exclusive right of appeal shall be as provided in 6 V.S.A. § 4996(a).

Sec. 25. 32 V.S.A. § 3752(5) is amended to read:

(5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road, or other structure, or any mining, excavation, or landfill activity. “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the Commissioner of Forests, Parks and Recreation. “Development” also means notification of the Director by the Secretary of Agriculture, Food and Markets under section 3756 of this title that the owner or operator of agricultural land or a farm building is violating the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. The term “development” shall not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, or structure for other than farming, logging, or forestry purposes.

\* \* \* Agency of Natural Resources Basin Planning \* \* \*

Sec. 26. 10 V.S.A. § 1253 is amended to read:

§ 1253. CLASSIFICATION OF WATERS DESIGNATED,  
RECLASSIFICATION

\* \* \*

(d)(1) ~~The~~ Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained

and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and natural resource conservation districts, shall revise all 47 15 basin plans by January 1, 2006, and update them every five years thereafter the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forest Products, on Natural Resources and Energy, and on Fish, Wildlife and Water Resources, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. ~~By January 1, 1993, the Secretary shall prepare an overall management plan to ensure that the water quality standards are met in all State waters.~~ The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified as Class A waters or outstanding resource waters;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(G) develop, in consultation with the applicable regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, contract with a regional planning commission to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection. When contracting with a regional planning commission to assist in or produce a basin plan, the Secretary may require the regional planning commission to:

(A) conduct any of the activities required under subdivision (2) of this subsection;

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations to better meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure cost effective use of State and federal funds.

(e) In determining the question of public interest, the Secretary shall give due consideration to, and explain his or her decision with respect to, the following:

(1) existing and obtainable water qualities;

(2) existing and potential use of waters for public water supply, recreational, agricultural, industrial, and other legitimate purposes;

(3) natural sources of pollution;

(4) public and private pollution sources and the alternative means of abating the same;

(5) consistency with the State water quality policy established in 10 V.S.A. § 1250;

(6) suitability of waters as habitat for fish, aquatic life, and wildlife;

(7) need for and use of minimum streamflow requirements;

(8) federal requirements for classification and management of waters;

(9) consistency with applicable municipal, regional, and State plans; and

(10) any other factors relevant to determine the maximum beneficial use and enjoyment of waters.

(f) Notwithstanding the provisions of subsection (c) of this section, when reclassifying waters to Class A, the Secretary need find only that the reclassification is in the public interest.

(g) The Secretary under the reclassification rule may grant permits for only a portion of the assimilative capacity of the receiving waters, or may permit only indirect discharges from on-site disposal systems, or both.

Sec. 27. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

\* \* \*

(b) It is also the intent of the Legislature that municipalities, regional planning commissions, and State agencies shall engage in a continuing planning process that will further the following goals:

\* \* \*

(c) In addition, this chapter shall be used to further the following specific goals:

\* \* \*

(6) To maintain and improve the quality of air, water, wildlife, and land resources.

(A) Vermont's air, water, wildlife, mineral and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).

(B) Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

\* \* \*

Sec. 28. 24 V.S.A. § 4348(c) is amended to read:

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

(1) the chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the Department of Housing and Community Development within the Agency of Commerce and Community Development; ~~and~~

(4) business, conservation, ~~low-income~~ low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned; and

(5) the Agency of Natural Resources and the Agency of Agriculture, Food and Markets.

Sec. 29. 24 V.S.A. § 4348a(a) is amended to read:

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

\* \* \*

(6) A statement of policies on the:

(A) preservation of rare and irreplaceable natural areas, scenic and historic features and resources; and

(B) protection and improvement of the quality of waters of the State to be used in the development and furtherance of the applicable basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253;

\* \* \*

\* \* \* Antidegradation Policy Implementation Rule \* \* \*

Sec. 30. 10 V.S.A. § 1251a(c) is amended to read:

(c) On or before ~~January 15, 2008~~ July 1, 2016, the Secretary of Natural Resources shall ~~propose draft rules for~~ adopt by rule an implementation process for the antidegradation policy in the water quality standards of the State. The implementation process for the antidegradation policy shall be consistent with the State water quality policy established in section 1250 of this title, the Vermont Water Quality Standards, and any applicable requirements of the federal Clean Water Act. ~~On or before July 1, 2008, a final proposal of the rules for an implementation process for the antidegradation policy shall be filed with the Secretary of State under 3 V.S.A. § 841~~ The Secretary of Natural Resources shall apply the antidegradation implementation policy to all new discharges that require a permit under this chapter and to a permit or coverage under a general permit issued a farm under 6 V.S.A. chapter 215 when the farm has the potential to discharge to State waters.

\* \* \* Stormwater Management \* \* \*

Sec. 31. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

~~(a) The General Assembly finds that the management of stormwater runoff is necessary to reduce stream channel instability, pollution, siltation, sedimentation, and local flooding, all of which have adverse impacts on the water and land resources of the State. The General Assembly intends, by enactment of this section, to reduce the adverse effects of stormwater runoff. The General Assembly determines that this intent may best be attained by a process that: assures broad participation; focuses upon the prevention of pollution; relies on structural treatment only when necessary; establishes and maintains accountability; tailors strategies to the region and the locale; assures an adequate funding source; builds broadbased programs; provides for the evaluation and appropriate evolution of programs; is consistent with the federal Clean Water Act and the State water quality standards; and accords appropriate recognition to the importance of community benefits that accompany an effective stormwater runoff management program. In furtherance of these purposes, the Secretary shall implement two stormwater permitting programs. The first program is based on the requirements of the federal National Pollutant Discharge Elimination System (NPDES) permit program in accordance with section 1258 of this title. The second program is a State permit program based on the requirements of this section for the discharge of "regulated stormwater runoff" as that term is defined in subdivision (11) of this subsection. As used in this section:~~

~~(1) "2002 Stormwater Management Manual" means the Agency of Natural Resources' Stormwater Management Manual dated April 2002, as amended from time to time by rule.~~

~~(2) "Best management practice" (BMP) means a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce water pollution.~~

~~(3) "Development" means the construction of impervious surface on a tract or tracts of land where no impervious surface previously existed.~~

~~(4) "Existing stormwater discharge" means a discharge of regulated stormwater runoff which first occurred prior to June 1, 2002 and that is subject to the permitting requirements of this chapter.~~

~~(5) "Expansion" and "the expanded portion of an existing discharge" mean an increase or addition of impervious surface, such that the total resulting impervious area is greater than the minimum regulatory threshold. Expansion~~

does not mean an increase or addition of impervious surface of less than 5,000 square feet.

~~(6) “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.~~

~~(7) “New stormwater discharge” means a new or expanded discharge of regulated stormwater runoff, subject to the permitting requirements of this chapter, which first occurs after June 1, 2002 and has not been previously authorized pursuant to this chapter.~~

~~(8) “Offset” means a State permitted or approved action or project within a stormwater impaired water that a discharger or a third person may complete to mitigate the impacts that a discharge of regulated stormwater runoff has on the stormwater impaired water.~~

~~(9) “Offset charge” means the amount of sediment load or hydrologic impact that an offset must reduce or control in the stormwater impaired water in which the offset is located.~~

~~(10) “Redevelopment” means the construction or reconstruction of an impervious surface where an impervious surface already exists when such new construction involves substantial site grading, substantial subsurface excavation, or substantial modification of existing stormwater conveyance, such that the total of impervious surface to be constructed or reconstructed is greater than the minimum regulatory threshold. Redevelopment does not mean the construction or reconstruction of impervious surface where impervious surface already exists when the construction or reconstruction involves less than 5,000 square feet. Redevelopment does not mean public road management activities, including any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading treatments used to maintain pavement, bridges, and unpaved roads.~~

~~(11) “Regulated stormwater runoff” means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.~~

~~(12) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff to a stormwater impaired water that mitigates a sediment load level or hydrologic impact that the discharger is unable to control through on site treatment or completion of an offset on a site owned or controlled by the permit applicant.~~

~~(13) “Stormwater impaired water” means a State water that the Secretary determines is significantly impaired by discharges of regulated stormwater runoff.~~

~~(14) “Stormwater runoff” means precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.~~

~~(15) “Total maximum daily load” (TMDL) means the calculations and plan for meeting water quality standards approved by the U.S. Environmental Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and federal regulations adopted under that law.~~

~~(16) “Water quality remediation plan” means a plan, other than a TMDL or sediment load allocation, designed to bring an impaired water body into compliance with applicable water quality standards in accordance with 40 C.F.R. § 130.7(b)(1)(ii) and (iii).~~

~~(17) “Watershed improvement permit” means a general permit specific to a stormwater impaired water that is designed to apply management strategies to existing and new discharges and that includes a schedule of compliance no longer than five years reasonably designed to assure attainment of the Vermont water quality standards in the receiving waters.~~

~~(18) “Stormwater system” means the storm sewers; outfall sewers; surface drains; manmade wetlands; channels; ditches; wet and dry bottom basins; rain gardens; and other control equipment necessary and appurtenant to the collection, transportation, conveyance, pumping, treatment, disposal, and discharge of regulated stormwater runoff.~~

~~(19) “Net zero standard” means:~~

~~(A) A new discharge or the expanded portion of an existing discharge meets the requirements of the 2002 Stormwater Management Manual and does not increase the sediment load in the receiving stormwater impaired water; or~~

~~(B) A discharge from redevelopment; from an existing discharge operating under an expired stormwater discharge permit where the property owner applies for a new permit; or from any combination of development, redevelopment, and expansion meets on-site the water quality, recharge, and channel protection criteria set forth in Table 1.1 of the 2002 Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency and if the sediment load from the discharge approximates the natural runoff from an undeveloped field or open meadow that is not used for agricultural activity.~~

~~(b) The Secretary shall prepare a plan for the management of collected stormwater runoff found by the Secretary to be deleterious to receiving waters. The plan shall recognize that the runoff of stormwater is different from the discharge of sanitary and industrial wastes because of the influence of natural events of stormwater runoff, the variations in characteristics of those runoffs, and the increased stream flows and natural degradation of the receiving water quality at the time of discharge. The plan shall be cost effective and designed to minimize any adverse impact of stormwater runoff to waters of the State. By no later than February 1, 2001, the Secretary shall prepare an enhanced stormwater management program and report on the content of that program to the House Committees on Fish, Wildlife and Water Resources and on Natural Resources and Energy and to the Senate Committee on Natural Resources and Energy. In developing the program, the Secretary shall consult with the Board, affected municipalities, regional entities, other State and federal agencies, and members of the public. The Secretary shall be responsible for implementation of the program. The Secretary's stormwater management program shall include, at a minimum, provisions that:~~

~~(1) Indicate that the primary goals of the State program will be to assure compliance with the Vermont Water Quality Standards and to maintain after development, as nearly as possible, the predevelopment runoff characteristics.~~

~~(2) Allow for differences in hydrologic characteristics in different parts of the State.~~

~~(3) Incorporate stormwater management into the basin planning process conducted under section 1253 of this title.~~

~~(4) Assure consistency with applicable requirements of the federal Clean Water Act.~~

~~(5) Address stormwater management in new development and redevelopment.~~

~~(6) Control stormwater runoff from construction sites and other land disturbing activities.~~

~~(7) Indicate that water quality mitigation practices may be required for any redevelopment of previously developed sites, even when preredevlopment runoff characteristics are proposed to be maintained.~~

~~(8) Specify minimum requirements for inspection and maintenance of stormwater management practices.~~

~~(9) Promote detection and elimination of improper or illegal connections and discharges.~~

~~(10) Promote implementation of pollution prevention during the conduct of municipal operations.~~

~~(11) Provide for a design manual that includes technical guidance for the management of stormwater runoff.~~

~~(12) Encourage municipal governments to utilize existing regulatory and planning authority to implement improved stormwater management by providing technical assistance, training, research and coordination with respect to stormwater management technology, and by preparing and distributing a model local stormwater management ordinance.~~

~~(13) Promote public education and participation among citizens and municipalities about cost effective and innovative measures to reduce stormwater discharges to the waters of the State.~~

~~(c) The Secretary shall submit the program report to the House Committees on Agriculture and Forest Products, on Transportation, and on Natural Resources and Energy and to the Senate Committees on Agriculture and on Natural Resources and Energy.~~

~~(d)(1) The Secretary shall initiate rulemaking by October 15, 2004, and shall adopt a rule for a stormwater management program by June 15, 2005. The rule shall be adopted in accordance with 3 V.S.A. chapter 25 and shall include:~~

~~(A) the regulatory elements of the program identified in subsection (b) of this section, including the development and use of offsets and the establishment and imposition of stormwater impact fees to apply when issuing permits that allow regulated stormwater runoff to stormwater-impaired waters;~~

~~(B) requirements concerning the contents of permit applications that include, at a minimum, for regulated stormwater runoff, the permit application requirements contained in the Agency's 1997 stormwater management procedures;~~

~~(C) a system of notifying interested persons in a timely way of the Agency's receipt of stormwater discharge applications, provided any alleged failures with respect to such notice shall not be relevant in any Agency permit decision or any appeals brought pursuant to section 1269 of this chapter;~~

~~(D) requirements concerning a permit for discharges of regulated stormwater runoff from the development, redevelopment, or expansion of impervious surfaces equal to or greater than one acre or any combination of development, redevelopment, and expansion of impervious surfaces equal to or greater than one acre; and~~

~~(E) requirements concerning a permit for discharges of regulated stormwater runoff from an impervious surface of any size to stormwater impaired waters if the Secretary determines that treatment is necessary to reduce the adverse impact of such stormwater discharges due to the size of the impervious surface, drainage patterns, hydraulic connectivity, existing stormwater treatment, or other factors identified by the Secretary.~~

~~(2) Notwithstanding 3 V.S.A. § 840(a), the Secretary shall hold at least three public hearings in different areas of the State regarding the proposed rule.~~

~~(e)(1) Except as otherwise may be provided in subsection (f) of this section, the Secretary shall, for new stormwater discharges, require a permit for discharge of, regulated stormwater runoff consistent with, at a minimum, the 2002 Stormwater Management Manual. The Secretary may issue, condition, modify, revoke, or deny discharge permits for regulated stormwater runoff, as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act. The permit shall specify the use of best management practices to control regulated stormwater runoff. The permit shall require as a condition of approval, proper operation, and maintenance of any stormwater management facility and submittal by the permittee of an annual inspection report on the operation, maintenance and condition of the stormwater management system. The permit shall contain additional conditions, requirements, and restrictions as the Secretary deems necessary to achieve and maintain compliance with the water quality standards, including requirements concerning recording, reporting, and monitoring the effects on receiving waters due to operation and maintenance of stormwater management facilities.~~

~~(2) As one of the principal means of administering an enhanced stormwater program, the Secretary may issue and enforce general permits. To the extent appropriate, such permits shall include the use of certifications of compliance by licensed professional engineers practicing within the scope of their engineering specialty. The Secretary may issue general permits for classes of regulated stormwater runoff permittees and may specify the period of time for which the permit is valid other than that specified in subdivision 1263(d)(4) of this title when such is consistent with the provisions of this section. General permits shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title. No permit is required under this section for:~~

~~(A) Stormwater runoff from farms subject to accepted agricultural practices adopted by the Secretary of Agriculture, Food and Markets;~~

~~(B) Stormwater runoff from concentrated animal feeding operations that require a permit under subsection 1263(g) of this chapter; or~~

~~(C) Stormwater runoff from silvicultural activities subject to accepted management practices adopted by the Commissioner of Forests, Parks and Recreation.~~

~~(3) Prior to issuing a permit under this subsection, the Secretary shall review the permit applicant's history of compliance with the requirements of this chapter. The Secretary may, at his or her discretion and as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act, deny an application for the discharge of regulated stormwater under this subsection if review of the applicant's compliance history indicates that the applicant is discharging regulated stormwater in violation of this chapter or is the holder of an expired permit for an existing discharge of regulated stormwater.~~

~~(f)(1) In a stormwater impaired water, the Secretary may issue:~~

~~(A) An individual permit in a stormwater impaired water for which no TMDL, water quality remediation plan, or watershed improvement permit has been established or issued, provided that the permitted discharge meets the following discharge standard: prior to the issuance of a general permit to implement a TMDL or a water quality remediation plan, the discharge meets the net zero standard;~~

~~(B) An individual permit or a general permit to implement a TMDL or water quality remediation plan in a stormwater impaired water, provided that the permitted discharge meets the following discharge standard:~~

~~(i) a new stormwater discharge or the expansion of an existing discharge shall meet the treatment standards for new development and expansion in the 2002 Stormwater Management Manual and any additional requirements deemed necessary by the Secretary to implement the TMDL or water quality remediation plan;~~

~~(ii) for a discharge of regulated stormwater runoff from redeveloped impervious surfaces:~~

~~(I) the existing impervious surface shall be reduced by 20 percent, or a stormwater treatment practice shall be designed to capture and treat 20 percent of the water quality volume treatment standard of the 2002 Stormwater Management Manual from the existing impervious surface; and~~

~~(II) any additional requirements deemed necessary by the Secretary to implement the TMDL or the water quality remediation plan;~~

~~(iii) an existing stormwater discharge shall meet the treatment standards deemed necessary by the Secretary to implement a TMDL or a water quality remediation plan;~~

~~(iv) if a permit is required for an expansion of an existing impervious surface or for the redevelopment of an existing impervious surface, discharges from the expansion or from the redeveloped portion of the existing impervious surface shall meet the relevant treatment standard of the 2002 Stormwater Management Manual, and the existing impervious surface shall meet the treatment standards deemed necessary by the Secretary to implement a TMDL or the water quality remediation plan;~~

~~(C) A watershed improvement permit, provided that the watershed improvement permit provides reasonable assurance of compliance with the Vermont water quality standards in five years;~~

~~(D) A general or individual permit that is implementing a TMDL or water quality remediation plan; or~~

~~(E) A statewide general permit for new discharges that the Secretary deems necessary to assure attainment of the Vermont Water Quality Standards.~~

~~(2) An authorization to discharge regulated stormwater runoff pursuant to a permit issued under this subsection shall be valid for a time period not to exceed five years. A person seeking to discharge regulated stormwater runoff after the expiration of that period shall obtain an individual permit or coverage under a general permit, whichever is applicable, in accordance with subsection 1263(e) of this title.~~

~~(3) By January 15, 2010, the Secretary shall issue a watershed improvement permit, issue a general or individual permit implementing a TMDL approved by the EPA, or issue a general or individual permit implementing a water quality remediation plan for each of the stormwater impaired waters on the Vermont Year 2004 Section 303(d) List of Waters required by 33 U.S.C. 1313(d). In developing a TMDL or a water quality remediation plan for a stormwater impaired water, the Secretary shall consult “A Scientifically Based Assessment and Adaptive Management Approach to Stormwater Management” and “Areas of Agreement about the Scientific Underpinnings of the Water Resources Board’s Original Seven Questions” set out in appendices A and B, respectively, of the final report of the Water Resources Board’s “Investigation Into Developing Cleanup Plans For Stormwater Impaired Waters, Docket No. Inv-03-01,” issued March 9, 2004.~~

~~(4) Discharge permits issued under this subsection shall require BMP-based stormwater treatment practices. Permit compliance shall be judged on the basis of performance of the terms and conditions of the discharge permit, including construction and maintenance in accordance with BMP specifications. Any permit issued for a new stormwater discharge or for the~~

~~expanded portion of an existing discharge pursuant to this subsection shall require compliance with BMPs for stormwater collection and treatment established by the 2002 Stormwater Management Manual, and any additional requirements for stormwater treatment and control systems as the Secretary determines to be necessary to ensure that the permitted discharge does not cause or contribute to a violation of the Vermont Water Quality Standards.~~

~~(5) In addition to any permit condition otherwise authorized under subsection (e) of this section, in any permit issued pursuant to this subsection, the Secretary may require an offset or stormwater impact fee as necessary to ensure the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards. Offsets and stormwater impact fees, where utilized, shall incorporate an appropriate margin of safety to account for the variability in quantifying the load of pollutants of concern. To facilitate utilization of offsets and stormwater impact fees, the Secretary shall identify by January 1, 2005 a list of potential offsets in each of the waters listed as a stormwater impaired water under this subsection.~~

~~(g)(1) The Secretary may issue a permit consistent with the requirements of subsection (f) of this section, even where a TMDL or wasteload allocation has not been prepared for the receiving water. In any appeal under this chapter an individual permit meeting the requirements of subsection (f) of this section shall have a rebuttable presumption in favor of the permittee that the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards for the receiving waters with respect to the discharge of regulated stormwater runoff. This rebuttable presumption shall only apply to permitted discharges into receiving waters that are principally impaired by sources other than regulated stormwater runoff.~~

~~(2) This subsection shall apply to stormwater permits issued under the federally delegated NPDES program only to the extent allowed under federal law.~~

~~(h) The rebuttable presumption specified in subdivision (g)(1) of this section shall also apply to permitted discharges into receiving waters that meet the water quality standards of the State, provided the discharge meets the requirements of subsection (e) of this section.~~

~~(i) A residential subdivision may transfer a pretransition stormwater discharge permit or a stormwater discharge permit implementing a total maximum daily load plan to a municipality, provided that the municipality assumes responsibility for the permitting of the stormwater system that serves the residential subdivision. As used in this section:~~

~~(1) “Pretransition stormwater discharge permit” means any permit issued by the Secretary of Natural Resources pursuant to this section on or before June 30, 2004 for a discharge of stormwater.~~

~~(2) “Residential subdivision” means land identified and demarcated by recorded plat or other device that a municipality has authorized to be used primarily for residential construction.~~

~~(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, 2017 and the discharge will be to a water that is not principally impaired by stormwater runoff:~~

~~(1) The Secretary shall issue a decision on the application within 40 days of the date the Secretary determines the application to be complete, if the application seeks authorization under a general permit.~~

~~(2) The Secretary shall issue a decision on the application within 60 days of the date the Secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.~~

~~(k) The Secretary may adopt rules regulating stormwater discharges and stormwater infrastructure repair or maintenance during a state of emergency declared under 20 V.S.A. chapter 1 or during flooding or other emergency conditions that pose an imminent risk to life or a risk of damage to public or private property. Any rule adopted under this subsection shall comply with National Flood Insurance Program requirements. A rule adopted under this subsection shall include a requirement that an activity receive an individual stormwater discharge emergency permit or receive coverage under a general stormwater discharge emergency permit.~~

~~(1) A rule adopted under this subsection shall establish:~~

~~(A) criteria for coverage under an individual or general emergency permit;~~

~~(B) criteria for different categories of activities covered under a general emergency permit;~~

~~(C) requirements for public notification of permitted activities, including notification after initiation or completion of a permitted activity;~~

~~(D) requirements for coordination with State and municipal authorities;~~

~~(E) requirements that the Secretary document permitted activity, including, at a minimum, requirements for documenting permit terms, documenting permit duration, and documenting the nature of an activity when~~

~~the rules authorize notification of the Secretary after initiation or completion of the activity.~~

~~(2) A rule adopted under this section may:~~

~~(A) establish reporting requirements for categories of activities;~~

~~(B) authorize an activity that does not require reporting to the Secretary; or~~

~~(C) authorize an activity that requires reporting to the Secretary after initiation or completion of an activity.~~

(a) Findings and intent.

(1) Findings. The General Assembly finds that the management of stormwater runoff is necessary to reduce stream channel instability, pollution, siltation, sedimentation, and flooding, all of which have adverse impacts on the water and land resources of the State.

(2) Intent. The General Assembly intends, by enactment of this section to:

(A) Reduce the adverse effects of stormwater runoff.

(B) Direct the Agency of Natural Resources to develop a process that assures broad participation; focuses upon the prevention of pollution; relies on structural treatment only when necessary; establishes and maintains accountability; tailors strategies to the region and the locale; builds broad-based programs; provides for the evaluation and appropriate evolution of programs; is consistent with the federal Clean Water Act and the State water quality standards; and accords appropriate recognition to the importance of community benefits that accompany an effective stormwater runoff management program. In furtherance of these purposes, the Secretary shall implement a stormwater permitting program. The stormwater permitting program developed by the Secretary shall recognize that stormwater runoff is different from the discharge of sanitary and industrial wastes because of the influence of natural events of stormwater runoff, the variations in characteristics of those runoffs, and the increased stream flows causing degradation of the quality of the receiving water at the time of discharge.

(b) Definitions. As used in this section:

(1) "Best management practice" (BMP) means a schedule of activities, prohibitions or practices, maintenance procedures, green infrastructure, and other management practices to prevent or reduce water pollution.

(2) "Development" means the construction of impervious surface on a tract or tracts of land where no impervious surface previously existed.

(3) “Expansion” and “the expanded portion of an existing discharge” mean an increase or addition of impervious surface, such that the total resulting impervious area is greater than the minimum regulatory threshold.

(4) “Green infrastructure” means a wide range of multi-functional, natural and semi-natural landscape elements that are located within, around, and between developed areas, that are applicable at all spatial scales, and that are designed to control or collect stormwater runoff.

(5) “Healthy soil” means soil that has a well-developed, porous structure, is chemically balanced, supports diverse microbial communities, and has abundant organic matter.

(6) “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

(7) “New stormwater discharge” means a new or expanded discharge of regulated stormwater runoff, subject to the permitting requirements of this chapter that has not been previously authorized pursuant to this chapter.

(8) “Offset” means a State-permitted or -approved action or project within a stormwater-impaired water, Lake Champlain, or a water that contributes to the impairment of Lake Champlain that a discharger or a third person may complete to mitigate the impacts that a discharge of regulated stormwater runoff has on the stormwater-impaired water, or the impacts of phosphorus on Lake Champlain, or a water that contributes to the impairment of Lake Champlain.

(9) “Redevelopment” or “redevelop” means the construction or reconstruction of an impervious surface where an impervious surface already exists when such new construction involves substantial site grading, substantial subsurface excavation, or substantial modification of an existing stormwater conveyance, such that the total of impervious surface to be constructed or reconstructed is greater than the minimum regulatory threshold. Redevelopment does not mean public road management activities, including any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading treatments used to maintain pavement, bridges, and unpaved roads.

(10) “Regulated stormwater runoff” means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.

(11) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff to a

stormwater-impaired water or for the discharge of phosphorus to Lake Champlain or a water that contributes to the impairment of Lake Champlain in order to mitigate a sediment load level, hydrologic impact, or other impact that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

(12) “Stormwater-impaired water” means a State water that the Secretary determines is significantly impaired by discharges of regulated stormwater runoff.

(13) “Stormwater Management Manual” means the Agency of Natural Resources’ Stormwater Management Manual, as adopted and amended by rule.

(14) “Stormwater runoff” means precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

(15) “Stormwater system” includes the storm sewers; outfall sewers; surface drains; manmade wetlands; channels; ditches; wet and dry bottom basins; rain gardens; and other control equipment necessary and appurtenant to the collection, transportation, conveyance, pumping, treatment, disposal, and discharge of regulated stormwater runoff.

(16) “Total maximum daily load” (TMDL) means the calculations and plan for meeting water quality standards approved by the U.S. Environmental Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and federal regulations adopted under that law.

(17) “Water quality remediation plan” means a plan, other than a TMDL, designed to bring an impaired water body into compliance with applicable water quality standards in accordance with 40 C.F.R. § 130.7(b)(1)(ii) and (iii).

(18) “Watershed improvement permit” means a general permit specific to a stormwater-impaired water that is designed to apply management strategies to existing and new discharges and that includes a schedule of compliance no longer than five years reasonably designed to assure attainment of the Vermont water quality standards in the receiving waters.

(c) Prohibitions.

(1) A person shall not commence the construction or redevelopment of one acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring coverage for its municipal separate storm sewer system may not discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), “municipality” means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3), a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

(d) Exemptions.

(1) No permit is required under this section for:

(A) Stormwater runoff from farms in compliance with agricultural practices adopted by the Secretary of Agriculture, Food and Markets.

(B) Stormwater runoff from concentrated animal feeding operations permitted under subsection 1263(g) of this chapter.

(C) Stormwater runoff from silvicultural activities in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation.

(D) Stormwater runoff permitted under section 1263 of this title.

(2) No permit is required under subdivision (c)(1), (5), or (8) of this section and for which a municipality has assumed full legal as part of a permit issued to the municipality by the Secretary. As used in this subdivision, “full legal responsibility” means legal control of the stormwater system, including a legal right to access the stormwater system, a legal duty to properly maintain the stormwater system, and a legal duty to repair and replace the stormwater system when it no longer adequately protects waters of the State.

(e) State designation. The Secretary shall require a permit under this section for a discharge or stormwater runoff from any size of impervious surfaces upon a determination by the Secretary that the treatment of the discharge or stormwater runoff is necessary to reduce the adverse impacts to water quality of the discharge or stormwater runoff taking into consideration any of the following factors: the size of the impervious surface, drainage patterns, hydraulic connectivity, existing stormwater treatment, stormwater controls necessary to implement the wasteload allocation of a TMDL, or other factors. The Secretary may make this determination on a case-by-case basis or according to classes of activities, classes of runoff, or classes of discharge. The Secretary may make a determination under this subsection based on activities, runoff, discharges, or other information identified during the basin planning process.

(f) Rulemaking. On or before December 31, 2017, the Secretary shall adopt rules to manage regulated stormwater runoff. At a minimum, the rules shall:

(1) Establish as the primary goals of the rules:

(A) assuring compliance with the Vermont Water Quality Standards; and

(B) maintenance after development, as nearly as possible, of the predevelopment runoff characteristics.

(2) Establish criteria for the use of the basin planning process to establish watershed-specific priorities for the management of stormwater runoff.

(3) Assure consistency with applicable requirements of the federal Clean Water Act.

(4) Include technical standards and best management practices that address stormwater discharges from existing development, new development, and redevelopment.

(5) Specify minimum requirements for inspection and maintenance of stormwater management practices.

(6) Include standards for the management of stormwater runoff from construction sites and other land disturbing activities.

(7) Allow municipal governments to assume the full legal responsibility for a stormwater system permitted under these rules as a part of a permit issued by the Secretary.

(8) Include standards with respect to the use of offsets and stormwater impact fees.

(9) Include minimum standards for the issuance of stormwater permits during emergencies for the repair or maintenance of stormwater infrastructure during a state of emergency declared under 20 V.S.A. chapter 1 or during flooding or other emergency conditions that pose an imminent risk to life or a risk of damage to public or private property. Minimum standards adopted under this subdivision shall comply with National Flood Insurance Program requirements.

(10) To the extent appropriate, authorize in the permitting process use of certifications of compliance by licensed professional engineers practicing within the scope of their engineering specialty.

(11) Include standards for alternative best management practices for stormwater permitting of renewable energy projects and telecommunication facilities located in high-elevation settings, provided that the alternative best management practices shall be designed to:

(A) minimize the extent and footprint of stormwater-treatment practices in order to preserve vegetation and trees;

(B) adapt to and minimize impact to ecosystems, shallow soils, and sensitive streams found in high-elevation settings;

(C) account for the temporary nature and infrequent use of construction and access roads for high-elevation projects; and

(D) maintain the predevelopment runoff characteristics, as nearly as possible, after development.

(12) Establish best management practices for improving healthy soils in order to improve the capacity of soil to retain water, improve flood resiliency, reduce sedimentation, and prevent stormwater runoff.

(g) General permits.

(1) The Secretary may issue general permits for classes of regulated stormwater runoff that shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title.

(2)(A) The Secretary shall issue on or before December 31, 2017, a general permit for discharges of regulated stormwater from municipal roads. Under the municipal roads stormwater general permit, the Secretary shall:

(i) Establish a schedule for implementation of the general permit by each municipality in the State. Under the schedule, the Secretary shall establish:

(I) the date by which each municipality shall apply for coverage under the municipal roads general permit;

(II) the date by which each municipality shall inventory necessary stormwater management projects on municipal roads;

(III) the date by which each municipality shall establish a plan for implementation of stormwater improvements that prioritizes stormwater improvements according to criteria established by the Secretary under the general permit; and

(IV) the date by which each municipality shall implement stormwater improvements of municipal roads according to a municipal implementation plan.

(ii) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements of municipal roads.

(iii) Establish criteria for municipal prioritization of stormwater improvements of municipal roads. The Secretary shall base the criteria on the water quality impacts of a stormwater discharge, the current state of a municipal road, the priority of a municipal road or stormwater project in any existing transportation capital plan developed by a municipality, and the benefits of the stormwater improvement to the life of the municipal road.

(iv) Require each municipality to submit to the Secretary and periodically update its implementation plan for stormwater improvements.

(B) The Secretary may require an individual permit for a stormwater improvement at any time under subsection (e) of this section. An individual permit shall include site-specific standards for the stormwater improvement.

(C) All municipalities shall apply for coverage under the municipal road general permit on or before July 1, 2021.

(D) As used in this subdivision (g)(2), “municipality” means a city, town, or village.

(3) On or before January 1, 2018, the Secretary shall issue a general permit under this section for discharges of stormwater from impervious surface of three or more acres in size, when the stormwater discharge previously was not permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual. Under the general permit, the Secretary shall:

(A) Establish a schedule for implementation of the general permit by geographic area of the State. The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under subdivision (g)(3) of this section. The schedule established by the Secretary shall require an owner of impervious surface subject to permitting under this subdivision to obtain coverage by the following dates:

(i) for impervious surface located within the Lake Champlain watershed, no later than October 1, 2023; and

(ii) for impervious surface located within all other watersheds of the State, no later than October 1, 2028.

(B) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface subject to permitting under this subdivision.

(C) Require that a discharge of stormwater from impervious surface subject to the requirements of this section comply with the standards of subsection (h) of this section for redevelopment of or renewal of a permit for existing impervious surface.

(D) Allow the use of stormwater impact fees, offsets, and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

(h) Permit requirements. An individual or general stormwater permit shall:

(1) Be valid for a period of time not to exceed five years.

(2) For discharges of regulated stormwater to a stormwater impaired water, for discharges of phosphorus to Lake Champlain, or for discharges of phosphorus to a water that contributes to the impairment of Lake Champlain:

(A) In which no TMDL, watershed improvement permit, or water quality remediation plan has been approved, require that the discharge shall comply with the following discharge standards:

(i) A new discharge or the expanded portion of an existing discharge shall satisfy the requirements of the Stormwater Management Manual and shall not increase the pollutant load in the receiving water for stormwater.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the discharge shall satisfy on-site the water quality, recharge, and channel protection criteria set forth in the Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency and the discharge shall not increase the pollutant load in the receiving water for stormwater.

(B) In which a TMDL or water quality remediation plan has been adopted, require that the discharge shall comply with the following discharge standards:

(i) For a new discharge or the expanded portion of an existing discharge, the discharge shall satisfy the requirements of the Stormwater Management Manual, and the Secretary shall determine that there is sufficient pollutant load allocations for the discharge.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the Secretary shall determine that there is sufficient pollutant load allocations for the discharge and the Secretary shall include any requirements that the Secretary deems necessary to implement the TMDL or water quality remediation plan.

(3) Contain requirements necessary to comply with the minimum requirements of the rules adopted under this section, the Vermont water quality standards, and any applicable provision of the Clean Water Act.

(i) Disclosure of violations. The Secretary may, at his or her discretion and as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act, deny an application for the discharge of regulated stormwater under this section if review of the applicant's compliance history indicates that the applicant is discharging regulated stormwater in violation of this chapter or is the holder of an expired permit for an existing discharge of regulated stormwater.

(j) Presumption. In any appeal under this chapter, an individual permit issued under subdivisions (c)(1) and (c)(5) of this section shall have a rebuttable presumption in favor of the permittee that the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards for the receiving waters with respect to the discharge of regulated stormwater runoff, provided that the discharge is to a water that is not principally impaired due to stormwater.

Sec. 32. ANR REPORT ON REGULATORY THRESHOLD FOR  
PERMITTING STORMWATER RUNOFF FROM IMPERVIOUS  
SURFACES

(a) On or before January 15, 2016, the Secretary of Natural Resources shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding whether and how the State should lower from one acre to one-half acre of impervious surface the regulatory permitting threshold for an operating permit for stormwater runoff from new development, redevelopment, or expansion. The report shall include:

(1) a recommendation as to whether the State should lower the regulatory permitting threshold from one acre to one-half acre of impervious surface;

(2) an estimate of the number of additional development projects that would require an operating permit for stormwater runoff if the regulatory permitting threshold were lowered from one acre to one-half acre of impervious surface;

(3) an estimate of the environmental benefit of reducing the regulatory permitting threshold from one acre to one-half acre of impervious surface;

(4) an estimate of the number of staff that would be needed by the Agency of Natural Resources to effectively implement a stormwater operating permit program with a regulatory permitting threshold of one-half acre of impervious surface; and

(5) a recommendation for regulating construction, redevelopment, or expansion of impervious surface based on a tiered system of acreage, square footage, or other measure.

(b) The definitions provided in 10 V.S.A. § 1264 shall apply to this section.

Sec. 33. STORMWATER MANAGEMENT PRACTICES HANDBOOK

On or before January 1, 2016, the Secretary of Natural Resources shall publish as a handbook a suite of practical and cost-effective best management practices for the control of stormwater runoff and reduction of adverse water quality effects from the construction, redevelopment, or expansion of impervious surface that does not require a permit under 10 V.S.A. § 1264. The best management practices shall address activities that control, mitigate, or eliminate stormwater runoff to waters of the State. The stormwater management practices handbook shall be advisory and shall not be mandatory.

Sec. 34. AGENCY OF NATURAL RESOURCES REPORT ON THE LAND APPLICATION OF SEPTAGE AND SLUDGE

(a) As used in this section:

(1) “Septage” means the liquid and solid materials pumped from a septic tank or cesspool during cleaning.

(2) “Sludge” means any solid, semisolid, or liquid generated from a municipal, commercial, or industrial wastewater treatment plant or process, water supply treatment plant, air pollution control facility, or any other such waste having similar characteristics and effects.

(b) On or before January 15, 2016, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Fish, Wildlife, and Water Resources a report regarding the land application of septage and sludge in the State. The report shall include:

(1) a summary of the current law regarding the land application of septage or sludge, including any permit requirements;

(2) a summary of how current law for the land application of septage and sludge is designed to protect groundwater or water quality;

(3) an analysis of the feasibility of treating or disposing of septage or sludge in a manner other than land application that is at least as protective of groundwater or water quality as land application; and

(4) an estimate of the cost of treating or disposing of septage or sludge in a manner other than land application.

\* \* \* Water Quality Data Coordination \* \* \*

Sec. 35. 10 V.S.A. § 1284 is added to read:

§ 1284. WATER QUALITY DATA COORDINATION

(a) To facilitate attainment or accomplishment of the purposes of this chapter, the Secretary shall coordinate and assess all available data and science regarding the quality of the waters of the State, including:

(1) light detection and ranging information data (LIDAR);

(2) stream gauge data;

(3) stream mapping, including fluvial erosion hazard maps;

(4) water quality monitoring or sampling data;

(5) cumulative stressors on a watershed, such as the frequency an activity is conducted within a watershed or the number of stormwater or other permits issued in a watershed; and

(6) any other data available to the Secretary.

(b) After coordination of the data required under subsection (a) of this section, the Secretary shall:

(1) assess where additional data are needed and the best methods for collection of such data;

(2) identify and map on a watershed basis areas of the State that are significant contributors to water quality problems or are in critical need of water quality remediation or response.

(c) The Secretary shall post all data compiled under this section on the website of the Agency of Natural Resources.

\* \* \* Lake Champlain TMDL Implementation Plan\* \* \*

Sec. 36. 10 V.S.A. § 1386 is amended to read:

§ 1386. IMPLEMENTATION PLAN FOR THE LAKE CHAMPLAIN  
TOTAL MAXIMUM DAILY LOAD PLAN

(a) Within ~~12~~ three months after the issuance of a phosphorus total maximum daily load plan (TMDL) for Lake Champlain by the U.S. Environmental Protection Agency, the Secretary of Natural Resources shall ~~issue a Vermont specific implementation plan for the Lake Champlain TMDL. Every four years after issuance of the Lake Champlain TMDL by the U.S. Environmental Protection Agency, the Secretary of Natural Resources shall amend and update the Vermont specific implementation plan for the Lake Champlain TMDL. Prior to issuing, amending, or updating the implementation plan, the Secretary shall consult with the Agency of Agriculture, Food and Markets, all statewide environmental organizations that express an interest in the plan, the Vermont League of Cities and Towns, all business organizations that express an interest in the plan, the University of Vermont Rubenstein Ecosystem Science Laboratory, and other interested parties. The implementation plan shall include a comprehensive strategy for implementing the Lake Champlain TMDL plan and for the remediation of Lake Champlain. The implementation plan shall be issued as a document separate from the Lake Champlain TMDL. The implementation plan shall:~~

~~(1) Include or reference the elements set forth in 40 C.F.R. § 130.6(c) for water quality management plans;~~

~~(2) Comply with the requirements of section 1258 of this title and administer a permit program to manage discharges to Lake Champlain consistent with the federal Clean Water Act;~~

~~(3) Develop a process for identifying critical source areas for non point source pollution in each subwatershed. As used in this subdivision, "critical source area" means an area in a watershed with high potential for the release, discharge, or runoff of phosphorus to the waters of the State;~~

~~(4) Develop site specific plans to reduce point source and non point source load discharges in critical source areas identified under subdivision (3) of this subsection;~~

~~(5) Develop a method for identifying and prioritizing on public and private land pollution control projects with the potential to provide the greatest water quality benefits to Lake Champlain;~~

~~(6) Develop a method of accounting for changes in phosphorus loading to Lake Champlain due to implementation of the TMDL and other factors;~~

~~(7) Develop phosphorus reduction targets related to phosphorus reduction for each water quality program and for each segment of Lake Champlain, including benchmarks for phosphorus reduction that shall be achieved. The implementation plan shall explain the methodology used to develop phosphorus reduction targets under this subdivision;~~

~~(8) Establish a method for the coordination and collaboration of water quality programs within the State;~~

~~(9) Develop a method for offering incentives or disincentives to wastewater treatment plants for maintaining the 2006 levels of phosphorus discharge to Lake Champlain;~~

~~(10) Develop a method of offering incentives or disincentives for reducing the phosphorus contribution of stormwater discharges within the Lake Champlain basin update the State of Vermont's phase I TMDL implementation plan to reflect the elements that the State determines are necessary to meet the allocations established in the final TMDL for Lake Champlain. The update of the phase I TMDL implementation plan for Lake Champlain shall explain how basin plans will be used to implement the updated phase I TMDL implementation plan, and shall include a schedule for the adoption of basin plans within the Lake Champlain basin. In addition to the requirements of subsection 1253(d) of this title, a basin plan for a basin within the Lake Champlain basin shall include the following:~~

(1) phosphorus reduction strategies within the basin that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain;

(2) a schedule for the issuance of permits to control phosphorus discharges from wastewater treatment facilities as necessary to implement the State's obligations under the phase I TMDL implementation plan for Lake Champlain;

(3) a schedule for the issuance of permits to control stormwater discharges as necessary to implement the State's obligations under the phase I TMDL implementation plan for Lake Champlain;

(4) wetland and river corridor restoration and protection projects that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain;

(5) a table of non-point source activities that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain; and

(6) other strategies and activities that the Secretary determines to be necessary to achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain.

~~(b) In amending the Vermont specific implementation plan of the Lake Champlain TMDL under this section, the Secretary of Natural Resources shall comply with the public participation requirements of 40 C.F.R. § 130.7(e)(1)(ii) The Secretary shall develop and implement a method of tracking and accounting for actions implemented to achieve the Lake Champlain TMDL.~~

(c) Prior to finalizing the update to the phase I TMDL implementation plan for Lake Champlain, the Secretary shall provide notice to the public of the proposed revisions and a comment period of no less than 30 days.

(d) On or before January 15 in the year following issuance of the updated phase I TMDL implementation plan for Lake Champlain under subsection (a) of this section and every four years thereafter, the Secretary shall report to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture regarding the execution of the updated phase I TMDL implementation plan for Lake Champlain. The report shall include:

~~(1) The amendments or revisions to the implementation plan for the Lake Champlain TMDL required by subsection (a) of this section. Prior to~~

~~submitting a report required by this subsection that includes amendments to revisions to the implementation plan, the Secretary shall hold at least three public hearings in the Lake Champlain watershed to describe the amendments and revisions to the implementation plan for the Lake Champlain TMDL. The Secretary shall prepare a responsiveness summary for each public hearing. A summary of the efforts undertaken to implement the phase I TMDL implementation plan for Lake Champlain.~~

(2) An assessment of the implementation plan for the Lake Champlain TMDL based on available data, including an evaluation of the efficacy of the phase I TMDL implementation plan for Lake Champlain.

~~(3) Recommendations, if any, for amending the implementation plan or for reopening the Lake Champlain TMDL.~~

~~(d)~~(e) Beginning on February 1, ~~2014~~ 2016, and annually thereafter, the Secretary, after consultation with the Secretary of Agriculture, Food and Markets and the Secretary of Transportation, shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture a summary of activities and measures of progress of water quality ecosystem restoration programs.

\* \* \* Water Quality Funding; Clean Water Fund; Clean Water Board;  
Audit \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Fund

§ 1387. PURPOSE

The General Assembly establishes in this subchapter a Vermont Clean Water Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Fund shall be used to:

(1) assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions; and

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects.

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the “Clean Water Fund.” Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5:

(1) the Fund shall be administered by the Clean Water Fund Board established under section 1389 of this title;

(2) the Fund shall consist of:

(A) revenues dedicated for deposit into the Fund by the General Assembly, including the Clean Water Fund per parcel fee established under 32 V.S.A. § 10502.

(B) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Board.

(b) Unexpended balances and any earnings shall remain in the Fund from year to year.

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee; and

(5) the Secretary of Transportation or designee.

(c) Officers; committees; rules. The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(d) Powers and duties of the Clean Water Fund Board.

(1) The Clean Water Fund Board shall have the following powers and authority:

(A) to receive proposals from the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation on the expenditures of the Fund;

(B) to make recommendations to the Secretary of Administration regarding the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

(C) to pursue and accept grants, gifts, donations, or other funding from any public or private source and to administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(2) The Clean Water Fund Board shall develop:

(A) A protocol for how an administrative agency in the State shall submit a proposed recommendation of award from the Fund.

(B) an annual revenue estimate and proposed budget for the Clean Water Fund;

(C) measures for determining progress and effectiveness of expenditures for clean water restoration efforts; and

(D) the annual clean water investment report required under section 1389a of this title.

(3) The Clean Water Fund Board shall solicit public comment and consult with organizations interested in improving water quality in Vermont regarding recommendations under this subsection for the allocation of funds from the Clean Water Fund.

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

(A) funding to maintain seven staff positions at the Agency of Agriculture, Food and Markets related to improving State water quality;

(B) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);

(C) funding to projects that address water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(D) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(E) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(F) funding for education, outreach, demonstration and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; and

(G) funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy.

(2) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board may prioritize:

(A) funding for education and outreach regarding the implementation of water quality requirements;

(B) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters; and

(C) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices.

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivisions (e)(1) and (2), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements.

(4) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivisions (e)(1) and (2), attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State; and

(f) The Clean Water Fund Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including whether those funding sources were attained, if it was not attained, why it was not attained, and where the money was allocated from the Fund. The report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(b) The Board shall develop and use a results based accountability process in publishing the annual report required by subsection (a) of this section.

#### § 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2020, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Fund. The report shall include:

(1) A summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) An analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) An evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) An assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State.

(5) A recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section § 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

\* \* \* Clean Water Fund Per Parcel Fee \* \* \*

Sec. 38. 32 V.S.A. § 10502 is added to read:

§ 10502. CLEAN WATER FUND PER PARCEL FEE

(a) Per parcel fee. An annual Clean Water Fund per parcel fee of \$25.00 shall be assessed on every parcel in the State.

(b) Exemption. A municipality shall not assess the fee established under subsection (a) of this section to:

(1) a parcel exempt from taxation under State or federal law;

(2) a parcel composed entirely of a railroad track right-of-way, provided that the Commissioner shall assess the fee on parcels on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located; or

(3) a parcel of land for which the State lacks authority to impose the fee established by this section.

(c) Assessment and collection of fee.

(1) Beginning on July 1, 2015, the Clean Water Fund per parcel fee shall be assessed and collected as part of the tax bill issued under subsection 5402(b) of this title, and may be prorated according to the number of tax bills assessed

by a municipality. A municipality shall list the fee assessed under this section on a tax bill as the "Clean Water Fund Per Parcel Fee." The Clean Water Fund per parcel fee shall be listed separately from the tax collected under subsection 5402(b) of this title, provided that the payment for both the tax and fee shall be made in one form of payment.

(2) The treasurer of each municipality shall remit the collected Clean Water Fund per parcel fee to the State Treasurer:

(A) in one payment due on December 1 of each year; or

(B) as authorized by the Department procedure adopted under subsection (e) of this section.

(3) Municipalities may use all authority under chapter 133 of this title for the assessment and collection of the Clean Water Fund per parcel fee, including collection of fees and costs under section 5288 of this title.

(4) In case of insufficient payment of the per parcel fee by a taxpayer to a municipality, the municipality shall not be required to remit to the State the amount of full liability for all parcels within the municipality.

(5) In the case of a taxpayer who pays only a portion of the full tax under subsection 5402(b) and the full amount of the Clean Water Fund per parcel fee, a municipal treasurer shall credit all payment made by the taxpayer to the tax liability under subsection 5402(b) of this title before remitting monies to the Clean Water Fund under subsection (d) of this section.

(d) Disposition. The State Treasurer shall deposit all fees collected under this section in the Clean Water Fund, established under 10 V.S.A. § 1388, for the uses authorized by that Fund under 10 V.S.A. chapter 47, subchapter 7.

(e) Department procedure. The Department of Taxes shall, after consultation with municipal officials or representatives of municipal officials, issue a procedure regarding the process for collection of the Clean Water Fund per parcel fee as part of the tax bill issued under subsection 5402(b) of this title. In the procedure, the Department shall address how parcels are assessed, remittance, and enforcement of the Clean Water Fund per parcel fee, including how frequently a municipality may remit to the Department fees collected under this section. The Department also shall include in the procedure guidance for municipalities regarding whether a fee paid under this section is tax deductible.

(f) Abatement. A person may seek and a municipality may grant abatement under 24 V.S.A. § 1535 of a fee assessed under this section.

(g) Education and outreach. The Department shall hold educational meetings or prepare educational materials for municipal officials regarding the requirements of this section.

Sec. 39. 32 V.S.A. § 5258 is amended to read:

§ 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY RECORDED

The fees and costs allowed after the warrant and levy for delinquent taxes have been recorded shall be as follows: Levy and extending of warrant, \$10.00; recording levy and extending of warrant in town clerk's office, \$10.00, to be paid the town clerk; notices and publication of notice, actual costs incurred; and expenses actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of said sale when authorized by the selectboard, provided that such expenses shall not exceed 15 percent of the uncollected tax; travel, reimbursement at the rate established by the contract governing State employees; attending and holding sale, \$10.00; making return \$10.00 and recording same in town clerk's office, to be paid the town clerk \$10.00; \$10.00 for collection of a delinquent Clean Water per parcel fee assessed under section 10502 of this title; collector's deed, \$30.00; which fees and costs, together with the collector's fee of eight percent shall be in lieu of any or all other fees and costs permitted or allowed by law.

Sec. 40. REPEAL OF CLEAN WATER FUND PER PARCEL FEE

32 V.S.A. § 10502 (Clean Water Fund per parcel fee) shall be repealed on July 1, 2021.

\* \* \* Appropriations of Agency Staff \* \* \*

Sec. 41. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD AND MARKETS STAFF

Notwithstanding provisions of 10 V.S.A. § 1389 to the contrary, in addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Clean Water Fund created under 10 V.S.A § 1388 to the Agency of Agriculture, Food and Markets \$952,000.00 in fiscal year 2016 for the purpose of hiring seven positions for implementation and administration of agricultural water quality programs in the State.

Sec. 42. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL CONSERVATION STAFF

In addition to any other funds appropriated to the Department of Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A § 2805 to the Department

of Environmental Conservation \$1,312,556.00 in fiscal year 2016 for the purpose of hiring 13 positions for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

\* \* \* Secretary of Administration; Report on Per Parcel Fee \* \* \*

Sec. 43. SECRETARY OF ADMINISTRATION REPORT ON  
IMPERVIOUS SURFACE WATER QUALITY FEE

(a) On or before January 15, 2016, the Secretary of Administration, after consultation with the Agency of Transportation and the Department of Taxes, shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, the Senate Committee on Agriculture, the House Committee on Ways and Means, and the Senate Committee on Finance a recommendation for establishing a fee on impervious surface in the State for the purpose of raising revenue to fund water quality improvement programs in the State. The recommendation shall include:

(1) An impervious surface fee that provides for equitable apportionment among all parcel owners, including owners of industrial property, commercial property, residential property, or agricultural lands. The recommendation shall consider establishing a fee structure that creates incentives or rewards for owners of impervious surface, including municipal and state roads, who provide treatment that exceeds the minimum regulatory requirement or utilizes innovative approaches to the management of stormwater.

(2) An estimate of the amount of revenue to be generated from the proposed impervious surface fee.

(3) a summary of how assessment of the fee will be administered, collected, and enforced; and

(4) a legislative proposal to implement the proposed impervious surface fee program.

(b) As used in this section, “parcel” shall have the same meaning as defined in section 4152 of this title.

\* \* \* Department of Environmental Conservation Water Quality Fees \* \* \*

Sec. 44. 3 V.S.A. § 2822 is amended to read:

§ 2822. BUDGET AND REPORT; POWERS

\* \* \*

(i) The Secretary shall not process an application for which the applicable fee has not been paid unless the Secretary specifies that the fee may be paid at a different time or unless the person applying for the permit is exempt from the permit fee requirements pursuant to 32 V.S.A. § 710. ~~In addition, the persons who are exempt under 32 V.S.A. § 710 are also exempt from the application fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I) and (II) of this section if they otherwise meet the requirements of 32 V.S.A. § 710.~~ Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), ~~(2)~~, (7), (8), (14), and (15) of this section for which a municipality may recover its costs by charging a user fee to those who use the permitted services. Municipalities shall pay fees prescribed in subdivisions (j)(2), (10), (11), (12), and (26), except that a municipality shall also be exempt from those fees for orphan stormwater systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I) or (II) of this section when the municipality agrees to become an applicant or co-applicant for an orphan stormwater system under 10 V.S.A. § 1264e for which a municipality has assumed full legal responsibility under 10 V.S.A. § 1264.

(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.

\* \* \*

(2) For discharge permits issued under 10 V.S.A. chapter 47 and orders issued under 10 V.S.A. § 1272, an administrative processing fee of ~~\$120.00~~ \$240.00 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) and (V) of this subsection:

(A) Application review fee.

(i) Municipal, industrial,  
noncontact cooling water, and  
thermal discharges.

(I) Individual permit: original      ~~\$0.0023~~ \$0.003 per gallon

application; amendment for increased flows; amendment for change in treatment process-;	design flow; minimum <del>\$50.00</del> <u>\$100.00</u> per outfall; maximum <u>\$30,000.00</u> per application.
(II) Renewal, transfer, or minor amendment of individual permit-;	<del>\$0.00</del> <u>\$0.002 per gallon design flow; minimum \$50.00 per outfall; maximum \$5,000.00 per application.</u>
(III) General permit-;	<u>\$0.00.</u>
(ii) Pretreatment discharges.	
(I) Individual permit: original application; amendment for increased flows; amendment for change in treatment process-;	<del>\$0.12</del> <u>\$0.20</u> per gallon design flow; minimum <del>\$50.00</del> <u>\$100.00</u> per outfall.
(II) Renewal, transfer, or minor amendment of individual permit-;	<del>\$0.00</del> <u>\$0.002 per gallon design flow; minimum \$50.00 per outfall.</u>
(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-;	<del>\$430.00</del> <u>\$860.00</u> per acre impervious area; minimum <del>\$220.00</del> <u>\$440.00</u> per application.

(II) Individual operating permit or application to operate under general operating permit for collected stormwater runoff which is discharged to Class A waters; original application; amendment for increased flows; amendment for change in treatment process. \$1,400.00 per acre impervious area; minimum \$1,400.00 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; ~~\$50.00~~ five acres or less: \$100.00 per project; original application.

(bb) Projects with low risk to waters of the State; greater than five acres: \$220.00 per project.

(cc) ~~Projects with moderate risk~~ Projects with moderate risk to waters of the State; ~~\$360.00; five acres~~ \$480.00 per project original application.

~~(ee) Projects that require an individual permit.~~ ~~\$720.00 per project original application.~~

(dd) Projects with moderate risk to waters of the State; greater than five acres: \$640.00.

(ee) Projects that require an individual permit; ten acres or less: \$1,200.00.

(ff) Projects that require an individual permit; greater than 10 acres: \$1,800.00.

(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-; ~~\$220.00~~ \$440.00 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-; ~~\$1,200.00~~ \$2,400.00 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~~ \$860.00 per acre of impervious area, minimum ~~\$220.00~~ \$280.00.

(bb) For discharges to Class A water; ~~\$1,400.00~~ \$1,700.00 per acre of impervious area, minimum ~~\$1,400.00~~ \$1,700.00.

(VII) Renewal, transfer, or minor amendment of individual permit or approval under \$0.00.

~~general permit;~~

(VIII) Application for coverage      \$400.00 per application.  
under the municipal roads

~~stormwater general permit;~~

(IX) Application for coverage      \$1,200.00.  
under the State roads stormwater

~~general permit;~~

\* \* \*

(B) Annual operating fee.

(i) Industrial, noncontact cooling      ~~\$0.004~~ \$0.0015 per gallon  
water and thermal discharges;      design capacity. ~~\$150.00~~  
      \$200.00 minimum;  
      maximum \$210,000.00.

(ii) Municipal;      \$0.003 per gallon of ~~actual~~  
      design flows. ~~\$150.00~~  
      \$200.00 minimum;  
      maximum \$12,500.00.

(iii) Pretreatment discharges;      ~~\$0.0385~~ \$0.04 per gallon  
      design capacity. ~~\$150.00~~  
      \$200.00 minimum;  
      maximum \$27,500.00.

(iv) Stormwater.

(I) Individual operating permit      ~~\$255.00~~ \$310.00 per acre  
or approval under general operating      impervious area; ~~\$235.00~~  
permit for collected stormwater      \$310.00 minimum.  
runoff which is discharged to  
class A waters;

(II) Individual operating permit      ~~\$80.00~~ \$160.00 per acre  
or approval under general operating      impervious area; ~~\$80.00~~

permit for collected stormwater runoff which is discharged to Class B waters:; \$160.00 minimum.

(III) Individual permit or approval under general permit for stormwater runoff from industrial facilities with specified SIC codes:; ~~\$80.00~~ \$160.00 per facility.

(IV) Individual permit or application to operate under general permit for stormwater runoff associated with municipal separate storm sewer systems:; ~~\$80.00 per system~~ \$10.00 per acre of impervious surface within the municipality; annually.

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

(aa) For discharges to Class A water; ~~\$255.00~~ \$310.00 per acre of impervious area, minimum ~~\$255.00~~ \$310.00.

(bb) For discharges to Class B water; ~~\$80.00~~ \$160.00 per acre of impervious area, minimum ~~\$80.00~~ \$160.00.

(VI) Application to operate under a general permit for stormwater runoff associated with municipal roads: \$2,000.00 per authorization annually.

(VII) Application to operate under a general permit for stormwater runoff associated with State roads: \$90,000.00 per authorization annually.

\* \* \*

(11) For stream alteration and flood hazard area permits issued under 10 V.S.A. ~~chapter~~ chapters 41 and 32: ~~\$225.00 per application.~~

(A) Stream alteration; individual permit: \$350.00.

(B) Stream alteration; general permit; reporting category: \$200.00.

(C) Stream alteration; individual permit; municipal bridge, culvert, and unimproved property protection: \$350.00.

(D) Stream alteration; general permit; municipal bridge, culvert, and unimproved property protection: \$200.00.

(E) Stream alteration; Agency of Transportation reviews; bridge, culvert, and high risk projects: \$350.00.

(F) Flood hazard area; individual permit; State facilities; hydraulic and hydrologic modeling required: \$350.00.

(G) Flood hazard area; individual permit; State facilities; hydraulic and hydrologic modeling not required: \$200.00.

(H) Flood hazard area; municipal reviews; reviews requiring hydraulic and hydrologic modeling, compensatory storage volumetric analysis, or river corridor equilibrium: \$350.00.

(I) Flood hazard area; municipal review; projects not requiring hydraulic or hydrologic modeling: \$200.00.

(J) River corridor; major map amendments: \$350.00.

(12) For dam permits issued under 10 V.S.A. chapter 43: ~~0.525~~ 1.00 percent of construction costs, minimum fee of ~~\$200.00~~ \$1,000.00.

\* \* \*

(14) For certification of sewage treatment plant operators issued under 10 V.S.A. chapter 47:

(A) original application; ~~\$110.00~~ \$125.00.

(B) renewal application; ~~\$110.00~~ \$125.00.

(15) For sludge or septage facility certifications issued under 10 V.S.A. chapter 159:

(A) land application sites; facilities that further reduce pathogens; disposal facilities: ~~\$950.00~~ \$1,000.00 per application.

(B) all other types of facilities; ~~\$110.00~~ \$125.00 per application.

\* \* \*

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

(B) \$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 As used in~~ 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) \$1.50 per square foot of impact to Class I or II wetlands when the permit is sought after the impact has taken place;

(F) \$100.00 per revision to an application for an individual wetland permit or authorization under a general permit when the supplement is due to a change to the project that was not requested by the Secretary; and

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

\* \* \*

(33) \$10.00 per 1,000 gallons based on the rated capacity of the tank being pumped rounded to the nearest 1,000 gallon.

\* \* \*

Sec. 45. 32 V.S.A. § 710 is amended to read:

§ 710. PAYMENT OF STATE AGENCY FEES

(a) Notwithstanding any other provision of law, the Agency of Transportation, any cooperating municipalities, and their contractors or agents shall be exempt from the payment of fee charges for reviews, inspections, or nonoperating permits issued by the Department of Public Safety, a District Environmental Commission, and the Agency of Natural Resources for any projects undertaken by or for the Agency and any cooperating municipalities for which all or a portion of the funds are authorized by a legislatively approved transportation construction, rehabilitation, or paving program within a general appropriation act introduced pursuant to section 701 of this title except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10), (j)(11), and (j)(26).

(b) Notwithstanding any other provision of law, no fees shall be charged for reviews, inspections, or nonoperating permits issued by the Department of Public Safety, a District Environmental Commission, and the Agency of Natural Resources for:

(1) Any project undertaken by the Department of Buildings and General Services, the Agency of Natural Resources, or the Agency of Transportation which is authorized or funded in whole or in part by the capital construction act introduced pursuant to section 701a of this title except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10), (j)(11), and (j)(26).

(2) Any project undertaken by a municipality, which is funded in whole or in part by a grant or loan from the Agency of Natural Resources or the Agency of Transportation financed by an appropriation of a capital construction act introduced pursuant to section 701a of this title except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(7)(A) and (B), (j)(10), (j)(11), and (j)(26). However, all such fees shall be paid for reviews, inspections, or permits required by municipal solid waste facilities developed by a solid waste district which serves, or is expected to serve, in whole or in part, parties located outside its own district boundaries pursuant to 10 V.S.A. chapter 159.

#### Sec. 46. ASSESSMENT OF DEC FEES ON STATE AGENCIES AND MUNICIPALITIES

When applicable, the Agency of Natural Resources shall assess fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(7)(A) and (B), (j)(10), (j)(11), and (j)(26) on municipalities at the end of the most recent applicable municipal fiscal year in order to avoid potential effects on approved municipal budgets.

\* \* \* Wastewater Treatment Plants; Financial Assistance for Phosphorus Reduction \* \* \*

Sec. 47. 10 V.S.A. § 1266a is amended to read:

#### § 1266a. DISCHARGES OF PHOSPHORUS

(a) No person directly discharging into the drainage basins of Lake Champlain or Lake Memphremagog shall discharge any waste that contains a phosphorus concentration in excess of 0.80 milligrams per liter on a monthly average basis. Discharges of less than 200,000 gallons per day, permitted on or before July 1, 1991, shall not be subject to the requirements of this subsection. Discharges from a municipally owned aerated lagoon type secondary sewage treatment plant in the Lake Memphremagog drainage basin, permitted on or before July 1, 1991 shall not be subject to the requirements of

this subsection unless the plant is modified to use a technology other than aerated lagoons.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, the Secretary shall establish effluent phosphorus wasteload allocations or concentration limits within any drainage basin in Vermont, as needed to achieve wasteload allocations in a total maximum daily load document approved by the U.S. Environmental Protection Agency, or as needed to attain compliance with water quality standards adopted by the Secretary pursuant to chapter 47 of this title.

~~(c) The Secretary of Natural Resources shall establish a schedule for municipalities that requires compliance with this section at a rate that corresponds to the rate at which funds are provided under subsection 1625(e) of this title. To the extent that funds are not provided to municipalities eligible under that subsection, municipal compliance with this section shall not be required. [Repealed.]~~

Sec. 48. 10 V.S.A. § 1625 is amended to read:

§ 1625. AWARDS FOR POLLUTION ABATEMENT PROJECTS TO  
ABATE DRY WEATHER SEWAGE FLOWS

(a) When the Department finds that a proposed water pollution abatement project is necessary to maintain water quality standards during dry weather sewage flows, and that the proposed type, kind, quality, size, and estimated cost, including operation cost and sewage disposal charges, of the project are suitable for abatement of pollution, and the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the Secretary or by statute under chapter 47 of this title, the Department may award to municipalities a State assistance grant of up to 25 percent of the eligible project cost, provided that in no case shall the total of the State and federal grants exceed 90 percent of the eligible project costs:

(1) except that the 90 percent limitation shall not apply when the municipality provides, as their local share, federal funds allocated to them for the purpose of matching other federal grant programs having a matching requirement; and

(2) except that the total of ~~state~~ State and federal grants issued under P.L. 92-500 section 202(a)(2) may equal up to 95 percent of the eligible costs for innovative or alternative wastewater treatment processes and techniques.

(b) In carrying out the purposes of this subchapter, the Department shall define the purpose and scope of an eligible project, including a determination of the area to be served, type of treatment, effluent limitations, eligible

construction costs, cost accounting procedures and methods and other such project construction, operation and fiscal elements necessary to meet federal aid requirements. The Department shall, as a part of the administration of this grant program, encourage municipalities to undertake capital development planning and to establish water and sewer charges along public utility concepts.

(c) Any municipality having proceeded with construction of facilities with a State grant of 25 percent since July 1, 1984 shall be eligible for an increase in the State grant to a total of 35 percent of the eligible project costs.

(d) The Department may award a State assistance grant of up to 50 percent of the eligible costs of an approved pollution abatement project or a portion thereof not eligible for federal financial assistance in a municipality that is certified by the Secretary of Commerce and Community Development to be within the designated job development zone. To achieve the objectives of chapter 29, subchapter 2 of this title, the eligibility and priority provisions of this chapter do not apply to municipalities within a designated job development zone.

~~(e) If the Department finds that a proposed municipal water pollution control project is necessary to reduce effluent phosphorus concentration or mass loading to the level required in section 1266a of this title, the Department shall award to the municipality, subject to the availability of funds, a state assistance grant. Such grants shall be for 100 percent of the eligible project cost. This funding shall not be available for phosphorus removal projects where the effluent concentration must be reduced in order to maintain a previously permitted mass loading of phosphorus. [Repealed.]~~

\* \* \* Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont \* \* \*

Sec. 49. 10 V.S.A. § 2622 is amended to read:

§ 2622. RULES; HARVESTING TIMBER; FORESTS; ACCEPTABLE MANAGEMENT PRACTICES FOR MAINTAINING WATER QUALITY

(a) Silvicultural practices. The commissioner shall adopt rules to establish methods by which the harvest and utilization of timber in private and public ~~forest land~~ forestland will be consistent with continuous forest growth, including reforestation, will prevent wasteful and dangerous forestry practices, will regulate heavy cutting, will encourage good forestry management, will enable and assist landowners to practice good forestry management, and will conserve the natural resources consistent with the purposes and policies of this chapter, giving due consideration to the need to assure continuous supplies of

forest products and to the rights of the owner or operator of the land. ~~Such~~The rules adopted under this subsection shall be advisory, and not mandatory except that the rules adopted under section 2625 of this title for the regulation of heavy cutting shall be mandatory as shall other rules specifically authorized to be mandatory.

(b) Acceptable management practices. On or before July 1, 2016, the Commissioner shall revise by rule the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont. The revised acceptable management practices shall ensure that all logging operations, on both public and private forestland, are designed to: prevent or minimize discharges of sediment, petroleum products, and woody debris (logging slash) from entering streams and other bodies of water; improve soil health of forestland; protect aquatic habitat and aquatic wildlife; and prevent erosion and maintain natural water temperature. The purpose of the acceptable management practices is to provide measures for loggers, foresters, and landowners to utilize, before, during, and after logging operations to comply with the Vermont Water Quality Standards and minimize the potential for a discharge from logging operations in Vermont in accordance with section 1259 of this title. The rules adopted under this subsection shall be advisory and not mandatory.

Sec. 50. DEPARTMENT OF FORESTS, PARKS AND RECREATION  
REPORT; ACCEPTABLE MANAGEMENT PRACTICES;  
MAPLE SYRUP PRODUCTION UNDER USE VALUE  
APPRAISAL

On or before January 15, 2016, the Commissioner of Forests, Parks and Recreation shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, and the House Committee on Natural Resources and Energy a recommendation and supporting basis as to how:

(1) to implement the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as mandatory practices for all logging operations on public and private forestland;

(2) the Department of Forests, Parks and Recreation will enforce Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont; and

(3) whether maple syrup production on forestland should be required to enroll in the use value appraisal program under 32 V.S.A. chapter 124 as managed forestland and not agricultural land.

Sec. 51. 10 V.S.A. § 1259(f) is amended to read:

(f) The provisions of subsections (c), (d), and (e) of this section shall not regulate ~~accepted required~~ agricultural or ~~silvicultural~~ practices, as ~~such are defined adopted by rule~~ by the ~~secretary of agriculture, food and markets and the commissioner of forests, parks and recreation, respectively, after an opportunity for a public hearing~~ Secretary of Agriculture, Food and Markets, or the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; nor shall these provisions regulate discharges from concentrated animal feeding operations that require a permit under section 1263 of this title; nor shall those provisions prohibit stormwater runoff or the discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

Sec. 52. 24 V.S.A. § 4413(d) is amended to read:

(d) A bylaw under this chapter shall not regulate ~~accepted required~~ agricultural and ~~silvicultural~~ practices, including the construction of farm structures, as those practices are defined by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets or the ~~commissioner of forests, parks and recreation~~ Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner of Forests, Parks and Recreation, respectively, under 10 V.S.A. §§ ~~1021(f) and 1259(f)~~ § 2622 and 6 V.S.A. § 4810.

\* \* \*

\* \* \* Eligibility for Ecosystem Restoration Program Assistance \* \* \*

#### Sec. 53. ECOSYSTEM RESTORATION PROGRAM; CLEAN WATER FUND; ELIGIBILITY FOR FINANCIAL ASSISTANCE

It is the policy of the State of Vermont that all municipal separate storm sewer system (MS4) communities in the State shall be eligible for grants and other financial assistance from the Agency of Natural Resources' Ecosystem Restoration Program, the Clean Water Fund, or any other State water quality financing program. A project or proposal that is the subject of an application for a grant or other assistance from the Agency of Natural Resources shall not be denied solely on the basis that the project or proposal may be construed as a regulatory requirement of the MS4 permit program.

#### Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Fund) and 38 (Clean Water Fund per parcel fee) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) Sec. 3 (small farm certification) shall take effect on July 1, 2017;

(2) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(3) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for April 1, 2015, pages 843-928 and April 2, 2015, page 940)

**Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources & Energy with the following amendments thereto:

First: By striking out Secs. 37–43 in their entirety, and inserting in lieu thereof the following:

\* \* \* Water Quality Funding; Clean Water Legacy Fund;  
Statewide Water Quality Fee \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Legacy Fund

§ 1387. PURPOSE

The General Assembly establishes in this subchapter a Vermont Clean Water Legacy Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Legacy Fund shall be used to:

(1) assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs, including implementation of total maximum daily load cleanup plans for Lake Champlain, the Connecticut River, Lake Memphremagog, and over 200 other water segments across the State;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality

requirements and existing revenue sources are inadequate to fund the necessary positions;

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects; and

(4) provide transparency in the collection and administration of funding the improvement of water quality in the State.

#### § 1388. CLEAN WATER LEGACY FUND

(a) There is created a special fund in the State treasury to be known as the “Clean Water Legacy Fund.” Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, the Fund shall be administered by the Clean Water Legacy Fund Board established under section 1389 of this title;

(b) The Clean Water Legacy Fund shall consist of:

(1) revenues dedicated for deposit into the Fund by the General Assembly, including the Statewide Water Quality fee under 32 V.S.A. chapter 245.

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Board.

(c) Unexpended balances and any earnings shall remain in the Fund from year to year.

#### § 1389. CLEAN WATER LEGACY FUND BOARD

(a) Creation. There is created a Clean Water Legacy Fund Board which shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Legacy Fund Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee;

(5) the Secretary of Transportation or designee;

(6) a representative of the Lake Champlain Basin Program, to be

appointed by the Governor;

(7) a representative of a regional or community-based watershed or water quality organization to be appointed by the Committee on Committees;

(8) a farmer or representative of an organization that represents farmers, to be appointed by the Speaker of the House;

(9) a person with expertise in financial lending or investment, to be appointed by the Committee on Committees; and

(10) a representative of a municipality or organization representing municipalities, to be appointed by the Speaker of the House.

(c) Officers; committees; rules. The Secretary of Administration or designee shall serve as Chair of the Clean Water Legacy Fund Board. The Clean Water Legacy Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(d) Member terms. The members of the Clean Water Legacy Fund Board appointed by the Governor, Committee on Committees, or Speaker of the House shall serve staggered terms. The member appointed by the Governor shall serve an initial term of three years. Members appointed by the Committee on Committees shall serve initial terms of two years. The members appointed by the Speaker of the House shall serve initial terms of one year. Thereafter, each of the appointed members shall serve a term of three years. 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.

(e) Compensation. Members of the Clean Water Legacy Fund Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be paid from the budget of the Agency of Administration.

(f) Powers and duties of the Clean Water Legacy Fund Board.

(1) The Clean Water Legacy Fund Board shall:

(A) Receive proposals from the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation regarding expenditures of the Fund.

(B) Make recommendations to the Secretary of Administration regarding the appropriate allocation of funds from the Clean Water Legacy Fund for the purposes of developing the State budget. The Board shall

structure its recommendations to achieve the greatest water quality gain for the investment.

(C) Pursue and accept grants, gifts, donations, or other funding from any public or private source and administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(D) Beginning on July 15, 2016, and every five years thereafter, develop a five-year plan for the disbursement of monies from the Clean Water Legacy Fund, including the type of projects to be funded, the management strategies to prioritize, and the methods or measurements to ensure accountability of funded projects or programs. An initial priority for disbursements under the Fund shall be for management within the Lake Champlain watershed.

(E) Develop an annual revenue estimate and proposed budget for the Clean Water Legacy Fund.

(F) Issue the annual clean water investment report required under section 1389a of this title.

(G) Solicit public comment and consult with organizations interested in improving water quality in Vermont regarding recommendations under this subsection for the allocation of funds from the Clean Water Legacy Fund.

(H) Submit to the General Assembly recommended amendments or changes to requirements or administration of the Clean Water Legacy Fund, including the assessment and collection of the Statewide Water Quality fee under 32 V.S.A. chapter 245.

(I) After consultation with the State Treasurer, submit to the General Assembly on or before January 15, 2020, a recommendation as to whether revenue deposited into the Clean Water Legacy Fund could be used to support the issuance of bonded indebtedness for the purposes of financing water quality programs and projects in the State.

(2) The Clean Water Legacy Fund Board may pursue and accept grants or other funding from any public or private source in order to administer loans or grants under this section.

(g) Priorities.

(1) In making recommendations under subsection (f) of this section regarding the appropriate allocation of funds from the Clean Water Legacy Fund, the Board shall prioritize:

(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by

33 U.S.C. § 1313(d):

(B) funding to projects that address areas identified as a significant source of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(C) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(E) funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; and

(F) funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy.

(2) In making recommendations under subsection (f) of this section from the Clean Water Legacy Fund, the Clean Water Legacy Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection, prioritize award or assistance to municipalities for municipal compliance with water quality requirements.

(3) In making recommendations under subsection (f) of this section from the Clean Water Legacy Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection, attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and nonpoint sources of pollution in the State.

(h) Staff support. The Clean Water Legacy Fund Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Legacy Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Legacy Fund Board and other State agencies for

clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Legacy Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including: whether those funding sources were attained; if funding was not attained, why it was not attained; and how additional sources of money were allocated from the Fund. The report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(b) The Clean Water Legacy Fund Board shall develop and use a results-based accountability process in publishing the annual report required by subsection (a) of this section

#### § 1389b. CLEAN WATER LEGACY FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the Senate Committee on Finance, the House Committee on Ways and Means, the House and Senate Committees on Appropriations, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Legacy Fund. The report shall include:

(1) a summary of the expenditures from the Clean Water Legacy Fund, including the water quality projects and programs that received funding;

(2) an analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Legacy Fund or implemented by the State;

(3) an evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) an assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State; and

(5) a recommendation of whether the General Assembly should authorize the continuation of the Clean Water Legacy Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified,

independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Legacy Fund, established under section 1388 of this title.

Sec. 38. 32 V.S.A. chapter 245 is added to read:

#### CHAPTER 245. WATER QUALITY

##### § 10502. STATEWIDE WATER QUALITY FEE

###### (a) Statewide Water Quality fee.

(1) An annual Statewide Water Quality fee shall be imposed on every parcel in the State.

###### (2)(A) The Statewide Water Quality fee shall be as follows:

(i) \$0.50 per acre of forestland enrolled in use value appraisal under chapter 124 of this title; and

(ii) \$1.00 per acre for all other land.

(B) The minimum fee assessed under this section shall be \$15.00.

(3) In calculating the Statewide Water Quality fee for properties of more than 15 acres, parcels shall be rounded down to the nearest whole acre.

###### (b) Assessment and collection of fee.

(1) Beginning on July 1, 2015, the Clean Water Legacy Fund fee shall be assessed and collected as part of the tax bill issued under subsection 5402(b) of this title, and may be prorated according to the number of tax bills assessed by a municipality. A municipality shall list the fee assessed under this section on a tax bill as the "Statewide Water Quality Fee." The Statewide Water Quality fee shall be listed separately from the tax collected under subsection 5402(b) of this title, provided that the payment for both the tax and fee shall be made in one form of payment.

(2) The treasurer of each municipality shall remit the collected Statewide Water Quality fee to the Department of Taxes:

(A) in one payment due on December 1 of each year; or

(B) as authorized by the Department procedure adopted under subsection (e) of this section.

(3) Municipalities may use all authority under chapter 133 of this title for the assessment and collection of the fee, including collection of fees and costs under section 5288 of this title.

(4) In case of insufficient payment of the Statewide Water Quality fee by a taxpayer to a municipality, the municipality shall not be required to remit to the State the amount of full liability for all parcels within the municipality.

(5) In the case of a taxpayer who pays only a portion of the full tax under subsection 5402(b) and the full amount of the Statewide Water Quality fee, a municipal treasurer shall credit all payment made by the taxpayer to the tax liability under subsection 5402(b) of this title before remitting fees to the Department of Taxes under subdivision (2) of this subsection.

(c) Exemption. A municipality shall not assess the Statewide Water Quality fee established under subsection (a) of this section to:

(1) a parcel exempt from taxation under State or federal law;

(2) a parcel composed entirely of a railroad track right-of-way, provided that the Commissioner shall assess the fee on parcels on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located; or

(3) a parcel of land for which the State lacks authority to impose the fee established by this section.

(d) Refund. A person who in any one year pays more than \$10,000.00 in fees under this section for a parcel or parcels they own shall, upon application to the Department of Taxes, be eligible for a refund of all fees paid in excess of \$10,000.00 a year.

(e) Disposition. The Commissioner of Taxes shall deposit all fees collected under this section in the Clean Water Legacy Fund, established under 10 V.S.A. § 1388, for the authorized uses of that Fund.

(f) Department procedure. The Department of Taxes shall, after consultation with municipal officials or representatives of municipal officials, issue a procedure regarding the process for collection of the Statewide Water Quality fee as part of the tax bill issued under subsection 5402(b) of this title. In the procedure, the Department shall address how parcels are assessed, remittance, and enforcement of the Statewide Water Quality fee, including how frequently a municipality may remit to the Department fees collected under this section. The Department also shall include in the procedure guidance for municipalities regarding whether a fee paid under this section is tax deductible.

(g) Abatement. A person may seek and a municipality may grant under

24 V.S.A. § 1535 abatement of a fee assessed under this section.

(h) Education and outreach. The Department shall hold educational meetings or prepare education materials for municipal officials regarding the requirements of this section.

Sec. 39. 32 V.S.A. § 5258 is amended to read:

§ 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY RECORDED

The fees and costs allowed after the warrant and levy for delinquent taxes have been recorded shall be as follows: Levy and extending of warrant, \$10.00; recording levy and extending of warrant in town clerk's office, \$10.00, to be paid the town clerk; notices and publication of notice, actual costs incurred; and expenses actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of said sale when authorized by the selectboard, provided that such expenses shall not exceed 15 percent of the uncollected tax; travel, reimbursement at the rate established by the contract governing State employees; attending and holding sale, \$10.00; making return \$10.00 and recording same in town clerk's office, to be paid the town clerk \$10.00; \$10.00 for collection of a delinquent Statewide Water Quality fee assessed under section 10502 of this title; collector's deed, \$30.00; which fees and costs, together with the collector's fee of eight percent shall be in lieu of any or all other fees and costs permitted or allowed by law.

Sec. 40. REPEAL OF STATEWIDE WATER QUALITY FEE

32 V.S.A. § 10502 (Water Quality Legacy fee) shall be repealed on July 1, 2026.

\* \* \* Appropriations of Agency Staff \* \* \*

Sec. 41. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD AND MARKETS STAFF

Notwithstanding provisions of 10 V.S.A. § 1389 to the contrary, in addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803 to the Agency of Agriculture, Food and Markets \$786,000.00 in fiscal year 2016 for the purpose of hiring eight positions for implementation and administration of agricultural water quality programs in the State.

Sec. 42. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL CONSERVATION STAFF

In addition to any other funds appropriated to the Department of

Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A § 2805 to the Department of Environmental Conservation \$1,545,116.00 in fiscal year 2016 for the purpose of hiring 13 positions for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

\* \* \* Commissioner of Taxes; Statewide Water Quality Fee Report\*\*\*

Sec. 43. COMMISSIONER OF TAXES REPORT ON IMPLEMENTATION OF THE STATEWIDE WATER QUALITY FEE

On or before January 15, 2016, the Commissioner of Taxes shall submit to the Senate Committee on Finance and the House Committee on Ways and Means a report regarding implementation of the Statewide Water Quality fee established under 32 V.S.A. chapter 245. The report shall include:

(1) a summary of implementation, collection, and enforcement of the Statewide Water Quality fee by municipalities and the Department of Taxes;

(2) any identified issues in assessment, collection, and enforcement of the Statewide Water Quality fee, and proposed recommendations for addressing each issue.

(3) after consultation with the Secretary of Natural Resources:

(A) proposed alternatives for reducing the amount of the Statewide Water Quality fee to be paid by owners of parcels who: provide treatment that exceeds the minimum regulatory requirement; utilize innovative approaches to the management of stormwater; or pay a similar fee assessed at the municipal level; and

(B) a recommendation of whether the amount of the Statewide Water Quality fee established under 32 V.S.A. chapter 245 should be adjusted for individual parcels or parcel types due to presence of impervious surface on the parcel or due to the water quality impacts of the parcel;

(4) a recommendation as to whether and how the Statewide Water Quality fee should be collected from parcels that are exempt from taxation under 32 V.S.A. § 3802;

(5) proposed legislation necessary to implement any of the recommendations submitted by the Commissioner of Taxes in the report required by this section; and

(6) any other information that the Commissioner of Taxes determines is relevant to the implementation of the Statewide Water Quality fee.

Second: In Sec. 3, 6 V.S.A. § 4871, by striking out subsection (b) in its

entirety and inserting in lieu thereof the following:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

and by striking out subsection (h) in its entirety and inserting in lieu thereof the following:

(h) Fees. A person required to submit a certification under this section shall submit an annual operating fee of \$250.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. The Secretary may waive or reduce the fee required under this subsection based on farm type or the income or ability to pay of a person required to submit a certification under this section.

Third: By adding a new section to be Sec. 5a after the reader assistance \* \* \* Agricultural Water Quality; Permit Fees \* \* \* and before Sec. 6 to read:

Sec. 5a. 6 V.S.A. § 4803 is added to read:

§ 4803. AGRICULTURAL WATER QUALITY SPECIAL FUND

(a) There is created an Agricultural Water Quality Special Fund to be administered by the Secretary of Agriculture, Food and Markets. Fees collected under this chapter, including fees for permits or certifications issued under the chapter, shall be deposited in the Fund.

(b) The Secretary may use monies deposited in the Fund for the Secretary's implementation and administration of agricultural water quality programs or requirements established by this chapter, including to pay salaries of Agency staff necessary to implement the programs and requirements of this chapter.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3), interest earned by the Fund shall be retained in the Fund from year to year.

Fourth: In Sec. 6, 6 V.S.A. § 4851 (large farm fee), by striking out subsection (i) in its entirety and inserting in lieu thereof the following:

(i) A person required to obtain a permit under this section shall submit an annual operating fee of \$2,500.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title.

Fifth: In Sec. 7, 6 V.S.A. § 4858 (medium farm fee), by striking out subsection (e) in its entirety and inserting in lieu thereof the following:

(e) A person required to obtain a permit or coverage under this section shall submit an annual operating fee of \$1,500.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title.

Sixth: In Sec. 8, 6 V.S.A. § 324 (commercial feed fee), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) A person shall not distribute in this State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~\$85.00~~ \$100.00 per product. ~~The~~ Of the registration fees collected, ~~\$85.00 of each collected fee,~~ along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. Of the registration fees collected, \$15.00 of each collected fee shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

Seventh: By striking out Sec. 10 (fertilizer fee) in its entirety and inserting in lieu thereof the following:

Sec. 10. 6 V.S.A. § 366 is amended to read:

§ 366. TONNAGE FEES

(a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~ fee at a rate of \$0.25 cents per ton.

(b) Persons distributing fertilizer shall report annually by January 15 for the previous year ending December 31 to the ~~secretary~~ Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this ~~state~~ State. Each report shall be accompanied with payment and written permission allowing the ~~secretary~~ Secretary to examine the person's books for the purpose of verifying tonnage reports.

(c) No information concerning tonnage sales furnished to the ~~secretary~~ Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the

enforcement of the provisions of this chapter.

(d) ~~A \$50.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this state. [Repealed.]~~

(e) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required in this section.

(f) Lime and wood ash mixtures may be registered as agricultural liming materials and guaranteed for potassium or potash provided that the wood ash totals less than 50 percent of the mixture.

(g) All fees collected under subsection (a) of this section shall be deposited in the revolving fund created by section 364(e) of this title and used in accordance with its provisions.

(h) There shall be paid annually to the Secretary for all nonagricultural fertilizers distributed to a nonregistrant consumer in this State an annual fee at a rate of \$30.00 per ton of nonagricultural fertilizer for the purpose of supporting agricultural water quality programs in Vermont.

(1) Persons distributing any fertilizer in the State shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this State. Each report shall be accompanied with payment of the fees under this section and written permission allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports.

(2) No information concerning tonnage sales furnished to the Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(3) A \$150.00 minimum tonnage fee shall be assessed on all distributors who distribute nonagricultural fertilizers in this State.

(4) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required under this subsection.

(5) All fees collected under this subsection shall be deposited in the Agricultural Water Quality Special Fund created under section 4803 of this title.

Eighth: In Sec. 11, 6 V.S.A. § 918 (economic poisons fee), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The registrant shall pay an annual fee of ~~\$110.00~~ \$125.00 for each product registered, and \$110.00 of that amount shall be deposited in the special

fund created in section 929 of this title, of which \$5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and \$5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. Of the registration fees collected under this subsection, \$15.00 of the amount collected shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. The annual registration year shall be from December 1 to November 30 of the following year.

Ninth: By striking out Sec. 54 in its entirety and inserting in lieu thereof the following:

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

#### Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Legacy Fund) and 38 (Statewide Water Quality fee) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(2) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

(Committee vote: 4-2-1)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources & Energy when amended by the Committee on Finance with the following amendments thereto:

First: By striking out the First Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

First: By striking out Secs. 37-43 in their entirety, including any reader assistance preceding the sections, and inserting in lieu thereof the following:

\* \* \* Water Quality Funding; Clean Water Fund; Clean Water Board \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Fund

§ 1387. PURPOSE

The General Assembly establishes in this subchapter a Vermont Clean Water Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Fund shall be used to:

(1) assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions; and

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects.

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the “Clean Water Fund” to be administered by the Secretary of Administration. The Fund shall consist of:

(1) revenues dedicated for deposit into the Fund by the General Assembly, including the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a.

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration.

(b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and any earnings shall remain in the Fund from year to year.

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

- (1) the Secretary of Administration or designee;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Secretary of Commerce and Community Development or designee; and
- (5) the Secretary of Transportation or designee.

(c) Officers; committees; rules. The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(d) Powers and duties of the Clean Water Fund Board. The Clean Water Fund Board shall have the following powers and authority:

(1) The Clean Water Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

(2) The Clean Water Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(3) The Clean Water Fund Board shall:

(A) establish a process by which watershed organizations, State agencies, and other interested parties may propose water quality projects or programs for financing from the Clean Water Fund.

(B) develop an annual revenue estimate and proposed budget for the Clean Water Fund;

(C) establish measures for determining progress and effectiveness of expenditures for clean water restoration efforts;

(D) issue the annual clean water investment report required under section 1389a of this title; and

(E) solicit consult with and accept public comment from organizations interested in improving water quality in Vermont regarding

recommendations under this subsection for the allocation of funds from the Clean Water Fund.

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);

(B) funding to projects that address sources of water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(C) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(E) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; and

(F) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy; and

(G) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices.

(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivisions (e)(1), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements.

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivisions (e)(1), attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State; and

(f) The Clean Water Fund Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including whether those funding sources were attained, if it was not attained, why it was not attained, and where the money was allocated from the Fund. The report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(b) The Board shall develop and use a results based accountability process in publishing the annual report required by subsection (a) of this section.

#### § 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the

House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Fund. The report shall include:

(1) A summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) An analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) An evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) An assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State.

(5) A recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section § 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

\* \* \* Property Transfer Tax Surcharge; Water Quality Long Term  
Financing Report \* \* \*

Sec. 38. 32 V.S.A. § 9602a is added to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner

shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 39. REPEAL OF CLEAN WATER SURCHARGE

32 V.S.A. § 9602a (Clean Water Surcharge) shall be repealed on July 1, 2018.

Sec. 40. STATE TREASURER REPORT ON LONG TERM FINANCING OF STATEWIDE WATER QUALITY IMPROVEMENT

On or before January 15, 2017, the State Treasurer, after consultation with the Secretary of Administration and the Commissioner of Taxes, shall submit to the Senate and House Committees on Appropriations, the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, the Senate Committee on Agriculture, the House Committee on Ways and Means, and the Senate Committee on Finance a recommendation for financing water quality improvement programs in the State. The recommendation shall include:

(1) proposed revenue sources for water quality improvement programs that will replace the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a.

(2) an estimate of the amount of revenue to be generated from each proposed revenue source;

(3) a summary of how assessment of the proposed revenue source will be administered, collected, and enforced;

(4) a recommendation of whether the State should bond for the purposes of financing water quality improvement programs, including whether a proposed revenue source would be sufficient for issuance of water quality revenue bonds; and

(5) a legislative proposal to implement each of the revenue sources proposed under this section.

\* \* \* Agency Staff; Establishment; Appropriation \* \* \*

Sec. 41. WATER QUALITY STAFF POSITIONS

(a) The establishment of the following new permanent classified positions is authorized in fiscal year 2016 as follows:

(1) In the Agency of Agriculture, Food and Markets—one (1) Water Quality Specialist, one (1) Water Quality Permitting and Project Manager, two (2) Small Farm Water Quality Specialists, one (1) Agriculture Systems

Specialist, one (1) Financial Administrator, one (1) GIS Project Supervisor and one (1) Senior Agricultural Development Coordinator;

(2) In the Department of Environmental Conservation – thirteen (13) water quality and TMDL (water quality/Total Maximum Daily Load) positions.

(b) The positions established in this section shall be transferred and converted from existing vacant positions in the Executive Branch, and shall not increase the total number of authorized State positions.

Sec. 42. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD AND MARKETS STAFF

In addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803 to the Agency of Agriculture, Food and Markets \$1,071,000.00 in fiscal year 2016 for the purpose of hiring eight positions for implementation and administration of agricultural water quality programs in the State.

Sec. 43. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL CONSERVATION STAFF

In addition to any other funds appropriated to the Department of Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A § 2805 to the Department of Environmental Conservation \$1,545,116.00 in fiscal year 2016 for the purpose of hiring 13 positions for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

Sec. 43a. FUND TO FUND TRANSFER

In Fiscal Year 2016, \$450,000 is transferred from the Clean Water Fund established by 10 V.S.A. § 1388 to the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803.

Second: By striking out the Second Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

Second: In Sec. 3, 6 V.S.A. § 4871, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of

certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

Third: By striking out the Sixth Proposal of Amendment of the Committee on Finance in its entirety

Fourth: By striking out the Ninth Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

Ninth: By striking out Sec. 54 in its entirety and inserting in lieu thereof the following:

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

#### Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Fund) and 38 (Property Transfer Tax surcharge) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(2) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

(Committee vote: 7-0-0)

### H. 117.

An act relating to creating a Division for Telecommunications and Connectivity within the Department of Public Service.

**Reported favorably with recommendation of proposal of amendment by Senator MacDonald for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Division for Telecommunications and Connectivity \* \* \*

#### Sec. 1. REPEAL

3 V.S.A. § 2225 (creating the Division for Connectivity within the Agency of Administration) and 2014 Acts and Resolves No. 190, Secs. 12 (Division for Connectivity), 14 (creation of positions; transfer; reemployment rights),

and 30(a)(2) and (b) (statutory revision authority regarding the Division for Connectivity) are repealed.

Sec. 2. 30 V.S.A. § 1 is amended to read:

§ 1. COMPOSITION OF DEPARTMENT

(a) ~~The department of public service~~ Department of Public Service shall consist of the ~~commissioner of public service, a director for regulated utility planning, a director for public advocacy, a director for energy efficiency,~~ Commissioner of Public Service, a Director for Regulated Utility Planning, a Director for Public Advocacy, a Director for Energy Efficiency, a Director for Telecommunications and Connectivity, and such other persons as the ~~commissioner~~ Commissioner considers necessary to conduct the business of the ~~department~~ Department.

(b) ~~The commissioner of public service~~ Commissioner shall be appointed by the ~~governor~~ Governor with the advice and consent of the ~~senate~~ Senate. The ~~commissioner of public service~~ Commissioner shall serve for a term of two years beginning on February 1 of the year in which the appointment is made. The ~~commissioner~~ Commissioner shall serve at the pleasure of the ~~governor~~ Governor. ~~The directors for regulated utility planning, for energy efficiency and for public advocacy~~ Directors for Regulated Utility Planning, for Public Advocacy, and for Energy Efficiency shall be appointed by the ~~commissioner~~ Commissioner. The Director for Telecommunications and Connectivity shall be appointed by the Commissioner in consultation with the Secretary of Administration.

(c) ~~The director for public advocacy~~ Directors for Public Advocacy and for Telecommunications and Connectivity may employ, with the approval of the ~~commissioner~~ Commissioner, legal counsel and other experts, and clerical assistance, and the ~~directors of regulated utility planning and energy efficiency~~ Directors for Regulated Utility Planning and for Energy Efficiency may employ, with the approval of the ~~commissioner~~ Commissioner, experts and clerical assistance.

Sec. 3. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, ~~the Division for Connectivity~~ and the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department of ~~Public Service~~ in preparing the Plan. The Plan shall be for a ten-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) an overview, looking ten years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) a survey of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development ~~and the Division for Connectivity~~, to determine what telecommunications services are needed now and in the succeeding ten years;

(3) an assessment of the current state of telecommunications infrastructure;

(4) an assessment, conducted in cooperation with the Department of Innovation and Information and the ~~Division for Connectivity~~ Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; and

(5) an assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, ~~the Division for Connectivity~~, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will

produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review a the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a Joint Resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

Sec. 4. 30 V.S.A. § 202e is added to read:

§ 202e. TELECOMMUNICATIONS AND CONNECTIVITY

(a) Among other powers and duties specified in this title, the Department of Public Service, through the Division for Telecommunications and Connectivity, shall promote:

(1) access to affordable broadband service to all residences and businesses in all regions of the State, to be achieved in a manner that is consistent with the State Telecommunications Plan;

(2) universal availability of mobile telecommunication services, including voice and high-speed data along roadways, and near universal availability statewide;

(3) investment in telecommunications infrastructure in the State that creates or completes the network for service providers to create last-mile connection to the home or business and supports the best available and economically feasible service capabilities;

(4) the continuous upgrading of telecommunications and broadband infrastructure in all areas of the State to reflect the rapid evolution in the capabilities of available broadband and mobile telecommunications technologies, the capabilities of broadband and mobile telecommunications services needed by persons, businesses, and institutions in the State; and

(5) the most efficient use of both public and private resources through State policies by encouraging the development, funding, and implementation of open access telecommunications infrastructure.

(b) To achieve the goals specified in subsection (a) of this section, the Division shall:

(1) provide resources to local, regional, public, and private entities in the form of grants, technical assistance, coordination, and other incentives;

(2) prioritize the use of existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

(3) inventory and assess the potential to use federal radio frequency licenses held by instrumentalities of the State to enable broadband service in unserved areas of the State; take steps to promote the use of those licensed radio frequencies for that purpose; and recommend to the General Assembly any further legislative measures with respect to ownership, management, and use of these licenses as would promote the general good of the State;

(4) coordinate telecommunications initiatives among Executive Branch agencies, departments, and offices;

(5) identify the types and locations of infrastructure and services needed to carry out the goals stated in subsection (a) of this section;

(6) formulate, with the advice and assistance of the Telecommunications and Connectivity Board and with input from the Regional Planning Commissions, an action plan that conforms with the State Telecommunications Plan, as updated and revised, and carries out the goals stated in subsection (a) of this section;

(7) coordinate the agencies of the State to make public resources available to support the extension of broadband and mobile telecommunications infrastructure and services to all unserved and underserved areas;

(8) support and facilitate initiatives to extend the availability of broadband and mobile telecommunications, and promote development of the infrastructure that enables the provision of these services;

(9) work cooperatively with the Agency of Transportation and the Department of Buildings and General Services to assist in making available transportation rights-of-way and other State facilities and infrastructure for telecommunications projects in conformity with applicable federal statutes and regulations; and

(10) receive all technical and administrative assistance as deemed necessary by the Director for Telecommunications and Connectivity.

(c)(1) The Director may request from telecommunications service providers voluntary disclosure of information regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. Such information may include data identifying projected coverage areas, projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities.

(2) The Director may enter into a nondisclosure agreement with respect to any voluntary disclosures under this subsection, and the information disclosed pursuant thereto shall remain confidential. Alternatively, entities that voluntarily provide information requested under this subsection may select a third party to be the recipient of such information. The third party may aggregate information provided by the entities, but shall not disclose provider-specific information it has received under this subsection to any person, including the Director. The third party shall only disclose the aggregated information to the Director. The Director may publicly disclose aggregated information based upon the information provided under this subsection. The confidentiality requirements of this subsection shall not affect whether information provided to any agency of the State or a political subdivision of the State pursuant to other laws is or is not subject to disclosure.

(d) The Division shall only promote the expansion of broadband services that offer actual speeds that meet or exceed the minimum technical service characteristic objectives contained in the State's Telecommunications Plan.

(e) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Director, with the advice and assistance of the Telecommunications and Connectivity Board, shall submit a report of its activities pursuant to this section and duties of title 30 V.S.A. subsection 202f (f) for the preceding fiscal year to the General Assembly. Each report shall include an operating and financial statement covering the Division's operations during the year, including a summary of all grant awards and contracts and agreements entered into by the Division, as well as the action plan required under subdivision (b)(6) of this section. In addition, the report shall include an accurate map and narrative description of each of the following:

(1) the areas served and the areas not served by broadband that has a download speed of at least 4 Mbps and an upload speed of at least 1 Mbps, and cost estimates for providing such service to unserved areas;

(2) the areas served and the areas not served by broadband that has a download speed of at least 25 Mbps and an upload speed of at least 3 Mbps, or as defined by the FCC in its annual report to Congress required by section 706 of the Telecommunications Act of 1996, whichever is higher, and the cost estimates for providing such service to unserved areas;

(3) the areas served and the areas not served by broadband that has a download speed of at least 100 Mbps and is symmetrical, and the cost estimates for providing such service to unserved areas; and

(4) if monetarily feasible, the areas served and the areas not served by wireless communications service, and cost estimates for providing such service to unserved areas.

Sec. 5. 30 V.S.A. § 202f is added to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY BOARD

(a) There is created a Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties as provided in this section. The Connectivity Advisory Board shall consist of eight members, seven voting and one nonvoting, selected as follows:

(1) the State Treasurer or designee;

(2) the Secretary of Commerce and Community Development or designee;

(3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and

(4) the Secretary of Transportation or designee, who shall be a nonvoting member.

(b) A quorum of the Connectivity Advisory Board shall consist of four voting members. No action of the Board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least four members vote in favor of the action. The Governor shall select, from among the at-large members, a Chair and Vice Chair.

(c) In making appointments of at-large members, the Governor shall give consideration to citizens of the State with knowledge of telecommunications technology, telecommunications regulatory law, transportation rights-of-way

and infrastructure, finance, environmental permitting, and expertise regarding the delivery of telecommunications services in rural, high-cost areas. However, the five at-large members may not be persons with a financial interest in or owners or employees of an enterprise that provides broadband or cellular service or that is seeking in-kind or financial support from the Department of Public Service. The conflict of interest provision in this subsection shall not be construed to disqualify a member who has ownership in a mutual fund, exchange traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. The at-large members shall serve terms of two years beginning on February 1 in odd-numbered years, and until their successors are appointed and qualified. However, three of the five at-large members first appointed by the Governor shall serve an initial term of three years. Vacancies shall be filled for the balance of the unexpired term. A member may be reappointed for up to three consecutive terms. Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former Board member shall not advocate before the Connectivity Board, Department of Public Service, or the Public Service Board on behalf of an enterprise that provides broadband or cellular service.

(d) Except for those members otherwise regularly employed by the State, the compensation of the Board's members is that provided by 32 V.S.A. § 1010(a). All members of the Board, including those members otherwise regularly employed by the State, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(e) In performing its duties, the Connectivity Advisory Board may use the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Board with administrative services.

(f) The Connectivity Advisory Board shall:

(1) have review and nonbinding approval authority with respect to the awarding of grants under the Connectivity Initiative. The Commissioner shall have sole authority to make the final decision on grant awards, as provided in subsection (g) of this section.

(2) function in an advisory capacity to the Commissioner on the development of State telecommunications policy and planning, including the action plan required under subdivision 202e(b)(6) of this chapter and the State Telecommunications Plan.

(3) annually advise the Commissioner on the development of requests

for proposals under the Connectivity Initiative.

(4) annually provide the Commissioner with recommendations for the apportionment of funds to the High-Cost Program and the Connectivity Initiative.

(5) annually provide the Commissioner with recommendations on the appropriate Internet access speeds for publicly funded telecommunication and connectivity projects.

(g) The Commissioner shall make an initial determination as to whether a proposal submitted under the Connectivity Initiative meets the criteria of the request for proposals. The Commissioner shall then provide the Connectivity Advisory Board a list of all eligible proposals and recommendations. The Connectivity Advisory Board shall review the recommendations of the Commissioner and may review any proposal submitted, as it deems necessary, and either approve or disapprove each recommendation and may make new recommendations for the Commissioner's final consideration. The Commissioner shall have final decision-making authority with respect to the awarding of grants under the Connectivity Initiative. If the Commissioner does not accept a recommendation of the Board, he or she shall provide the Board with a written explanation for such decision.

(h) On September 15, 2015, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year. On or before January 1 of each year, the Commissioner, after consulting with the Connectivity Advisory Board, shall recommend to the relevant legislative committees of jurisdiction a plan for apportioning such funds to the High-Cost Program and the Connectivity Initiative.

(i) The Chair shall call the first meeting of the Connectivity Advisory Board. The Chair or a majority of Board members may call a Board meeting. The Board may meet up to six times a year.

(j) At least annually, the Connectivity Advisory Board and the Commissioner or designee shall jointly hold a public meeting to review and discuss the status of State telecommunications policy and planning, the Telecommunications Plan, the Connectivity Fund, the Connectivity Initiative, the High-Cost Program, and any other matters they deem necessary to fulfill their obligations under this section.

(k) Information and materials submitted by a telecommunications service provider concerning confidential financial or proprietary information shall be exempt from public inspection and copying under the Public Records Act, nor shall any information that would identify a provider who has submitted a

proposal under the Connectivity Initiative be disclosed without the consent of the provider, unless a grant award has been made to that provider. Nothing in this subsection shall be construed to prohibit the publication of statistical information, determinations, reports, opinions, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular telecommunications service provider.

Sec. 6. CREATION OF POSITIONS; TRANSFER OF VACANT POSITIONS; REEMPLOYMENT RIGHTS; TRANSITIONAL PROVISIONS

(a) Up to three additional exempt full-time positions are created within the Division for Telecommunications and Connectivity, as deemed necessary by the Secretary of Administration.

(b) The positions created under subsection (a) of this section shall only be filled to the extent there are existing vacant positions in the Executive Branch available to be transferred and converted to the new positions in the Division for Telecommunications and Connectivity, as determined by the Secretary of Administration and the Commissioner of Human Resources, so that the total number of authorized positions in the State shall not be increased by this act.

(c) All full-time personnel of the Vermont Telecommunications Authority (VTA) employed by the VTA on the day immediately preceding the effective date of this act who do not obtain a position in the Division for Telecommunications and Connectivity pursuant to subsection (a) of this section shall be entitled to the same reemployment or recall rights available to nonmanagement State employees under the existing collective bargaining agreement entered into between the State and the Vermont State Employees' Association.

(d) The Department of Public Service shall assume possession and responsibility for all assets and liabilities of the VTA.

(e) The VTA shall not enter into any new contracts without the approval of the Commissioner of Public Service.

\* \* \* Universal Service Fund \* \* \*

Sec. 7. 30 V.S.A. § 7503 is amended to read:

§ 7503. FISCAL AGENT

(a) A fiscal agent shall be selected to receive and distribute funds under this chapter.

(b) The fiscal agent shall be selected by the ~~Public Service Board~~ Commissioner of Public Service after competitive bidding. No

telecommunications service provider shall be eligible to be the fiscal agent. The duties of the fiscal agent shall be determined by a contract with a term not greater than three years.

(c) In order to finance grants and other expenditures that have been approved by the ~~Public Service Board~~ Commissioner of Public Service, the fiscal agent may borrow money from time to time in anticipation of receipts during the current fiscal year. No such note shall have a term of repayment in excess of one year, but the fiscal agent may pledge its receipts in the current and future years to secure repayment. Financial obligations of the fiscal agent are not guaranteed by the State of Vermont.

(d) The fiscal agent shall be audited annually by a certified public accountant in a manner determined by and under the direction of the ~~Public Service Board~~ Commissioner of Public Service.

(e) The financial accounts of the fiscal agent shall be available at reasonable times to any telecommunications service provider in this State. The ~~Public Service Board~~ Commissioner of Public Service may investigate the accounts and practices of the fiscal agent and may enter orders concerning the same.

(f) The fiscal agent acts as a fiduciary and holds funds in trust for the ratepayers until the funds have been disbursed as provided pursuant to ~~sections 7511 through 7515~~ section 7511 of this chapter.

#### Sec. 8. REPEAL

30 V.S.A. § 7515a (additional program support for Executive Branch activities) is repealed.

Sec. 9. 30 V.S.A. § 7511 is amended to read:

#### § 7511. DISTRIBUTION GENERALLY

(a)(1) As directed by the ~~Public Service Board~~ Commissioner of Public Service, funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

(1)(A) to pay costs payable to the fiscal agent under its contract with the ~~Board~~ Commissioner;

(2)(B) to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title;

(3)(C) to support the Vermont Lifeline program in the manner provided by section 7513 of this title;

(4)(D) to support Enhanced-911 services in the manner provided by

section 7514 of this title; and

~~(5)(E) to support the Connectivity Fund established in section 7516 of this chapter; and of this title; and~~

(2) For fiscal year 2016 only, any personnel or administrative costs associated with the Connectivity Initiative shall come from the Connectivity Fund, as determined by the Commissioner in consultation with the Connectivity Board.

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the ~~Board~~ Commissioner shall ~~conduct an expedited proceeding to~~ allocate the available funds, giving priority in the order listed in subsection (a).

#### Sec. 9a. FUNDING FOR CONNECTIVITY PERSONNEL; GROSS RECEIPTS TAX

Not later than January 15, 2016, the Commissioner shall determine whether the revenues raised from the existing gross receipts tax on public service companies, 30 V.S.A. § 22, is sufficient to finance the personnel and administrative costs associated with the Connectivity Initiative, beginning in fiscal year 2017. If the Commissioner determines the revenues are not sufficient for this purpose, he or she shall recommend to the General Assembly either:

(1) a new rate of tax applicable to one or more categories of public service companies, as he or she deems necessary and appropriate; or

(2) a proposal to fund such personnel and administrative costs with monies in the Connectivity Fund.

Sec. 10. 30 V.S.A. § 7516 is amended to read:

#### § 7516. CONNECTIVITY FUND

There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before September 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned ~~equally~~ as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative ~~referenced in this section.~~

Sec. 11. 30 V.S.A. § 7515 is amended to read:

#### § 7515. HIGH-COST PROGRAM

(a) The Universal Service Charge shall be used as a means of keeping basic

telecommunications service affordable in all parts of this State, thereby maintaining universal service, and as a means of supporting access to broadband service in all parts of the State.

(b) The Public Service Board, after review of a petition of a company holding a certificate of public good to provide telecommunications service in Vermont, and upon finding that the company meets all requirements for designation as an “eligible telecommunications carrier” as defined by the FCC, may designate the company as a Vermont-eligible telecommunications carrier (VETC).

(c) The supported services a designated VETC must provide are voice telephony services, as defined by the FCC, and broadband Internet access, directly or through an affiliate. A VETC receiving support under this section shall use that support for capital improvements in high cost areas, as defined in subsection (f) of this section, to build broadband capable networks.

(d) The Board may designate multiple VETCs for a single high cost area, but each designated VETC shall:

(1) offer supported services to customers at all locations throughout the service high cost area or areas for which it has been designated; and

(2) for its voice telephone services, meet service quality standards set by the Board.

(e) A VETC shall receive support as defined in subsection (i) of this section from the fiscal agent of the Vermont Universal Service Fund for each telecommunications line in service or service location, whichever is greater in number, in each high cost area it services. Such support may be made in the form of a net payment against the carrier’s liability to the Fund. If multiple VETCs are designated for a single area, then each VETC shall receive support for each line it has in service.

(f) As used in this section, a Vermont telephone exchange is a “high cost area” if the exchange is served by a rural telephone company, as defined by federal law, or if the exchange is designated as a rural exchange in the wholesale tariff of a regional bell operating company (RBOC), as defined by the FCC, or of a successor company to an RBOC. An exchange is not a high cost area if the Public Service Board finds that the supported services are available to all locations throughout the exchange from at least two service providers.

(g) Except as provided in subsection (h) of this section, a VETC shall provide broadband Internet access at speeds no lower than 4 Mbps download and 1 Mbps upload in each high cost area it serves within five years of

designation. A VETC need not provide broadband service to a location that has service available from another service provider, as determined by the Department of Public Service.

(h) The Public Service Board may modify the build out requirements of subsection (d) of this section as it relates to broadband Internet access to be the geographic area that could be reached using one-half of the funds to be received over five years. A VETC may seek such waiver of the build out requirements ~~in subsection (e)~~ within one year of designation and shall demonstrate the cost of meeting broadband Internet access requirements on an exchange basis and propose an alternative build out plan.

(i) The amount of the monthly support under this section shall be the pro rata share of available funds ~~as provided in subsection (e) of this section~~ based on the total number of incumbent local exchange carriers in the State and reflecting each carrier's lines in service or service locations in its high-cost area or areas, as determined under subsection (e) of this section. If an incumbent local exchange carrier does not petition the Board for VETC designation, or is found ineligible by the Board, the share of funds it otherwise would have received under this section shall be used to support the Connectivity Initiative established in section 7515b of this chapter.

(j) The Public Service Board shall adopt by rule standards and procedures for ensuring projects funded under this section are not competitive overbuilds of existing wired telecommunications services.

(k) Each VETC shall submit certification that it is meeting the requirements of this section and an accounting of how it expended the funds received under this section in the previous calendar year, with its annual report to the Department of Public Service. For good cause shown, the Public Service Board may investigate submissions required by this subsection and may revoke a company's designation if it finds that the company is not meeting the requirements of this subsection.

Sec. 12. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to Internet service that is capable of speeds of at least ~~4~~ 10 Mbps download and 1 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section,

“unserved” means a location having access to only satellite or dial-up Internet service and “underserved” means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies ~~in this Fund~~ from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

(b) The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department’s most recent broadband mapping data. The Department annually shall solicit proposals from service providers, ~~the Vermont Telecommunications Authority, and the Division for Connectivity~~ to deploy broadband to eligible census blocks. The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations; however, the Department also shall consider:

- (1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;
- (2) the price to consumers of services;
- (3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;
- (4) whether the proposal would use the best available technology that is economically feasible;
- (5) the availability of service of comparable quality and speed; and
- (6) the objectives of the State’s Telecommunications Plan.

\* \* \* 248a; Meteorological Station Conversions \* \* \*

Sec. 13. 30 V.S.A. § 246(e) is added to read:

(e) Notwithstanding any contrary provisions of this section, the holder of a certificate of public good for a constructed meteorological station may apply under section 248a of this title or 10 V.S.A. chapter 151 to convert the station to a wireless telecommunications facility, provided the application is filed at least 90 days before the expiration of the certificate for the station. Any such application shall constitute a new application to be reviewed under the facts and circumstances as they exist at the time of the review.

\* \* \* Agency of Transportation; State-owned Rights-of-Way; Leasing;  
Telecommunications Providers \* \* \*

Sec. 14. 19 V.S.A. § 26a is amended to read:

§ 26A. DETERMINATION OF RENT TO BE CHARGED FOR LEASING  
OR LICENSING STATE-OWNED PROPERTY UNDER THE  
AGENCY'S JURISDICTION

\* \* \*

(b) Unless otherwise required by federal law, the Agency shall assess, collect, and deposit in the Transportation Fund a reasonable charge or payment with respect to leases or licenses for access to or use of State-owned rights-of-way by providers of broadband or wireless communications facilities or services. ~~The Vermont Telecommunications Authority, established by 30 V.S.A. chapter 91, Agency~~ may waive such charge or payment in whole or in part if the provider offers to provide comparable value to the State so as to meet the public good as determined by the Authority Agency and the Department of Public Service. For the purposes of this section, the terms "comparable value to the State" shall be construed broadly to further the State's interest in ubiquitous broadband and wireless service availability at reasonable cost. Any waiver of charges or payments for comparable value to the State granted by the Authority Agency may not exceed five years. Thereafter, the Authority Agency may extend any waiver granted for an additional period not to exceed five years if the Authority Agency makes affirmative written findings demonstrating that the State has received and will continue to receive value that is comparable to the value to the provider of the waiver, or it may revise the terms of the waiver in order to do so. ~~The Authority, in consultation with the Agency of Transportation, shall adopt rules under 3 V.S.A. chapter 25 to implement this section. For the purpose of establishing rules to implement 30 V.S.A. chapter 91 by July 1, 2007, or as soon thereafter as possible, the authority is authorized to adopt initial rules under this section using emergency rulemaking procedures of 3 V.S.A. chapter 25. Any emergency rules initially adopted may remain in effect longer than 120 days, but in no event shall they remain in effect for more than six months.~~

\* \* \*

\* \* \* Retransmission Fees; Reporting \* \* \*

Sec. 15. 30 V.S.A. § 518 is amended to read:

§ 518. RETRANSMISSION FEES; REPORTING

(a) Purpose. The purpose of this section is to provide the Attorney General with information necessary to investigate certain conduct within the cable and broadcast network industries to determine whether unfair methods of competition ~~or unfair or deceptive acts or practices~~ are occurring in violation of 9 V.S.A. chapter 63.

(b) Reporting. Annually, beginning on January 1, 2015, each commercial broadcasting station doing business with a Vermont cable company shall report to the Attorney General any fees charged for program content retransmitted on the cable network under a retransmission consent agreement entered into pursuant to 47 U.S.C. § 325, for the prior calendar year.

(c) Investigations. The Attorney General may investigate retransmission fees charged by commercial broadcasting stations, pursuant to his or her investigatory powers established under 9 V.S.A. chapter 63.

(d) Public disclosure. The information received ~~under this section~~ by the Attorney General under subsection (b) of this section shall be disclosed to the public at a time and in a manner determined by the Attorney General to be consistent with and permitted by the Public Records Act and relevant provisions of federal law shall be kept confidential and is exempt from public inspection and copying under the Public Records Act, unless otherwise ordered by a court.

(e) Enforcement. A violation of this section constitutes ~~an unfair and deceptive act and practice in commerce~~ unfair competition under 9 V.S.A. § 2453.

(f) The Attorney General may adopt rules he or she deems necessary to implement this section. The rules, as well as any finding of unfair ~~or deceptive practices~~ competition with regard to retransmission consent fees, shall not be inconsistent with the rules, regulations, and decisions of the Federal Communications Commission and the federal courts interpreting the Communications Act of 1934, as amended.

\* \* \* E-911 System; Operations; Savings \* \* \*

## Sec. 16. E-911 OPERATIONS AND SAVINGS

(a) The General Assembly finds as follows:

(1) 2014 Acts and Resolves No. 190, Sec. 24 directed the Secretary of Administration to submit a report to the General Assembly proposing a plan for transferring the responsibilities and powers of the Enhanced 911 Board, including necessary positions, to either the Division for Connectivity, the Department of Public Service, or the Department of Public Safety.

(2) The plan was to include budgetary recommendations, striving to achieve annual operational savings of at least \$300,000.00, as well as enhanced coordination and efficiency, and reduction in operational redundancies.

(3) On December 15, 2014, the Secretary of Administration made a recommendation to the General Assembly to transfer responsibilities and powers of the Enhanced 911 Board to the Department of Public Safety. In the

report, the Secretary estimated that such transfer could be expected to save between \$210,000.00 and \$350,000.00 each year on an ongoing basis by virtue of personal services savings.

(4) During the 2015 legislative session, a representative of the Enhanced 911 Board testified before the Senate Committee on Appropriations that the Board's current, administrative expenses could be reduced by approximately \$300,000.00.

(b) By July 1, 2015, the administration of the Vermont Enhanced 911 system shall be transferred to the Department of Public Safety, as provided in Secs. 17, 18, and 19 of this act; or, if such transfer does not occur, then in fiscal year 2016, not less than \$300,000.00 shall be transferred from the Enhanced 911 Fund to the General Fund to offset E-911-eligible costs incurred by the Department of Public Safety, and not less than one, full-time employee position in the Enhanced 911 system shall be eliminated.

Sec. 17. 20 V.S.A. § 1811 is amended to read:

#### § 1811. CREATION OF DEPARTMENT

There is hereby created a ~~department of public safety~~ Department of Public Safety for the purpose of consolidating certain existing police and investigating agencies, to promote the detection and prevention of crime generally, ~~and~~ to participate in searches for lost or missing persons, ~~and~~ to assist in case of statewide or local disasters or emergencies, and to administer the statewide Enhanced 911 system established under 30 V.S.A. chapter 87.

Sec. 18. 20 V.S.A. § 1872 is amended to read:

#### § 1872. DUTIES OF COMMISSIONER GENERALLY

The ~~commissioner shall be~~ Commissioner is the chief enforcement officer of all the statutes, rules, and regulations pertaining to the law of the road and the display of lights on vehicles. In addition, the ~~commissioner~~ Commissioner shall supervise and direct the activities of the ~~state police~~ State Police and of the Vermont ~~criminal information center~~ Crime Information Center and, as fire marshal, ~~be responsible for enforcing~~ shall enforce the laws pertaining to the investigation of fires, the prevention of fires, the promotion of fire safety, and the delivery of fire service training. In addition, the Commissioner shall administer the statewide Enhanced 911 system established under 30 V.S.A. chapter 87.

Sec. 19. 30 V.S.A. chapter 87 is amended to read:

### CHAPTER 87. ENHANCED 911; EMERGENCY SERVICES

#### § 7051. DEFINITIONS

As used in this chapter:

(1) “Automatic location identification” or “ALI” means the system capability to identify automatically the geographical location of the electronic device being used by the caller to summon assistance and to provide that location information to an appropriate device located at any public safety answering point for the purpose of sending emergency assistance.

(2) ALI “database” means a derivative, verified set of records ~~which~~ that contain at a minimum a telephone number and location identification for each unique building or publicly used facility within a defined geographic area in Vermont.

(3) “Automatic number identification” or “ANI” means the system capability to identify automatically the calling telephone number and to provide a display of that number at any public safety answering point.

(4) “Board” means the Vermont Enhanced 911 Advisory Board established under section 7053 of this ~~title~~ chapter.

(5) “Caller” means a person or an automated device calling on behalf of a person.

(6) “Commissioner” means the Commissioner of Public Safety.

(7) “Director” means the Director for statewide Enhanced 911.

~~(7)~~(8) “Emergency call system” or “Enhanced 911 system” means a system consisting of devices with the capability to determine the location and identity of a caller that initiates communication for the purpose of summoning assistance in the case of an emergency. In most cases summoning assistance will occur when a caller dials the digits 9-1-1 on a telephone, mobile phone, or other IP-enabled service, or by a communication technology designed for the purpose of summoning assistance in the case of an emergency.

~~(8)~~(9) “Emergency services” means fire, police, medical, and other services of an emergency nature as identified by the ~~Board~~ Commissioner.

~~(9)~~(10) “IP-enabled service” means a service, device, or application that makes use of Internet protocol, or IP, and ~~which~~ that is capable of entering the digits 9-1-1 or otherwise contacting the ~~emergency~~ Enhanced 911 system. IP-enabled service includes voiceover IP and other services, devices, or applications provided through or using wire line, cable, wireless, ~~or~~ satellite, or other facilities.

~~(10)~~(11) “Municipality” means any city, town, incorporated village, unorganized town, gore, grant, or other political subdivision of the State.

~~(11)~~(12) “Other methods of locating caller” means those commercially

available technologies designed to provide the location information of callers when a call is initiated to access emergency 911 services regardless of the type of device ~~that is~~ used.

~~(12)~~(13) “Public safety answering point” means a facility with the capability to receive emergency calls, operated on a 24-hour basis, assigned the responsibility of receiving 911 calls and dispatching, transferring, or relaying emergency 911 calls to other public safety agencies or private safety agencies.

~~(13)~~(14) “Selective routing” means a telecommunications switching system that enables all 911 calls originating from within a defined geographical region to be answered at a ~~pre-designated~~ predesignated public service answering point.

#### § 7052. VERMONT ENHANCED 911 ADVISORY BOARD

(a) The Vermont Enhanced 911 Advisory Board is established to ~~develop, implement and supervise the operation~~ make recommendations to the Commissioner regarding the development and implementation of the statewide Enhanced 911 system.

(b) The Board shall consist of nine members: one county law enforcement officer elected by the membership of the Vermont ~~State sheriff's association~~ Sheriff's Association; one municipal law enforcement officer elected by the ~~chiefs of police association of Vermont~~ Association of Chiefs of Police; one official of a municipality; a firefighter; an emergency medical services provider; a Department of Public Safety representative; and three members of the public. Board members shall be appointed by the Governor to three-year terms, except that the Governor shall stagger initial appointments so that the terms of no more than four members expire during a calendar year. In appointing Board members, the Governor shall give due consideration to the different geographical regions of the State, and the need for balance between rural and urban areas. Board members shall serve at the pleasure of the Governor.

(c) Members who are not State employees or not otherwise compensated in the course of their employment shall receive per diem compensation and expense reimbursement for meetings in accordance with the provisions of 32 V.S.A. § 1010. Members who receive per diem shall receive compensation for no more than 12 meetings per year.

(d) The Governor shall annually appoint a member to serve as Board chair and a member to serve as Board vice chair. The Board shall hold at least four regular meetings a year. Meetings of the Board may be held at any time or place within Vermont upon call of the Chair or a majority of the members, after reasonable notice to the other members and shall be held at such times

and places as in the judgment of the Board will best serve the convenience of all parties in interest. The Board shall adopt rules and procedures with respect to the conduct of its meetings and other affairs. Membership on the Board does not constitute the holding of an office for any purpose, and members of the Board shall not be required to take and file oaths of office before serving on the Board. A member of the Board shall not be disqualified from holding any public office or employment, and shall not forfeit any office or employment, by reason of ~~their~~ his or her appointment to the ~~board~~ Board, notwithstanding any statute, ordinance, or charter to the contrary.

(e) The Board shall ~~appoint~~ recommend, subject to the approval of the ~~Governor~~ Commissioner, an Executive Director who shall hold office at the pleasure of the ~~Board~~ Commissioner. He or she shall perform such duties as may be assigned by the ~~Board~~ Commissioner. The Executive Director is entitled to compensation, as established by law, and reimbursement for the expenses within the amounts available by appropriation. ~~The Executive Director may, with the approval of the Board, hire employees, agents, and consultants and prescribe their duties.~~

#### § 7053. ~~BOARD~~ COMMISSIONER; RESPONSIBILITIES AND POWERS

(a) The ~~Board shall be the single governmental agency~~ Commissioner is responsible for statewide ~~enhanced~~ Enhanced 911. To the extent feasible, the ~~Board~~ Commissioner shall consult with the ~~Agency~~ Secretary of Human Services, the ~~Department of Public Safety, the Department~~ Commissioner of Public Service, and local community service providers on the development of policies, system design, standards, and procedures. The ~~Board~~ Commissioner shall develop designs, standards, and procedures and shall adopt rules on the following:

(1) the technical and operational standards for public safety answering points;

(2) the system ~~data-base~~ database, standards and procedures for developing and maintaining the ~~data-base~~ database. The system ~~data-base~~ database shall be the property of the ~~Board~~ Department of the Public Safety;

(3) statewide, locatable means of identifying customer location, such as addressing, geo-coding, or other methods of locating the caller; and

(4) standards and procedures to ensure system and ~~data-base~~ database security.

~~(b) (d) [Repealed.]~~

~~(e)~~(b) The ~~Board~~ Commissioner is authorized to:

(1) ~~to~~ make or cause to be made studies of any aspect of the ~~enhanced~~

Enhanced 911 system, including service, operations, training, ~~data-base~~ database development, and public awareness;

(2) ~~to~~ accept and use in the name of the ~~state~~ State, subject to review and approval by the ~~joint-fiscal-committee~~ Joint Fiscal Committee, any and all donations or grants, both real and personal, from any governmental unit or public agency or from any institution, person, firm, or corporation, consistent with the rules established by the Board and the purpose or conditions of the donation or grant; and

(3) ~~to~~ exercise all powers and conduct such activities as are necessary in carrying out the ~~Board's~~ Commissioner's responsibilities in fulfilling the purposes of this chapter.

~~(f)~~(c) The ~~Board~~ Commissioner shall adopt such rules as are necessary to carry out the purposes of this chapter, including, where appropriate, imposing reasonable fines or sanctions against persons that do not adhere to applicable ~~board~~ rules.

~~(g), (h)~~ [Repealed.]

#### § 7054. FUNDING

(a) The Enhanced 911 Fund is created as a special fund subject to the provisions of 32 V.S.A. chapter 7, subchapter 5. Balances in the Fund on June 30 of each year shall carry forward and shall not revert to the General Fund.

(b) The General Assembly shall annually review and approve an amount to be transferred by the universal service fiscal agent to the Enhanced 911 Fund and shall appropriate some or all of that amount for expenditures related to providing Enhanced 911 services.

(c) Into the Enhanced 911 Fund shall be deposited monies transferred from the universal service fiscal agent, any State or federal funds appropriated to the Fund by the General Assembly, any taxes specifically required by law to be deposited into the Fund, and any grants or gifts received by the State for the benefit of the Enhanced 911 system.

(d) Disbursements from the Enhanced 911 Fund shall be made by the State Treasurer on warrants drawn by the ~~Director~~ Commissioner solely for the purposes specified in this chapter. The ~~Director~~ Commissioner may issue such warrants pursuant to contracts or grants.

(e) Disbursements may be made for:

(1) nonrecurring costs, including establishing public safety answering points, purchasing network equipment and software, developing ~~data-bases~~

databases, and providing for initial training and public education;

(2) recurring costs, including network access fees and other telephone charges, software, equipment, ~~data-base~~ database management and improvement, public education, ongoing training and equipment maintenance;

(3) expenses of the Board and the Department of Public ~~Service~~ Safety incurred under this chapter;

(4) costs solely attributable to statewide public safety answering point operations; and

(5) costs attributable to demonstration projects designed to enhance the delivery of ~~emergency~~ Enhanced 911 and other emergency services.

(f) Disbursements may not be made for:

(1) personnel costs for emergency dispatch answering points;

(2) construction, purchase, renovation, or furnishings for buildings at emergency dispatch points;

(3) two-way radios; and

(4) vehicles and associated equipment.

#### § 7055. TELECOMMUNICATIONS COMPANY COORDINATION

(a) Every telecommunications company under the jurisdiction of the Public Service Board offering access to the public network shall make available, in accordance with rules adopted by the Public Service Board, the universal emergency telephone number 911 for use by the public in seeking assistance from fire, police, medical, and other emergency service providers through a public safety answering point.

(b) Every local exchange telecommunications provider shall provide the ANI and any other information required by rules adopted under section 7053 of this ~~title chapter~~ to the ~~Board~~ Commissioner, or to any administrator of the Enhanced 911 database, for purposes of maintaining the Enhanced 911 database. Each such provider ~~shall be~~ is responsible for updating the information at a frequency specified by such rules. All persons receiving confidential information under this section, as defined by the Public Service Board, shall use it solely for the purposes of providing ~~emergency~~ Enhanced 911 services, and shall not disclose such confidential information for any other purpose.

(c) Each local exchange telecommunications company, cellular company, and mobile or personal communications service company within the State shall designate a person to coordinate with and provide all relevant information to

the ~~E-911 Board~~ Commissioner and the Public Service Board ~~is~~ for carrying out the purposes of the chapter.

(d) Wire line and nonwire cellular carriers certificated to provide service in the state State shall provide ANI signaling ~~which~~ that identifies geographical location as well as cell site address for cellular 911 calls. Personal communications networks and any future mobile or personal communications systems ~~shall also be~~ are also required to identify the location of the caller. The telephone company shall provide ANI signaling ~~which~~ that identifies the name of the carrier and identify the type of service as cellular, mobile, or personal communications as part of the ALI along with a screen message that advises the call answerer to verify the location of the reported emergency. Telecommunication providers of mobile wireless, IP-enabled, and other communication services ~~which~~ that have systems with the capability to send data related to the location of the caller with the call or transmission instead of relying on location data otherwise contained in the ALI database shall provide this data with calls or transmissions for the sole purpose of enabling the ~~emergency~~ Enhanced 911 system to locate an individual seeking emergency services. Location data shall be provided in accordance with relevant national standards for next generation ~~9-1-1~~ 911 technology.

(e) Each local exchange telecommunications provider in the State shall file with the Public Service Board tariffs for each service element necessary for the provision of ~~enhanced~~ Enhanced 911 services. The Public Service Board shall review each company's proposed tariff, and shall ensure that tariffs for each necessary basic service element are effective within six months of filing. The ~~Department~~ Commissioner of Public Service, by rule or emergency rule, may establish the basic service elements that each company must provide for in tariffs. Such tariffs must be filed with the Public Service Board within 60 days after the basic service elements are established by the ~~Department~~ Commissioner of Public Service.

#### § 7056. MUNICIPAL COOPERATION; ENHANCED ANI/ALI CAPABILITY

(a) Each municipality, by its legislative body, may participate in the Enhanced 911 system. 3 Municipalities choosing to participate shall identify all building locations and other public and private locations frequented by the public and shall cooperate in the development and maintenance of the necessary databases. The ~~Board~~ Commissioner shall work with municipalities to identify nonmonetary incentives designed to streamline and reduce the administrative burdens imposed by this requirement. Any municipality that changes its system for addresses shall ensure that the modified address system is consistent with the standards established by the ~~Board~~ Commissioner.

(b) After the effective date of this chapter, any municipality that changes its system for addresses shall ensure that the modified address system is consistent with the standards established by the Board Commissioner.

~~(e)-(e) [Repealed.]~~

#### § 7057. PRIVATELY OWNED TELEPHONE SYSTEMS

Any privately owned telephone system shall provide to those end users the same level of 911 service that other end users receive and shall provide ANI signaling, station identification data, and updates to Enhanced 911 databases under rules adopted by the Board Commissioner. The Board Commissioner may waive the provisions of this section for any privately owned telephone system, provided that in the judgment of the Board Commissioner, the owner of the system is actively engaged in becoming compliant with this section, is likely to comply with this section in a reasonable amount of time, and will do so in accordance with standards and procedures adopted ~~by the Board~~ by rule by the Commissioner.

#### § 7058. PAY TELEPHONES

Each provider or other owner or lessee of a pay station telephone shall permit a caller to dial 911 without first inserting a coin or paying any other charge. The provider or other owner or lessee shall prominently display on each notice advising callers to dial 911 in an emergency and that deposit of a coin is not required.

#### § 7059. CONFIDENTIALITY OF SYSTEM INFORMATION

(a)(1) A person shall not access, use, or disclose to any other person any individually identifiable information contained in the system database created ~~under subdivision 7053(a)(4) of this title~~ subsection 7053(a) of this chapter, including any customer or user ALI or ANI information, except in accordance with rules adopted by the Board Commissioner ~~and~~ for the purpose of:

- (A) responding to emergency calls;
- (B) system maintenance and quality control under the direction of the Director;
- (C) investigation, by law enforcement personnel, of false or intentionally misleading reports of incidents requiring emergency services;
- (D) assisting in the implementation of a statewide emergency notification system;
- (E) provision of emergency dispatch services by public safety answering points in other states that are under contract with local law enforcement and emergency response organizations; or

(F) coordinating with ~~state~~ State and local service providers for the provision of emergency dispatch services that serve individuals with a disability, elders, and other populations with special needs.

(2) ~~No person shall~~ A person shall not use customer ALI or ANI information to create special 911 databases for any private purpose or any public purpose unauthorized by this chapter.

(b) Notwithstanding the provisions of subsection (a) of this section to the contrary, customer ALI or ANI information obtained in the course of responding to an emergency call may be included in an incident report prepared by emergency response personnel, in accordance with rules adopted by the ~~Board~~ Commissioner.

(c) Information relating to customer name, address, and any other specific customer information collected, organized, acquired, or held by the ~~board~~ Department of Public Safety, the entity operating a public safety answering point or administering the Enhanced 911 database, or emergency service provider is not public information and is exempt from ~~disclosure under 1 V.S.A. chapter 5, subchapter 3~~ public inspection and copying under the Public Records Act.

(d) If a municipality has adopted conventional street addressing for Enhanced 911 addressing purposes, the municipality shall ensure that an individual who so requests will not have his or her street address and name linked in a municipal public record, but the individual shall be required to provide a mailing address. The request required by this subsection shall be in writing and shall be filed with the municipal clerk. Requests under this subsection shall be confidential and exempt from public inspection and copying under the Public Records Act. A form shall be prepared by the ~~Board~~ Commissioner and made generally available to the public by which the confidentiality option established by this subsection may be exercised.

(e) Notwithstanding any provision of law to the contrary, no person acting on behalf of the State of Vermont or any political subdivision of the ~~state~~ State shall require an individual to disclose his or her Enhanced 911 address, provided that the individual furnishes his or her alternative mailing address.

#### § 7060. LIMITATION OF LIABILITY

~~No person shall~~ A person shall not be liable in any suit for civil damages ~~who if he or she~~ in good faith receives, develops, collects, or processes information for the Enhanced 911 database or develops, designs, adopts, establishes, installs, participates in, implements, maintains, or provides access to telephone, mobile, or IP-enabled service for the purpose of helping persons obtain emergency assistance in accordance with this chapter unless such action

constitutes gross negligence or an intentional tort. In addition, no provider of telephone, mobile, or other IP-enabled service or a provider's respective employees, directors, officers, assigns, affiliates, or agents shall be liable for civil damages in connection with the release of customer information to any governmental entity, including any public safety answering point, as required under this chapter.

\* \* \* Communications Union Districts \* \* \*

Sec. 20. 30 V.S.A. chapter 82 is added to read:

CHAPTER 82. COMMUNICATIONS UNION DISTRICT

§ 3051. FORMATION

(a) Two or more towns and cities may elect to form a communications union district for the delivery of communications services and the operation of a communications plant, which district shall be a body politic and corporate.

(b) A town or city electing to form a district under this chapter shall submit to the eligible voters of such municipality a proposition in substantially the following form: "Shall the Town of \_\_\_\_\_ enter into a communications union district to be known as \_\_\_\_\_, under the provisions of Chapter 82 of Title 30, Vermont Statutes Annotated?" at an annual or special meeting of such town or city.

(c) Additional towns or cities may be admitted to the district in the manner provided in section 3082 of this chapter.

(d) As used in this chapter:

(1) "Communications plant" means any and all parts of any communications system owned by the district, whether using wires, cables, fiber optics, wireless, other technologies, or a combination thereof, and used for the purpose of transporting or storing information, in whatever forms, directions, and media, together with any improvements thereto hereafter constructed or acquired, and all other facilities, equipment, and appurtenances necessary or appropriate to such system. However, the term "communications plant" and any regulatory implications or any restrictions under this chapter regarding a "communications plant" shall not apply to facilities or portions of any communications facilities intended for use by, and solely used by, a district member and its own officers and employees in the operation of municipal departments or systems of which such communications are merely an ancillary component.

(2) "Communications union district" or "district" means a communications union district formed under this chapter.

(3) “District member” or “member municipality” means a town or city that elects to form a communications union district under this chapter.

(4) “Governing board” or “board” means the governing board of the communications union district as established under this chapter.

#### § 3052. DISTRICT COMPOSITION

A district formed under this chapter shall be composed of and include all of the lands and residents within a member municipality, and any other town or city subsequently admitted to the district as provided in this chapter except for those towns and cities that withdraw as provided in this chapter. Registered voters in each member municipality are eligible to vote in all district meetings, but only district member representatives are eligible to vote in meetings of the district’s governing board.

#### § 3053. CREATION; DURATION; NONCONTESTABILITY

(a) Following the organizational meeting called for in section 3060 of this chapter, the district’s governing board shall cause to be filed with the Office of the Secretary of State a certificate attesting to the vote conducted under subsection 3051(b) of this chapter.

(b) A district formed under this chapter shall continue as a body politic and corporate unless and until dissolved according to the procedures set forth in this chapter.

(c) An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality of the formation, or the existence as a body corporate and politic of any communications union district created under this chapter after six months from the date of the recording in the Office of the Secretary of State of the certificate required by subsection (a) of this section. An action shall not be brought directly or indirectly challenging, questioning, or in any manner contesting the legality or validity of any bonds issued to defray costs of communications plant improvements approved by the board, after six months from the date upon which the board voted affirmatively to issue such bonds. This section shall be liberally construed to effect the legislative purpose to validate and make certain the legal existence of all communications union districts in this State and the validity of bonds issued or authorized for communications plant improvements, and to bar every remedy therefor notwithstanding any defects or irregularities, jurisdictional or otherwise, after expiration of the six-month period. The provisions of this subsection shall also pertain to financial contracts directly related to the district’s bonding authority.

(d) To the extent a district constructs communications infrastructure with

the intent of providing communications services, the district shall ensure that any and all losses from these services, or in the event these services are abandoned or curtailed, any and all costs associated with the investment in communications infrastructure, are not borne by the taxpayers of district members.

#### § 3054. DISTRICT POWERS

(a) In addition to the powers enumerated in 24 V.S.A. § 4866, and, subject to the limitations and restrictions set forth in section 3056 of this chapter, a district created under this chapter shall have the power to:

(1) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of a communications plant for the delivery of communications services, as provided in 24 V.S.A. chapter 54, and all enactments supplementary and amendatory thereto;

(2) purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with its purpose;

(3) hire and fix the compensation and terms of employment of employees;

(4) sue and be sued;

(5) enter into contracts for any term or duration;

(6) contract with architects, engineers, financial and legal consultants, and others for professional services;

(7) contract with individuals, corporations, associations, authorities, and agencies for services and property, including the assumption of the liabilities and assets thereof;

(8) provide communications services for its members, the inhabitants thereof, and the businesses therein, and for such others as its facilities and obligations may allow, and further provided such service is not extended to a location in a municipality that is not contiguous with the town limits of a member district and that does not have access to broadband service from another provider;

(9) contract with the State of Vermont, the United States of America, or any subdivision or agency thereof for services, assistance, and joint ventures;

(10) contract with any municipality for the services of any officers or employees of that municipality useful to it;

(11) promote cooperative arrangements and coordinated action among its members and other public and private entities;

(12) make recommendations for review and action to its members and other public agencies which perform functions within the region in which its members are located;

(13) exercise any other powers which are necessary or desirable for dealing with communications matters of mutual concern and that are exercised or are capable of exercise by any of its members;

(14) enter into financing agreements as provided by 24 V.S.A. § 1789 and chapter 53, subchapter 2, or other provisions of law authorizing the pledge of net revenue, or alternative means of financing capital improvements and operations;

(15) establish a budget to provide for the funding thereof out of general revenue of the district;

(16) appropriate and expend monies;

(17) establish sinking and reserve funds for retiring and securing its obligations;

(18) establish capital reserve funds and make appropriations thereto for communications plant improvements and the financing thereof;

(19) enact and enforce any and all necessary or desirable bylaws for the orderly conduct of its affairs for carrying out its communications purpose and for protection of its communications property;

(20) solicit, accept, and administer gifts, grants, and bequests in trust or otherwise for its purpose;

(21) exercise all powers incident to a public corporation;

(22) adopt a name under which it shall be known and shall conduct business; and

(23) establish an effective date of its creation.

(b) Before a district may sell any service using a communications plant subject to Public Service Board jurisdiction and for which a certificate of public good is required under chapter 5 or 13 of this title, it shall obtain a certificate of public good for such service. Each such certificate of public good shall be nonexclusive and shall not contain terms or conditions more favorable than those imposed on existing certificate holders authorized to serve the municipality.

#### § 3055. COMMUNICATIONS PLANT; SITES

Each member shall make available for lease to the district one or more sites for a communications plant or components thereof within such member

municipality.

§ 3056. LIMITATIONS; TAXES; INDEBTEDNESS

(a) Notwithstanding any grant of authority in this chapter to the contrary, a district shall not accept funds generated by a member's taxing or assessment power.

(b) Notwithstanding any grant of authority in this chapter to the contrary, a district shall not have the power to levy, assess, apportion, or collect any tax upon property within the district, nor upon any of its members, without specific authorization of the General Assembly.

(c) Notwithstanding any grant of authority in this chapter to the contrary, every issue of a district's notes and bonds shall be general obligations of the district payable only out of any revenues or monies of the district.

§ 3057. BOARD AUTHORITY

The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs thereof shall be vested in a legislative body known as the governing board, except as specifically provided otherwise in this chapter.

§ 3058. BOARD COMPOSITION

The district governing board shall be composed of one representative from each member and one or more alternates to serve in the absence of the designated representative.

§ 3059. APPOINTMENT

Annually on or before the last Monday in April commencing in the year following the effective date of the district's creation, the legislative body of each member shall appoint a representative and one or more alternates to the governing board for one-year terms. Appointments of representatives and alternates shall be in writing, signed by the chair of the legislative body of the appointing member, and presented to the clerk of the district. The legislative body of a member, by majority vote, may replace its appointed representative or alternate at any time and shall promptly notify the district clerk of such replacement.

§ 3060. ORGANIZATIONAL MEETING

Annually, on the second Tuesday in May following the appointments contemplated in section 3059 of this chapter, the board shall hold its organizational meeting. At such meeting, the board shall elect from among its appointed representatives a chair and a vice chair, each of whom shall hold office for one year and until his or her successor is duly elected.

#### § 3061. QUORUM

For the purpose of transacting business, the presence of delegates or alternates representing more than 50 percent of district members shall constitute a quorum. However, a smaller number may adjourn to another date. Any action adopted by a majority of the votes cast at a meeting of the board at which a quorum is present shall be the action of the board, except as otherwise provided in this chapter.

#### § 3062. VOTING

Each district member's delegation shall be entitled to cast one vote.

#### § 3063. TERM

Unless replaced in the manner provided in section 3059 of this chapter, a representative on the governing board shall hold office until his or her successor is duly appointed. Any representative or alternate may be reappointed to successive terms without limit.

#### § 3064. VACANCY

Any vacancy on the board shall be filled within 30 days after such vacancy occurs by appointment by the authority which appointed the representative or alternate whose position has become vacant. An appointee to a vacancy shall serve until the expiration of the term of the representative or alternate to whose position the appointment was made and may thereafter be reappointed.

#### § 3065. RULES OF PROCEDURE

Except as otherwise provided by law, or as may be agreed upon by the board, Robert's Rules of Order shall govern at all meetings.

#### § 3066. COMPENSATION OF REPRESENTATIVES

Each district member may reimburse its representative to the governing board for expenses as it determines reasonable, except as provided in section 3072 of this chapter with respect to district officers.

#### § 3067. OFFICERS; BOND

(a) The officers of the district shall be the chair and the vice chair of the board, the clerk of the district, and the treasurer of the district. Prior to assuming their offices, officers may be required to post bond in such amounts as shall be determined by resolution of the board. The cost of such bond shall be borne by the district.

(b) The chair shall preside at all meetings of the board and shall make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by

the general laws of the State.

(c) During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities hereby given to or imposed upon the chair.

(d) During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its membership an acting vice chair who shall have the powers and be subject to all the responsibilities hereby given or imposed upon the vice chair.

(e) Upon the death, disability, resignation, or removal of the chair or vice chair, the board shall forthwith elect a successor to such vacant office until the next annual meeting.

#### § 3068. CLERK

The clerk of the district shall be appointed by the board, and shall serve at its pleasure. The clerk is not required to be a member of the governing board. The clerk shall have the exclusive charge and custody of the records of the district and the seal of the district. The clerk shall record all votes and proceedings of the district, including district and board meetings, and shall prepare and cause to be posted and published all warnings of meetings of such meetings. Following approval by the board, the clerk shall cause the annual report to be distributed to the legislative bodies of the district members. The clerk shall prepare and distribute any other reports required by State law and resolutions or regulations of the board. The clerk shall perform all duties and functions incident to the office of secretary or clerk of a body corporate.

#### § 3069. TREASURER

The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall not be a member of the governing board. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment thereon. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as shall be required of the treasurer. The treasurer shall prepare the

annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. The treasurer shall do and perform all of the duties appertaining to the office of treasurer of a body politic and corporate. Upon removal or the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to the successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

#### § 3070. AUDIT

Once the district becomes operational, the board shall cause an audit of the financial condition of the district to be performed annually by an independent professional accounting firm.

#### § 3071. COMMITTEES

The board has authority to establish one or more committees and grant and delegate to them such powers as it deems necessary. Members of an executive committee shall serve staggered terms and shall be board members. Membership on other committees established by the board is not restricted to board members.

#### § 3072. COMPENSATION OF OFFICERS

Officers of the district shall be paid from district funds such compensation or reimbursement of expenses, or both, as determined by the board.

#### § 3073. RECALL OF OFFICERS

An officer may be removed by a two-thirds' vote of the board whenever, in its judgment, the best interest of the district shall be served.

#### § 3074. FISCAL YEAR

The fiscal year of the district shall commence on January 1 and end on December 31 of each year.

#### § 3075. BUDGET

(a) Annually, not later than September 15, the board shall approve and cause to be distributed to the legislative body of each district member for review and comment an annual report of its activities, together with a financial statement, a proposed district budget for the next fiscal year, and a forecast presenting anticipated year-end results. The proposed budget shall include reasonably detailed estimates of:

- (1) deficits and surpluses from prior fiscal years;
- (2) anticipated expenditures for the administration of the district;

(3) anticipated expenditures for the operation and maintenance of any district communications plant;

(4) payments due on obligations, long-term contracts, leases, and financing agreements;

(5) payments due to any sinking funds for the retirement of district obligations;

(6) payments due to any capital or financing reserve funds;

(7) anticipated revenues from all sources; and

(8) such other estimates as the board deems necessary to accomplish its purpose.

(b) Coincident with a regular meeting thereof, the board shall hold a public hearing not later than November 1 of each year to receive comments from the legislative bodies of district members and hear all other interested persons regarding the proposed budget. Notice of such hearing shall be given to the legislative bodies of district members at least 30 days prior to such hearing. The board shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.

(c) Annually, not later than December 1, the board shall adopt the budget and appropriate the sums it deems necessary to meet its obligations and operate and carry out the district's functions for the next ensuing fiscal year.

(d) Actions or resolutions of the board for the annual appropriations of any year shall not cease to be operative at the end of the fiscal year for which they were adopted. Appropriations made by the board for the various estimates of the budget shall be expended only for such estimates, but by majority vote of the board the budget may be amended from time to time to transfer funds between or among such estimates. Any balance left or unencumbered in any such budget estimate, or the amount of any deficit at the end of the fiscal year, shall be included in and paid out of the operating budget and appropriations in the next fiscal year. All such budget amendments shall be reported by the district treasurer to the legislative bodies of each district member within 14 days of the end of the fiscal year.

(e) Financial statements and audit results shall be delivered to the legislative bodies of each district member within 10 days of delivery to the board.

#### § 3076. INDEBTEDNESS

The board may borrow money through the issuance of notes of the district for the purpose of paying current expenses of the district. Such notes shall

mature within one year, and may be refunded in the manner provided by law, and shall be payable solely from the district's operating revenues. The governing board may borrow money in anticipation of the receipt of grants-in-aid from any source and any revenues. Such notes shall mature within one year, but may be renewed as provided by general law.

#### § 3077. PLEDGE OF REVENUES

(a) When the board, at a regular or special meeting called for such purpose, determines by resolution passed by a vote of a majority of members present and voting that the public interest or necessity demands communications plant improvements, or a long-term contract, and that the cost of the same will be too great to be paid out of the ordinary annual income and revenue of the district, the board may pledge communications plant net revenues and enter into long-term contracts to provide for such improvements. A "long-term contract" means an agreement in which the district incurs direct or conditional obligations for which the costs are too great to be paid out of the ordinary annual income and revenues of the district, in the judgment of the board. It includes an agreement authorized under 24 V.S.A. § 1789, wherein performance by the district is conditioned upon periodic appropriations. The term "communications plant improvements" includes improvements that may be used for the benefit of the public, whether or not publicly owned or operated.

(b) The pledge of communications plant net revenues, and other obligations allowed by law, may be authorized for any purpose permitted by this chapter, 24 V.S.A. chapter 53, subchapter 2, and chapter 54, or any other applicable statutes. A communications plant is declared to be a project within the meaning of 24 V.S.A. § 1821(4).

#### § 3078. SINKING AND RESERVE FUNDS

(a) The board may establish and provide for sinking and reserve funds, however denominated, for the retirement and security of pledges of communications plant net revenue, or for long-term contracts. When so established, such funds shall be kept intact and separate from other monies at the disposal of the district, and shall be accounted for as a pledged asset for the purpose of retiring or securing such obligations or contracts. The cost of payments to any sinking or reserve fund shall be included in the annual budget of the district.

(b) The board shall establish and provide for a capital reserve fund to pay for communications plant improvements, replacement of worn out buildings and equipment, and planned and unplanned major repairs in furtherance of the purpose for which the district was created. Any such capital reserve fund shall

be kept in a separate account and invested as are other public funds and shall be expended for such purposes for which established. The cost of payments to any capital reserve fund shall be included in the annual budget of the district.

#### § 3079. SERVICE FEES

The board may from time to time establish and adjust service, subscription, access, and utility fees for the purpose of generating revenues from the operation of its communications plant.

#### § 3080. SPECIAL MEETINGS

(a) The board may call a special meeting of the district when it deems it necessary or prudent to do so and shall call a special meeting of the district when action by the voters is necessary under this chapter. In addition, the board shall call a special meeting upon receipt of a petition signed by at least five percent of the registered voters within the district, or upon request of at least 25 percent of district members evidenced by formal resolutions of the legislative bodies of such members or by petitions signed by at least five percent of the member's registered voters. The board may rescind the call of a special meeting called by it but not a special meeting called as provided in this subsection. The board may schedule the date of such special meetings to coincide with the date of annual municipal meetings, primary elections, general elections, or similar meetings when the electorate within the district members will be voting on other matters.

(b) At any special meeting of the district, voters of each district member shall cast their ballots at such polling places within the municipality of their residence as shall be determined by the board of the district in cooperation with the boards of civil authority of each district member.

(c) Not less than three nor more than 14 days prior to any special meeting, at least one public hearing shall be held by the board at which time the issues under consideration shall be presented and comments received. Notice of such public hearing shall include the publication of a warning in a newspaper of general circulation in the district at least once a week, on the same day of the week, for three consecutive weeks, the last publication not less than five nor more than 10 days before the public hearing. Such notice may be included in the warning called for in subsection (d) of this section.

(d) The board shall warn a special meeting by filing a notice with the clerk of each district member and by posting a notice in at least five public places in each municipality in the district not less than 30 nor more than 40 days before the meeting. In addition, the warning shall be published in a newspaper of general circulation in the district once a week on the same day of the week for three consecutive weeks before the meeting, the last publication to be not less

than five nor more than 10 days before the meeting.

(e) The original warning of any special meeting of the district shall be signed by a majority of the board and shall be filed with the clerk before being posted.

(f) The posted and published warning notification shall include the date, time, place, and nature of the meeting. It shall, by separate articles, specifically indicate the business to be transacted and the questions to be voted upon.

(g) The Australian ballot system shall be used at all special meetings of the district when voting is to take place. Ballots shall be commingled and counted under the supervision of the district clerk.

(h) All legal voters of the district members shall be legal voters of the district. The district members shall post and revise checklists in the same manner as for municipal meetings prior to any district meeting at which there will be voting.

(i) At all special meetings, the provisions of 17 V.S.A. chapter 51 regarding election officials, voting machines, polling places, absentee voting, process of voting, count and return of votes, validation, recounts and contest of elections, reconsideration or rescission of vote, and jurisdiction of courts shall apply except where clearly inapplicable. The clerk shall perform the functions assigned to the Secretary of State under that chapter. The Washington Superior Court shall have jurisdiction over petitions for recounts. Election expenses shall be borne by the district, unless within 30 days of the date of such resolution there is filed with the clerk of the district a request to call a special district meeting under this section to consider a proposition to rescind such resolution.

#### § 3081. WITHDRAWAL OF A MEMBER MUNICIPALITY

A district member may withdraw from the district upon the terms and conditions specified below:

(1) Prior to the district pledging communications plant net revenues, or entering into a long-term contract, or contract subject to annual appropriation, a district member may vote to withdraw in the same manner as the vote for admission to the district. If a majority of the voters of a district member present and voting at a meeting duly warned for such purpose votes to withdraw from the district, the vote shall be certified by the clerk of that municipality and presented to the board. Thereafter, the board shall give notice to the remaining district members of the vote to withdraw and shall hold a meeting to determine if it is in the best interest of the district to continue to

exist. Representatives of the district members shall be given an opportunity to be heard at such meeting together with any other interested persons. After such a meeting, the board may declare the district dissolved immediately or as soon thereafter as its financial obligations and of each district member on account thereof have been satisfied, or it may declare that the district shall continue to exist despite the withdrawal of such member. The membership of the withdrawing municipality shall terminate as soon after such vote to withdraw as any financial obligations of the withdrawing municipality have been paid to the district.

(2) After the district has pledged communications plant net revenues, or entered into a long-term contract or contract subject to annual appropriations, a district member may vote to withdraw in the same manner as the vote for admission to the district. It shall be a condition that the withdrawing municipality shall enter into a written agreement with the district whereby such municipality shall be obligated to continue to pay its share of any contract obligations incurred by the district for the remaining term of the contract term.

#### § 3082. ADMISSION OF DISTRICT MEMBERS

The board may authorize the inclusion of additional district members in the communications union district upon such terms and conditions as it in its sole discretion shall deem to be fair, reasonable, and in the best interests of the district. The legislative body of any nonmember municipality which desires to be admitted to the district shall make application for admission to the board. The board shall determine the financial, economic, governance, and operational effects that are likely to occur if such municipality is admitted and thereafter either grant or deny authority for admission of the petitioning municipality. If the board grants such authority, it shall also specify any terms and conditions, including financial obligations, upon which such admission is predicated. Upon resolution of the board, such applicant municipality shall become and thereafter be a district member.

#### § 3083. DISSOLUTION

(a) If the board by resolution approved by two-thirds of all the votes entitled to be cast determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if the district then has no outstanding obligations under pledges of communications plant net revenue, long-term contracts, or contracts subject to annual appropriation, or will have no such debt or obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such dissolution and the plan of dissolution be submitted to the voters of the district at a special meeting thereof duly warned for such purpose. If a majority of the voters of the district present

and voting at such special meeting shall vote to dissolve the district and approve the plan of dissolution, the district shall cease to conduct its affairs except insofar as may be necessary for the winding up thereof. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the district and to the Secretary of State and shall proceed to collect the assets of the district and apply and distribute them in accordance with the plan of dissolution.

(b) The plan of dissolution shall:

(1) identify and value all unencumbered assets;

(2) identify and value all encumbered assets;

(3) identify all creditors and the nature or amount of all liabilities and obligations;

(4) identify all obligations under long-term contracts and contracts subject to annual appropriation;

(5) specify the means by which assets of the district shall be liquidated and all liabilities and obligations paid and discharged, or adequate provision made for the satisfaction thereof;

(6) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary; and

(7) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

(c) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the district members whereupon the district shall be terminated, and notice thereof shall be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in anticipation of confirmation of dissolution by the General Assembly.

#### Sec. 21. EAST CENTRAL VERMONT TELECOMMUNICATIONS DISTRICT

The East Central Vermont Telecommunications District approved by the voters of the Towns of Norwich, Randolph, Sharon, Strafford, and Woodstock on March 3, 2015, qualifies as a communications union district under 30 V.S.A. chapter 82, if so approved by the legislative body of each municipality after enactment of 30 V.S.A. chapter 82.

\* \* \* VEDA Loans to Telecommunications Union Districts \* \* \*

Sec. 22. 10 V.S.A. § 212 is amended to read:

§ 212. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Eligible facility” or “eligible project” means any industrial, commercial, or agricultural enterprise or endeavor approved by the authority that meets the criteria established in the Vermont Sustainable Jobs Strategy adopted by the Governor under section 280b of this title, including land and rights in land, air, or water, buildings, structures, machinery, and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of state, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing. Such enterprises or endeavors may include:

\* \* \*

(N) industrial park planning, development, or improvement; ~~or~~

(O) for purposes of subchapter 5 of this chapter, a telecommunications plant, as defined in 24 V.S.A. § 1911(2), owned by a municipality individually or in concert with one or more other municipalities as a communications union district established under 30 V.S.A. chapter 82; or

(P) any combination of the foregoing activities, uses, or purposes. An eligible facility may include structures, appurtenances incidental to the foregoing such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities.

\* \* \*

Sec. 23. 10 V.S.A. § 261 is amended to read:

§ 261. ADDITIONAL POWERS

In addition to powers enumerated elsewhere in this chapter, the Authority may:

(1) make loans secured by mortgages, which may be subordinate to one or more prior mortgages, upon application by the proposed mortgagor, who may be a private corporation, partnership ~~or~~, person, or municipality financing an eligible project described in subdivision 212(6) of this title, upon such terms as the Authority may prescribe, for the purpose of financing the establishment or expansion of eligible facilities. Such loans shall be made from the Vermont Jobs Fund established under subchapter 3 of this chapter. The Authority may provide for the repayment and redeposit of such loans in the manner provided

hereinafter.

\* \* \*

Sec. 24. 10 V.S.A. § 262 is amended to read:

§ 262. FINDINGS

Before making any loan, the Authority shall receive from an applicant a loan application in such form as the Authority may by regulation prescribe, and the Authority, or the Authority's loan officer pursuant to the provisions of subdivision 216(15) of this title, shall determine and incorporate findings in its minutes that:

\* \* \*

(5) The principal obligation of the Authority's mortgage does not exceed \$1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless:

(A) an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the Authority's mortgage does not exceed \$2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section; or

(B) a single loan for which the principal amount of the Authority's mortgage does not exceed \$3,000,000.00 for an eligible facility consisting of a municipal telecommunications plant, as defined in 24 V.S.A. § 1911(2); or

\* \* \*

Sec. 25. 10 V.S.A. § 263 is amended to read:

§ 263. MORTGAGE LOAN; LIMITATIONS

\* \* \*

(b) Any loan of the ~~authority~~ Authority under this subchapter shall be for a period of time and shall bear interest at such rate as determined by the ~~authority~~ Authority and shall be secured by a mortgage on the eligible facility for which the loan was made or upon the assets of a municipal communications plant, including the net revenues derived from the operation thereof, or both. The mortgage may be subordinate to one or more prior mortgages, including the mortgage securing the obligation issued to secure the

commitment of funds from the independent and responsible sources and used in the financing of the economic development project. Monies loaned by the authority shall be withdrawn from the Vermont jobs fund fund and paid over to the mortgagor in such manner as provided and prescribed by the rules and regulations of the authority. All payments of principal and interest on the loans shall be deposited by the authority in the Vermont jobs fund.

\* \* \*

(h) All actions of a municipality taken under this subchapter for the financing of an eligible project described in subsection 212(b) shall be as authorized in section 245 of this title.

(i) The provisions of section 247 of this title shall apply to the financing of an eligible project described in subdivision 216(6) of this title.

\* \* \* Statutory Revision \* \* \*

#### Sec. 26. STATUTORY REVISION

In its statutory revision capacity under 2 V.S.A. § 424, the Office of Legislative Council shall, where appropriate in 30 V.S.A. chapter 88:

(1) replace the words “Public Service Board” with the words “Department of Public Service”;

(2) replace the word “Board” with the word “Commissioner”; and

(3) make other similar amendments necessary to effect the purposes of this act.

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

#### Sec. 27. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2015, except that this section and Secs. 6(e) (Commissioner approval of all Vermont Telecommunications Contracts), 13 (conversion of a meteorological station to wireless telecommunications facility), 15 (retransmission fee reporting), 16 (E-911 operations and savings), 20 (telecommunications union district), 21 (ECFiber qualifies as telecommunications union district), 22–25 (municipal telecommunications projects eligible for VEDA lending), and 26 (statutory revision authority) shall take effect on passage.

(b) Secs. 17, 18, and 19 (transferring administration of the E-911 Board to the Department of Public Safety) shall take effect upon a finding by the Secretary of Administration that the administration of the E-911 system should be transferred to the Department of Public Safety not later than July 1, 2015.

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

An act relating to telecommunications.

(Committee vote: 6-0-1)

(For House amendments, see House Journal for March 31, 2015, pages 691-706)

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

(Committee vote: 6-0-1)

### **H. 269.**

An act relating to the transportation and disposal of excavated development soils legally categorized as solid waste.

**Reported favorably with recommendation of proposal of amendment by Senator Bray for the Committee on Natural Resources & Energy.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. LEGISLATIVE FINDINGS

The General Assembly finds and declares that:

(1) polycyclic aromatic hydrocarbons (PAHs), arsenic, and lead may be considered hazardous materials under State law;

(2) PAHs, arsenic, and lead frequently are present in the environment as a result of atmospheric deposition of exhaust products from incomplete combustion of hydrocarbons, including oil, gasoline, coal, wood, and solid waste;

(3) arsenic and lead can be present as naturally occurring elements in soils;

(4) soils on properties within downtowns or village centers often contain PAHs, arsenic, or lead at levels that exceed the Vermont soil screening standards even though there is no identifiable, site-specific source of the PAHs, arsenic, or lead contamination on the property;

(5) presence of PAHs, arsenic, or lead due to atmospheric deposition or natural occurrence can complicate the development of properties in downtowns and village centers; and

(6) to facilitate development in downtowns and village centers, while also arranging for the proper disposition of contaminated soil, a process should be established to allow the transfer of soil containing PAHs, arsenic, or lead to receiving sites that meet criteria established by the Secretary of Natural Resources.

Sec. 2. 10 V.S.A. § 6602 is amended to read:

§ 6602. DEFINITIONS

As used in this chapter:

\* \* \*

(37) “Background concentration level” means the concentration level of PAHs, arsenic, or lead in soils, expressed in units of mass per mass, that is attributable to site contamination caused by atmospheric deposition or is naturally occurring and determined to be representative of statewide or regional concentrations through a scientifically valid means as determined by the Secretary.

(38) “Commencement of construction” means the construction of the first improvement on the land or to any structure or facility located on the land. “Commencement of construction” shall not mean soil testing or other work necessary for assessment of the environmental conditions of the land and subsurface of the land.

(39) “Development soils” means unconsolidated mineral and organic matter overlying bedrock that contains PAHs, arsenic, or lead in concentrations that:

(A) exceed the relevant soil screening level for residential soil;

(B) when managed in compliance with section 6604c, 6605, or 6605c of this title:

(i) pose no greater risk than the Agency-established soil screening value for the intended reuse of the property; and

(ii) pose no unreasonable risk to human health through a dermal, inhalation, or ingestion exposure pathway;

(C) does not leach compounds at concentrations that exceed groundwater enforcement standards; and

(D) does not result in an exceedance of Vermont groundwater enforcement standards.

(40) “Development soils concentration level” means those levels of PAHs, arsenic, or lead expressed in units of mass per mass, contained in the development soils.

(41) “Downtown development district” shall have the meaning stated in 24 V.S.A. § 2791(4).

(42) “Growth center” shall have the meaning stated in 24 V.S.A. § 2793c.

(43) “Neighborhood development area” shall have the meaning stated in 24 V.S.A. § 2793e.

(44) “Origin site” means a location where development soils originate.

(45) “PAHs” means polycyclic aromatic hydrocarbons.

(46) “Receiving site” means a location where development soils are deposited.

(47) “Receiving site concentration level” means those levels of PAHs, arsenic, or lead, expressed in units of mass per mass, that exist in soils at a receiving site.

(48) “TIF district” means a tax increment financing district created by a municipality pursuant to 24 V.S.A. § 1892.

(49) “Village center” shall have the meaning stated in 24 V.S.A. § 2791(10).

Sec. 3. 10 V.S.A. § 6604c is added to read:

§ 6604c. MANAGEMENT OF DEVELOPMENT SOILS

(a)(1) The Secretary shall not require a person that manages development soils in a manner that meets the requirements of this section to take corrective action procedures pursuant to section 6615b or 6648 of this title or to obtain a solid waste certification under this chapter for the management, transport, or receipt of development soils, provided that:

(A) the soils are removed from an origin site located in a designated downtown development district, growth center, neighborhood development area, TIF district, or village center;

(B) the origin site or the receiving site of the development soils is not:

(i) the subject of a planned or ongoing removal action under the Comprehensive Environmental, Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.; or

(ii) listed or proposed for listing as a CERCLA site under 42 U.S.C. § 9605; and

(C) the investigation and management of development soils occur under plans submitted and approved pursuant to subsection (b) of this section.

(2) This section shall apply to the management of development soils only until the Secretary adopts rules under this chapter for the management of development soils, provided that those rules satisfy all of the requirements of subsection (d) of this section.

(b) Development soils cleanup requirements.

(1) The development and implementation of plans and work performed pursuant to plans under this section shall be supervised and certified by an environmental professional, as that term is defined in 40 C.F.R. § 312.10.

(2) Prior to the commencement of construction activities, a person applying to manage development soils under this subsection shall provide the Secretary with:

(A) complete investigation workplans for the origin site and the proposed receiving site that include:

(i) for the origin site, representative sampling and analysis of the development soil proposed for management under this section for PAHs, arsenic, and lead;

(ii) for the receiving site, representative in situ surface soil sampling and analysis for PAHs, arsenic, and lead;

(iii) at least one synthetic precipitation leachate procedure analysis representative of the development soil to determine likelihood of adverse impacts to groundwater; and

(iv) establishment of approximate seasonal depth to groundwater and underlying soil stratigraphy at the receiving site;

(B) a report of the results of any approved investigation workplan;

(C) the management plans for the origin site and proposed receiving site, which;

(i) shall demonstrate that the management of the development soils will meet all applicable Vermont Water Quality Standards and will not present an unreasonable threat to groundwater, surface water, human health, or the environment; and

(ii) for a receiving site, shall include a description of the siting, construction, operation, and closure of the receiving site; and

(D) documentation that the development soils concentration levels are approximately equivalent to or less than the receiving site concentration levels for the same contaminants.

(3) Upon receipt of a complete work plan submitted under subdivision (b)(2)(A) of this section or a complete management plan submitted under subdivision (b)(2)(C) of this section, the Secretary shall make a final determination as to whether the investigation workplan or management plan submitted under this subsection satisfies the requirements of subdivision (b)(2)(A) of this section for investigation work plans or subdivision (b)(2)(C) of this section for management plans. Prior to making a final determination on a management plan under this section, the Secretary shall allow for a public comment period on the plan for no less than 14 days. The Secretary shall hold a public informational meeting on a management plan upon request from any person. The Secretary shall issue a final decision regarding the investigation work plan or management plan within 45 days of receipt of the respective plan.

(4) Upon the submission of a final report documenting implementation of the management plan, the Secretary shall make a final determination as to whether the developer has satisfied all requirements of the management plan within 45 days of receipt of the developer's request for such a determination.

(c) Notwithstanding the requirements under subdivision (b)(2) of this section for submission of required materials prior to the commencement of construction, development soils stockpiled on municipal properties as of the effective date of this section shall be eligible for management under the provisions of this section, provided that the requirements of subsection (a)(1) and (b) of this section are otherwise met.

(d) On or before July 1, 2016, the Secretary shall adopt rules that allow for the management of excavated soils requiring disposal that contain PAHs, arsenic, or lead in a manner that ensures protection of human health and the environment and promotes Vermont's traditional settlement patterns in compact village or city centers. At a minimum, the rules shall:

(1) include statewide or regional background concentration levels for PAHs, arsenic, and lead that are representative of typical soil concentrations and found throughout existing development areas;

(2) specify that development soils with concentration levels equal to or lower than the background concentration levels established by the Secretary shall not be defined as or required to be treated as solid waste;

(3) include criteria for determining site-specific maximum development soil concentration levels for PAHs, arsenic, and lead;

(4) in addition to disposal at a certified waste facility, adopt procedures for the management or disposal of development soils that have concentration levels that exceed residential soil screening levels, but are below the site-specific maximum development soils concentration levels;

(5) adopt a process to preapprove sites to receive development soils from multiple developments; and

(6) be designed to provide that the criteria established under subdivision (3) of this subsection and the process developed under subdivision (4) of this subsection shall be no less protective of human health and the environment than the standard for development soils and the process established under subsection (b) of this section.

(e) At any time, the Secretary may adopt by rule background and maximum concentration levels for other potentially hazardous material in soils such that the development soils containing these other materials would be categorized and treated according to the rules adopted by the Secretary under subsection (d) of this section.

Sec. 4. 10 V.S.A. § 6001(3)(D)(vi) is amended to read:

(vi) The construction of improvements for any one of the actions or abatements authorized in subdivision (I) of this subdivision (vi):

\* \* \*

(ff) The management of “development soils,” as that term is defined in 10 V.S.A. § 6602(39), under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

#### Sec. 5. CATEGORICAL SOLID WASTE CERTIFICATION

Development soils as defined in 10 V.S.A. § 6602(39) shall be eligible for disposal at a categorical disposal facility certified by the Secretary of Natural Resources for the disposal of development soils pursuant to 10 V.S.A. § 6605c.

#### Sec. 6. MANAGEMENT OF DEVELOPMENT SOILS AS ALTERNATIVE DAILY COVER

Development soils as defined in 10 V.S.A. § 6602(39) shall be eligible to be used as alternative daily cover at a solid waste facility certified pursuant to 10 V.S.A. § 6605.

#### Sec. 7. REPEAL

On July 1, 2016, 10 V.S.A. § 6604c(a), (b), and (c) are repealed.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 3-1-1)

(For House amendments, see House Journal for March 17, 2015, page 422)

**H. 484.**

An act relating to miscellaneous agricultural subjects.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Agricultural Water Quality; Financial Assistance \* \* \*

Sec. 1. 6 V.S.A. § 4815(c) is amended to read:

(c) ~~For purposes of As used in~~ this section, “waste storage facility” means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an ~~in-ground or above-ground~~ inground and aboveground structure, or any combination thereof. ~~This section does not apply to concrete slabs used for agricultural waste management.~~

Sec. 2. 6 V.S.A. § 4820 is amended to read:

§ 4820. DEFINITIONS

~~For purposes of As used in~~ this subchapter:

(1) “AAPs” means “accepted agricultural practices” as defined by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets pursuant to subchapter 1 of this chapter.

(2) “Secretary” means the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

(3) “Agency” means the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

\* \* \*

(6) “Good standing” means the participant:

(A) does not have an active enforcement violation that has reached a final order with the Secretary; or

(B) is in compliance with all terms of a current grant agreement or contract with the Agency.

Sec. 3. 6 V.S.A. § 4821 is amended to read:

§ 4821. ASSISTANCE PROGRAM CREATED; ADMINISTRATION

(a) Program created. A program is created to provide ~~state~~ State financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters of the ~~state~~ State of Vermont, consistent with goals of the federal Water Pollution Control Act and with ~~state~~ State water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the ~~state~~ State shall be an on-farm improvement eligible for assistance under this subchapter when subject to a maintenance agreement entered into with the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

(b) Program administration. The ~~secretary~~ Secretary shall:

(1) ~~administer~~ Administer the ~~state~~ State assistance program, for which purpose the ~~secretary~~ Secretary shall coordinate with officials of the U.S. Department of Agriculture or other federal agencies, and shall adopt rules pursuant to 3 V.S.A. chapter 25 of Title 3 concerning farmer application and eligibility requirements, financial assistance award priorities, and other administrative and enforcement conditions; ~~and~~.

(2) ~~may~~ May provide technical assistance to individual farmers with the preparation of on-farm agricultural waste management plans, applications for ~~state~~ State and federal financial assistance awards, installation of on-farm improvements, and maintenance of acceptable operating standards during the ~~life of a state assistance award contract term of the program grant agreement~~. For this purpose, ~~state~~ State employees of the ~~agency~~ Agency shall cooperate with federal employees of the U.S. Department of Agriculture or other federal agencies.

Sec. 4. 6 V.S.A. § 4822 is amended to read:

§ 4822. ELIGIBILITY FOR STATE ASSISTANCE

Vermont farmers shall be eligible to receive available ~~state~~ State financial assistance with the installation of on-farm improvements designed to control agricultural nonpoint source waste discharges, provided that:

(1) for farmers who also seek federal financial assistance for this purpose, the improvements:

(A) are eligible for federal assistance through programs of the U.S. Department of Agriculture; and

(B) are consistent with a “nutrient management plan” prepared by the Vermont field office of the NRCS, or with an animal waste management plan based on standards equivalent to those of the NRCS; or

(2) for farmers who decline to seek or accept federal financial assistance for this purpose, the improvements:

(A) are determined by the ~~secretary~~ Secretary to be equivalent to those eligible for federal assistance through programs of the U.S. Department of Agriculture; and

(B) are consistent with an animal waste management plan based on standards determined by the ~~secretary~~ Secretary to be equivalent to those of the NRCS; and

(3) improvements will be constructed on a farm that is in good standing with the Secretary at the time of the award on all grant agreements, contract awards, or enforcement proceedings.

Sec. 5. 6 V.S.A. § 4824 is amended to read:

#### § 4824. STATE FINANCIAL ASSISTANCE AWARDS

(a) State grant. State financial assistance awarded under this subchapter shall be in the form of a grant. When a State grant is intended to match federal financial assistance for the same on-farm improvement project, the State grant shall be awarded only when the federal financial assistance has also been approved or awarded. An applicant for a State grant shall pay at least 10 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded, except that a State grant shall not exceed 90 percent of the total eligible project cost.

(b) ~~Farmer contract.~~ A State grant awarded to an applicant under this subchapter shall be awarded in accordance with a State ~~contract~~ grant containing ~~contract~~ terms substantially the same as those required for receipt of a federal award for the same purpose from the U.S. Department of Agriculture, except as provided by the Secretary by rule.

Sec. 6. 6 V.S.A. § 4826 is amended to read:

#### § 4826. COST ASSISTANCE FOR WASTE STORAGE FACILITIES

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for cost assistance. Using ~~state~~ State or federal funds, or both, a State assistance grant shall be awarded, subject to the availability of funds, to applicants. Such grants shall not exceed 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation Service cost share assistance. Application for a State assistance grant shall be made in the manner prescribed by the Secretary. ~~As used in this section, "waste storage facility" means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. This section shall apply to concrete slabs used for agricultural waste management.~~

(b) If the Secretary lacks adequate funds necessary for the cost assistance awards required by subsection (a) of this section, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. If the Emergency Board fails to provide adequate funds, the design and construction requirements for waste storage facilities under subsection 4815(b) of this title and the AAPs for groundwater, as they relate to a waste storage facility, shall be suspended for a farm with a waste storage facility subject to the requirements of subsection 4815(b) of this title until adequate funding becomes available. Suspension of the design and construction requirements of subsection 4815(b) of this title does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title from the remaining requirements of the owner's or operator's permit, including discharge standards, groundwater protection, nutrient management planning, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(c) The owner or operator of a farm with a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for a State assistance grant for the costs of complying with the U.S. Department of Agriculture Natural Resources Conservation Service requirements for inspection of a waste storage facility. Such grants shall not exceed 90 percent of the cost of the inspection of the waste storage facility. Application for a State assistance grant shall be made in the manner prescribed by the Secretary.

Sec. 7. 6 V.S.A. § 4827(e) and (f) are amended to read:

(e) If the Secretary or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop

and implement a nutrient management plan under State statute or State regulation shall be suspended until adequate funding becomes available. Suspension of a State-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title of the remaining requirements of a State permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(f) The Secretary may ~~contract~~ enter into grants with natural resources conservation districts, the University of Vermont Extension Service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans.

Sec. 8. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to ~~state~~ State waters, improve water quality of State waters, reduce odors from manure application, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined ~~by rule~~ by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators and nonprofit organizations and that are located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site which is located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(d) [Repealed.]

Sec. 9. 6 V.S.A. § 4849 is amended to read:

§ 4849. RECYCLING ANIMAL WASTE NUTRIENTS

In order to best use the nutrients of animal waste generated by ~~large~~ farm operations, the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets together with the ~~department of public service~~ Department of Public Service shall use available resources to inform ~~large~~ farm operations of appropriate methods and resources available to digest and compost their animal wastes, and to capture methane for beneficial uses.

Sec. 10. 6 V.S.A. § 4850 is amended to read:

§ 4850. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “Domestic fowl” means laying-hens, broilers, ducks, ~~and~~ turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.

(2) “Livestock” means cattle, mature cow/calf pairs, youngstock, heifers, bulls, swine, sheep, ~~or~~ goats, horses, or any other number and type of domestic animal that the Secretary deems livestock.

Sec. 11. 6 V.S.A. § 4851 is amended to read:

§ 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

(a) No person shall, without a permit from the ~~secretary~~ Secretary, construct a new barn, or expand an existing barn, designed to house more than 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks without a liquid manure handling system. No permit shall be required to replace an existing barn in use for

livestock or domestic fowl production at its existing capacity. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any application for a permit under this section with regard to water quality impacts and, prior to approval of a permit under this subsection, shall issue a written determination regarding whether the applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a large farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations.

(b) A person shall apply for a permit in order to operate a farm which exceeds 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks if the livestock or domestic fowl are in a barn or adjacent barns owned by the same person, or if the barns share a common border or have a common waste disposal system. In order to receive this permit, the person shall demonstrate to the ~~secretary~~ Secretary that the farm has an adequately sized manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards.

(c) The ~~secretary~~ Secretary shall approve, condition, or disapprove the application within 45 business days of the date of receipt of a complete application for a permit under this section. Failure to act within the 45 business days shall be deemed approval.

(d) A person seeking a permit under this section shall apply in writing to the ~~secretary~~ Secretary. The application shall include a description of the proposed barn or expansion of livestock or domestic fowl; a proposed nutrient

management plan to accommodate the number of livestock or domestic fowl the barn is designed to house or the farm is intending to expand to; and a description of the manure management system to be used to accommodate agricultural wastes.

(e) The ~~secretary~~ Secretary may condition or deny a permit on the basis of odor, noise, traffic, insects, flies, or other pests.

(f) Before granting a permit under this section, the ~~secretary~~ Secretary shall make an affirmative finding that the animal wastes generated by the construction or expansion will be stored so as not to generate runoff from a 25-year, 24-hour storm event and shall be disposed of, in accordance with the accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards.

(g) A farm that is permitted under this section and that withdraws more than 57,600 gallons of groundwater per day averaged over any 30 consecutive-day period shall annually report estimated water use to the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall share information reported under this subsection with the ~~agency of natural resources~~ Agency of Natural Resources.

Sec. 12. 6 V.S.A. § 4856 is amended to read:

§ 4856. ~~RECYCLING ANIMAL WASTE NUTRIENTS~~

~~In order best to use the nutrients of animal waste generated by farms to which this subchapter applies, the agency of agriculture, food and markets, together with the department of public service, shall use available resources to inform operators of such farms of appropriate methods and resources available to digest and compost their animal wastes and to capture methane for beneficial uses. [Repealed.]~~

Sec. 13. 6 V.S.A. § 4857 is amended to read:

§ 4857. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

(1) “Animal feeding operation” (AFO) means a lot or facility where the livestock or domestic fowl have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility. Two or more individual farms qualifying as an AFO which are under common ownership and which adjoin each other or use a common area or system for the disposal of waste, shall be considered to be a single AFO if the combined number of livestock or

domestic fowl resulting qualifies as a medium farm as defined in subdivision (2) of this section.

(2) “Medium farm” is an AFO which houses 200 to 699 mature dairy animals, 300 to 999 cattle or cow/calf pairs, 300 to 999 veal calves, 750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing less than 55 pounds, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to 54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure handling system, 25,000 to 81,999 laying hens without a liquid manure handling system, 37,500 to 124,999 chickens other than laying hens without a liquid manure handling system, 1,500 to 4,999 ducks with a liquid manure handling system or 10,000 to 29,999 ducks without a liquid manure handling system.

(3) “Small farm” is an AFO which houses no more than 199 mature dairy animals, 299 cattle or cow/calf pairs, 299 veal calves, 749 swine weighing over 55 pounds, 2,999 swine weighing less than 55 pounds, 149 horses, 2,999 sheep or lambs, 16,499 turkeys, 8,999 laying hens or broilers with a liquid manure handling system, 24,999 laying hens without a liquid manure handling system, 37,499 chickens other than laying hens without a liquid manure handling system, 1,499 ducks with a liquid manure handling system or 9,999 ducks without a liquid manure handling system.

(4) “Domestic fowl” means laying hens, broilers, ducks, ~~and~~ turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.

(5) “Livestock” means cattle, swine, sheep, goats, and horses, or any other number and type of domestic animal that the Secretary deems livestock.

Sec. 14. 6 V.S.A. § 4858(c) is amended to read:

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the ~~secretary~~ Secretary within a period specified in the permit, and in a manner specified by the ~~secretary~~ Secretary, that the medium farm does comply with permit requirements regarding an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards. Any certification or notice of intent to comply submitted under this subdivision shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any certification or notice of intent to comply submitted under this subdivision with regard to the

water quality impacts of the medium farm for which the owner or operator is seeking coverage, and, within 18 months of receiving the certification or notice of intent to comply, shall verify whether the owner or operator of the medium farm has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of a medium farm granted coverage under the general permit adopted pursuant to this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title.

\* \* \*

(d) Medium and small farms; individual permit. The ~~secretary~~ Secretary may require the owner or operator of a small or medium farm to obtain an individual permit to operate after review of the farm's history of compliance, application of accepted agricultural practices, the use of an experimental or alternative technology or method to meet a ~~state~~ State performance standard, or other factors set forth by rule. The owner or operator of a small farm may apply to the ~~secretary~~ Secretary for an individual permit to operate under this section. To receive an individual permit, an applicant shall in a manner prescribed by rule demonstrate that the farm has an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current U.S. Department of Agriculture nutrient management standards, including setback requirements for waste application. An individual permit shall be valid for no more than five years. Any application for an individual permit filed under this subsection shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~agency of natural resources~~ Agency of Natural Resources, shall review any application for a permit under this subsection and, prior to issuance of an individual permit under this subsection, shall issue a written determination regarding whether the permit applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to federal regulations for concentrated animal feeding operations. If, upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets that

the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a medium or small farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations. Coverage of a medium farm under a general permit adopted pursuant to this section or an individual permit issued to a medium or small farm under this section is rendered void by the issuance of a permit to a farm under 10 V.S.A. § 1263.

Sec. 15. 6 V.S.A. chapter 215, subchapter 6 is amended to read:

~~Subchapter 6. Vermont Agricultural Buffer~~ Critical Area Seeding and Filter Strip Program

§ 4900. VERMONT ~~AGRICULTURAL BUFFER~~ SEEDING AND FILTER STRIP PROGRAM

(a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets is authorized to develop a Vermont ~~agricultural buffer~~ critical source area seeding and filter strip program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative ~~buffers and installing conservation practices in ditch networks~~ grassed waterways and filter strips on agricultural ~~land~~ cropland perpendicular and adjacent to the surface waters of the ~~state~~ State, including ditches. Eligible acreage would include annually tilled cropland or a portion of cropland currently cropped as hay that will not be rotated into an annual crop for a 10-year period of time. Acreage that is currently managed as hay shall have a prior history of rotation as corn or other annual commodity crop.

(b) ~~The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed the combined federal and state payment that the relevant agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another approved conservation program. The incentive payment~~ Incentive payments from the Agency of Agriculture, Food and Markets shall be made annually at the end of the cropping season for a nonrenewable five year period at the outset of a 10-year agreement to establish or maintain the acreage as harvestable grassed waterway or filter strip.

(c) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont ~~agricultural buffer~~ critical source area seeding and filter strip program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, “surface waters” means all rivers, streams, ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are contained within, flow through, or border upon the ~~state~~ State or any portion of it.

Sec. 16. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices ~~shall~~ may be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
- (2) cover cropping;
- (3) strip cropping;
- (4) cross-slope tillage;
- (5) zone or no-tillage;
- (6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a State or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$2,000.00 per year;

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

(A) the impact on Vermont waters of agricultural waste discharges;

(B) the federal and State requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

\* \* \* Agency of Agriculture, Food and Markets Permitting \* \* \*

Sec. 17. 6 V.S.A. § 1 is amended to read:

§ 1. GENERAL POWERS OF AGENCY; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) ~~The agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets shall be administered by a ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets. The ~~secretary~~ Secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The ~~secretary~~ Secretary may:

\* \* \*

(13) notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the ~~secretary~~ Secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such multiyear licensure, permit, registration, or certificate on a pro-rated basis which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the ~~secretary~~ Secretary where the annual fee is more than \$125.00. The Secretary shall only provide refunds for overpayments of \$25.00 or more on a license, permit, registration, or certificate issued by the Secretary;

\* \* \*

\* \* \* Dairy Operations; Drugs \* \* \*

Sec. 18. 6 V.S.A. § 2744a is amended to read:

§ 2744a. DRUGS

(a) No producer shall sell or offer for sale milk which contains any drug or drugs in excess of tolerances established by the United States Food and Drug Administration in the Code of Federal Regulations.

~~(1) In the event that milk from a dairy farm contains a drug, no more milk produced by that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. In the event of a second violation within a 12-month period, no more milk produced by that producer shall be received by any milk dealer or handler for a period of up to two days and until a sample of at least one complete milking has been collected and found negative. In the event of a third violation within a 12-month period, the secretary shall, at a minimum, take the same action as required for a second violation and may prohibit the producer from selling milk in this state. No handler or dealer shall accept milk from a producer whose ability to sell milk is suspended or terminated.~~

~~(2) In lieu of suspending a producer's ability to sell milk, the secretary may issue an administrative penalty. The amount of the penalty shall not exceed the value of the milk which could have been prohibited from sale. A producer who fails to pay an administrative penalty, after opportunity for hearing, shall have his or her ability to sell milk suspended until the penalty is paid. In lieu of suspending a producer's ability to sell milk, the secretary may accept the assessment by the milk dealer or handler, against the producer, of damages beyond the milk dealer's or handler's control that occurred as a result of purchasing the contaminated milk, as an equivalent penalty.~~

(1) In the event that milk from a dairy producer contains a drug residue:

(A) No more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative.

(B) If a second drug residue violation occurs within 12 months of the first violation, no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of one day of milk production assessed.

(C) If a third drug residue violation occurs within 12 months of the first violation, no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of two days of milk production assessed. A hearing shall be warned to determine if the producer will be allowed to continue to ship milk.

(2) No handler or dealer shall accept milk from:

(A) a producer after a drug residue violation has occurred until a sample of at least one complete milking has been found negative; or

(B) a producer whose ability to sell milk is suspended or terminated.

(3) A producer who fails to pay an administrative penalty issued under this section within 30 days of issuance of a citation for violation of this section shall have his or her ability to sell milk suspended until the administrative penalty is paid. In lieu of suspending a producer's ability to sell milk, the Secretary may accept the assessment by the milk dealer against the producer.

~~(3)~~(4) Notwithstanding the provisions of subsection (c) of this section, the ~~secretary~~ Secretary may at any time issue an emergency order prohibiting a producer from selling and a handler from accepting any milk until the milk tests negative for drugs.

(b)(1) No producer shall sell ~~livestock~~ for slaughter ~~which contains livestock with bodily tissue containing~~ any drug or drugs in excess of tolerances established by the ~~United States~~ U.S. Food and Drug Administration in the Code of Federal Regulations.

(2) In the event that bodily tissue obtained from livestock intended for slaughter is found to contain a drug or drugs in excess of levels established by the ~~United States~~ U.S. Food and Drug Administration in the Code of Federal Regulations at the time of sale, the ~~secretary~~ Secretary may assess an administrative penalty not to exceed \$1,000.00 for each violation and may require the farm to participate in a program approved by the Agency intended to mitigate further selling of animals for food that contain violative drug residues in their tissue.

(c) Before issuing an order or administrative penalty under this section, the ~~secretary~~ Secretary shall provide the producer and the handler or dealer an opportunity for hearing.

\* \* \* Weights and Measures \* \* \*

Sec. 19. 9 V.S.A. § 2633 is amended to read:

§ 2633. SPECIFIC POWERS AND DUTIES OF SECRETARY;  
REGULATIONS

(a) The Secretary shall issue from time to time reasonable regulations for the enforcement of this chapter, which regulations shall have the force and effect of law. These regulations may include (1) standards of net weight, measure, or count, and reasonable standards of fill, for any commodity in package form, (2) rules governing the technical and reporting procedures to be

followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties, (3) exemptions from the sealing or marking requirements of section 2639 of this title with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question. These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in section 2635 of this title, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (1) that are not accurate, (2) that are of such construction that they are faulty—that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly—or (3) that facilitate the perpetration of fraud.

(b) The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices, as adopted by the national conference on weights and measures and published in National Institute of Standards and Technology Handbook 44, “Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices,” and supplements thereto, or revisions thereof, shall apply to weighing and measuring devices in the State, except insofar as modified or rejected by regulation.

(c) The uniform regulation for packaging and labeling, the uniform regulation for unit pricing, and the uniform regulation for the method of sale of commodities, except for bread, as adopted by the national conference on weights and measures, and published by the National Institute of Standards and Technology Handbook 130, “Uniform Laws and Regulations,” together with amendments, supplements, and revisions thereto, are adopted as part of this chapter except as modified or rejected by regulation.

\* \* \* VEDA; Water Quality Initiatives \* \* \*

Sec. 20. 10 V.S.A. § 280a is amended to read:

§ 280a. ELIGIBLE PROJECTS; AUTHORIZED FINANCING PROGRAMS

(a) The Authority may develop, modify, and implement any existing or new financing program, provided that any specific project that benefits from such program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title, and provided further that the program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title. These programs may include:

\* \* \*

(11) a program that would award grants made to eligible and qualified recipients as directed by the Agency of Agriculture, Food and Markets or the Agency of Natural Resources for the purpose of funding ~~stream stability and conservation reserve enhancement environmental~~ water quality initiatives approved by the agencies, provided that the maximum amount of grants awarded by the Authority pursuant to the program shall not exceed \$1,340,238.00 in the aggregate.

\* \* \*

#### Sec. 21. VEDA FINANCING OF WATER QUALITY INITIATIVES

Notwithstanding 32 V.S.A. § 706, the Vermont Economic Development Authority is authorized to transfer to the Agency of Agriculture, Food and Markets or the Agency of Natural Resources funds held by VEDA for water quality programs pursuant to 10 V.S.A. § 280a(11).

\* \* \* Working Lands Enterprise Program \* \* \*

Sec. 22. 6 V.S.A. § 4604 is amended to read:

#### § 4604. LEGISLATIVE INTENT

It is the intent of the General Assembly in adopting this subchapter to create a working lands enterprise board to administer a fund and develop policy recommendations to:

\* \* \*

(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; and

(10) provide priority funding to agricultural and forest product enterprises. The priority for funding agricultural and forest product enterprises is not intended to exclude funding for technical assistance that directly supports enterprise development.

Sec. 23. 6 V.S.A. § 4606(b) is amended to read:

(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~~ consulting forester;

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

(C) one member who is actively engaged in on-farm value-added processing;

(D) one member who is actively engaged in manufacturing or distribution of Vermont agricultural products; and

(E) one member with expertise in sales, marketing, or market development;

(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~~ involved in production agriculture whose primary enterprise is not fluid milk;

(C) one member who is actively engaged in primary wood processing or logging;

(D) one member who is an agriculture and forestry enterprise funder; and

(E) one member who is a person with expertise in rural economic development; and

(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~~ Vermont's forestry industry who is also a working forest landowner;

(C) one member with expertise in land planning and conservation efforts that support Vermont's working landscape; and

(D) one member who is an employee of a Vermont institution engaged in agriculture or forestry education, training, or research; and

~~(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)~~(7) 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.

Sec. 24. 6 V.S.A. § 4607 is amended to read:

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

(a) Duties. The Vermont Working Lands Enterprise Board is charged with:

(1) optimizing the agricultural and forest use of Vermont lands and other agricultural resources;

(2) expanding existing markets and identifying and developing new profitable in-state and out-of-state markets for food, fiber, forest products, and value-added agricultural products, including farm-derived renewable energy; and

(3) identifying opportunities and challenges related to access to capital, infrastructure, product development, marketing, training, research, and education.

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

(1) to design and conduct an ongoing public engagement process, which may include taking testimony and receiving information from any party interested in the Board's activities;

(2) to gain information through the use of experts, consultants, and data to perform analysis as needed;

(3) to request services from State economists, State administrative agencies, and State programs;

(4) to obtain information from other planning entities, including the Farm to Plate Investment Program;

(5) to serve as a resource for and make recommendations to the Administration and the General Assembly on ways to improve Vermont's laws, regulations, and policies in order to attain the goals set forth in section 4604 of this title;

~~(1)~~(6) 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, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry;

~~(2)~~(7) to award grants and other investments, which may include loans underwritten and administered through the Vermont Economic Development Authority;

~~(3)~~(8) 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)~~(9) 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)~~(10) 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)(11) 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. to develop an annual operating budget, and:~~

(A) solicit and accept any grants, gifts, or appropriations necessary to implement the budget pursuant to 32 V.S.A. § 5; and

(B) expend any monies necessary to carry out the purposes of this section.

~~(b)(c)~~ Staff support. 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~~ Board in the performance of its duties pursuant to this section.

Sec. 25. REPEAL OF VERMONT AGRICULTURAL AND FOREST PRODUCTS DEVELOPMENT BOARD

6 V.S.A. § 2966 (Agricultural and Forest Products Development Board) shall be repealed on July 1, 2015.

\* \* \* Animal Shelter \* \* \*

Sec. 26. 13 V.S.A. § 365 is amended to read:

§ 365. SHELTER OF ANIMALS

\* \* \*

(c)(1) A dog, whether chained or penned, shall be provided living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs. The shelter shall be constructed of materials with a thermal resistance factor of 0.9 or greater and shall contain clean bedding material sufficient to retain the dog's normal body heat.

\* \* \*

(e) A dog maintained out-of-doors ~~must~~ shall be provided with suitable housing or shelter that assures ensures that the dog is protected from wind and draft, and from excessive sun, rain, and other environmental hazards throughout the year. The housing or shelter shall be fully enclosed except for a portal. The portal shall be of a sufficient size to allow the dog unimpeded

passage into and out of the structure. The portal shall be constructed with a baffle or other means of keeping wind and precipitation out of the interior. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

(f) A dog chained to a shelter must be on a tether chain at least ~~four~~ five times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter. The chain or tether shall be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether shall be attached to a well-fitted collar or harness on the dog.

\* \* \*

\* \* \* Agricultural Equipment \* \* \*

Sec. 27. 32 V.S.A. § 9741(25) is amended to read:

(25) ~~Sales~~ Sale to a farmer, as that term is defined in section 3752 of this title, of agricultural machinery and equipment for use and consumption directly and exclusively, except for isolated or occasional uses, in the production for sale of tangible personal property on farms (including stock, dairy, poultry, fruit, and truck farms), orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale. It shall be rebuttably presumed that uses are not isolated or occasional if they total more than ~~four~~ 50 percent of the time the machinery or equipment is operated.

\* \* \* Motor Fuel Oil Prices; Agricultural Economy \* \* \*

Sec. 28. MOTOR FUEL OIL PRICES; STUDY

(a) Findings. The General Assembly finds as follows:

(1) The price of motor fuel has a major effect on Vermonters and our economy as a whole, particularly the agricultural sector of our economy.

(2) In recent years, it has become apparent that, although fuel prices have decreased nationally and across Vermont, this cost reduction has not kept pace in the State's northwestern communities.

(3) Based on the most recent census data collected by the U.S. Department of Agriculture, in the year 2012 there were 1,444 farms spanning 278,897 acres in Chittenden, Franklin, and Grand Isle Counties.

(4) Combined, the gasoline, fuel, and oil expenses for the farms in those three counties were \$14.712 million.

(5) It is incumbent upon the proper authorities to ensure to the greatest extent possible that farm production expenses reflect fair pricing so that the many agricultural products placed into the greater stream of commerce are competitively priced.

(b) Definitions. As used in this section:

(1) "Control" means the power, whether or not exercised, to establish, fix, or direct the retail price of motor fuel sold by a dealer, through ownership of stock or assets used by the dealer or through contract, agency, consignment, or otherwise, whether that power can be exercised directly or indirectly or through parent corporations, subsidiaries, related persons and entities, or affiliates.

(2) "Dealer" means a person located in Vermont that sells motor fuel oil to an end user at a service station, filling station, or otherwise.

(3) "Distributor" means a person that sells motor fuel oil to a dealer or directly to an end user.

(4) "Motor fuel oil" means internal combustion fuel sold for use in a motor vehicle, as that term is defined in 23 V.S.A. § 4(21), or in a farm tractor, as that term is defined in 23 V.S.A. § 4(68).

(5) "Motor fuel oil sales" means the wholesale or retail sale of motor fuel oil.

(c) Reporting. On or before December 15, 2015, the Attorney General may require distributors and dealers to provide information about the ownership or control of dealers or of assets related to motor fuel oil sales, volume of motor fuel oil sold or supplied, and wholesale and retail motor fuel oil prices.

(d) Confidentiality. Information received by the Attorney General under this section is confidential and shall be treated in the same manner as provided in 9 V.S.A. § 2460(a)(4).

(e) Report. The Attorney General shall study any data deemed relevant to the retail price of motor fuel oil in Vermont, including the data identified in subsection (c) of this section, and, on or before December 15, 2015, shall report to the General Assembly with recommendations, if any, regarding market conduct, including pricing, in the motor fuel oil industry in Vermont.

(f) Exercise of authority. The authority of the Attorney General under subsection (c) of this section to require reporting of distributors and dealers shall be exercised only with respect to the requirements of this section and shall not be exercised after December 15, 2015.

\* \* \* Unpasteurized Milk \* \* \*

Sec. 29. 6 V.S.A. chapter 152 is amended to read:

CHAPTER 152. SALE OF UNPASTEURIZED (RAW) MILK

\* \* \*

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

\* \* \*

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when delivery is arranged in conformance with section 2778 of this chapter. Unpasteurized milk shall not be sold or offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1)(A) Unpasteurized milk shall be derived from healthy animals which are subject to appropriate veterinary care, including tuberculosis and brucellosis testing and rabies vaccination; according to accepted testing and ~~vaccinations~~ vaccination standards as established by the Agency.

(B) Prior to the use of a dairy animal for the production and sale of unpasteurized milk under this chapter, a producer of unpasteurized milk shall test the dairy animal for brucellosis and tuberculosis. The producer shall test the dairy animal used for production and sale of unpasteurized milk for brucellosis and tuberculosis every two years from the date of the first test for brucellosis and tuberculosis accordingly.

(C) Test A producer shall post test results and verification of vaccinations shall be posted on the farm in a prominent place and be easily visible shall make results available to customers and the Agency.

\* \* \*

(d) Unpasteurized milk shall conform to the following production and marketing standards:

\* \* \*

(6) Customer inspection and notification.

~~(A) Prior to selling milk to a new customer, the new customer shall visit the farm and the~~ The producer shall provide the customer with the opportunity to tour the farm and any area associated with the milking operation. The producer shall permit the customer to return to the farm at a

reasonable time and at reasonable intervals to reinspect any areas associated with the milking operation.

(B) A sign with the words “Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated.” and “This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, elders, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.” shall be displayed prominently on the farm in a place where it can be easily seen by customers. The lettering shall be at least one inch in height and shall be clearly readable.

(e) ~~Producers~~ A producer selling 87.5 or fewer gallons (350 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk only from the farm on which it was produced. A producer selling 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver in accordance with section 2778 of this title.

(f) ~~Producers~~ A producer selling ~~6~~ more than 87.5 gallons to ~~280~~ 350 gallons (more than 350 to ~~1,120~~ 1,400 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

\* \* \*

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory using accredited lab approved testing containers. Milk shall be tested for the following and the results shall be below these limits:

- (i) total bacterial (aerobic) count: 15,000 cfu/ml (cattle and goats);
- (ii) total coliform count: 10 cfu/ml (cattle and goats);
- (iii) somatic cell count: 225,000/ml (cattle); 500,000/ml (goats).

(B) The producer shall ~~assure~~ ensure that all test results are forwarded to the Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

\* \* \*

(D) The Secretary shall issue a warning to a producer when a monthly test exceeds the limits required under subdivision (3)(A) of this subsection (f). The producer shall retest unpasteurized milk from the farm no

later than one week from the date of receipt of the test results indicating that unpasteurized milk exceeded the limits required under subdivision (3)(A) of this subsection.

(E) If a retest of unpasteurized milk under subdivision (3)(D) of this subsection (f) exceeds the limits required under subdivision (3)(A) of this subsection, the Secretary shall suspend the authority of the producer under this chapter to sell unpasteurized milk until the producer submits test results indicating that unpasteurized milk from the farm is below the limits required under subdivision (3)(A) of this subsection.

(F) If a retest required under subdivision (3)(D) of this subsection (f) exceeds the limits required under subdivision (3)(A) of this subsection, the producer shall warn customers that unpasteurized milk from the farm exceeds one or more of the limits required under subdivision (3)(A) of this subsection until the producer submits test results indicating that unpasteurized milk from the farm is below the limits required under subdivision (3)(A) of this subsection. The producer may provide the warning by posting the test results on a sign that is located in a prominent manner and that is clearly visible to consumers at the point of delivery or by directly notifying customers.

\* \* \*

(6) ~~Prearranged~~ Off-farm delivery. ~~Prearranged~~ The delivery of unpasteurized milk is permitted and shall be in compliance with section 2778 of this title.

(g) The sale of more than ~~280~~ 350 gallons (~~1,120~~ 1,400 quarts) of unpasteurized milk in any one week is prohibited.

#### § 2778. DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) Delivery of unpasteurized milk off the farm is permitted only within the State of Vermont and only of milk produced by ~~those producers~~ a producer meeting the requirements of subsection 2777(f) of this chapter.

(b) Delivery shall conform to the following requirements:

(1) Delivery shall be to ~~customers who have~~ a customer who has:

~~(A) visited the farm as required under subdivision 2777(d)(4) of this title; and~~

~~(B) purchased milk in advance either by a one-time payment or through a subscription. Milk is purchased in advance of delivery when payment is provided prior to delivery at the customer's home or prior to commencement of the farmers' market where the customer receives delivery.~~

(2) ~~Delivery shall be~~ A producer may deliver directly to the customer:

(A) at the customer's home or into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or lower until obtained by the customer;

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor;

(3) During delivery, unpasteurized milk shall be protected from exposure to direct sunlight.

(4) During delivery, unpasteurized milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c) A producer may contract with another individual to deliver the unpasteurized milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the unpasteurized milk in accordance with this section.

(d) Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets, ~~on a form provided by the Agency,~~ written or electronic notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:

(1) include the producer's name and proof of registration;

(2) identify the farmers' market or markets where the producer will deliver milk; and

(3) specify the day or days of the week on which delivery will be made at a farmers' market.

(e) A producer delivering unpasteurized milk at a farmers' market under this section shall display the registration required under subdivision 2777(f)(4) of this title and the sign required under subdivision 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

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

#### Sec. 30. EFFECTIVE DATES

(a) This section and Sec. 29 (unpasteurized milk) shall take effect on passage.

(b) The remainder of the act shall take effect on July 1, 2015.

(Committee vote: 4-0-1)

(No House amendments)

**Reported favorably with recommendation of proposal of amendment by Senator Ashe for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture with the following amendment thereto:

By striking out Sec. 27 (agricultural equipment; sales and use tax) in its entirety and inserting in lieu thereof the following:

Sec. 27. [Deleted.]

(Committee vote: 6-0-1)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture with the following amendment thereto:

In Sec. 21 (VEDA financing of water quality initiatives), after “the Agency of Agriculture, Food and Markets” and before “funds held by VEDA” by striking out the words “or the Agency of Natural Resources”

(Committee vote: 6-0-1)

**Report of Committee of Conference**

**S. 115.**

An act relating to expungement of convictions based on conduct that is no longer criminal.

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. 115. An act relating to expungement of convictions based on conduct that is no longer criminal.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

\* \* \*

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of intoxicating liquor or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana or a disorderly conduct offense under section 1026 of this title.

(4) “Qualifying crime” means:

(A) a misdemeanor offense which is not a listed crime as defined in subdivision 5301(7) of this title, an offense involving sexual exploitation of children in violation of chapter 64 of this title, an offense involving violation of a protection order in violation of section 1030 of this title, a prohibited act as defined in section 2632 of this title, or a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief; ~~or~~

(C) a violation of section 2501 of this title related to grand larceny; or

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title.

Sec. 2. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,  
POSTCONVICTION; PROCEDURE

(a)(1) A person ~~who was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence~~ may file a petition with the Court requesting expungement or sealing of the criminal history record related to the conviction. ~~The State’s Attorney or Attorney General shall be the respondent in the matter. if:~~

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence; or

(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense.

(2) The State’s Attorney or Attorney General shall be the respondent in the matter.

(3) The Court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the Court, and the Court shall issue the petitioner a certificate and provide notice of the order in accordance with this section.

\* \* \*

(d) The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.

(2) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.

(3) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(4) The person successfully completed a term of regular employment or public service, independent of any service ordered as a part of the petitioner's sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:

(A) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;

(B) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing;

(C) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing; or

(D) at least one year of regular employment.

(5) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.

(6) The Court finds that expungement of the criminal history record serves the interest of justice.

(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, the Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) At least one year has elapsed since the completion of any sentence or supervision for the offense, whichever is later.

(2) Any restitution ordered by the Court has been paid in full.

(3) The Court finds that expungement of the criminal history record serves the interest of justice.

(f) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:

(1) The petitioner shall bear the burden of establishing that his or her conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.

(2) There shall be a rebuttable presumption that the amount of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.

(g) Prior to granting an expungement or sealing under this section for petitions filed pursuant to subdivision 7601(4)(D) of this title, the Court shall make a finding that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

*JEANETTE K. WHITE  
ALICE W. NITKA  
JOSEPH C. BENNING*

*Committee on the part of the Senate*

*MAXINE JO GRAD  
BETTY A. NUOVO  
THOMAS B. BURDITT*

*Committee on the part of the House*

**ORDERED TO LIE**

**S. 137.**

An act relating to penalties for selling and dispensing marijuana.

**PENDING ACTION:** Committee Bill for Second Reading

**PUBLIC HEARINGS**

**Monday, May 11, 2015** - 5:30 P.M. - 7:30 P.M. - Room 11 - Re: H. 98 -  
An act relating to reportable disease registries and data - House Committee on  
Health Care.