

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 857 entitled “An act relating to timber harvesting” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * *General Policy and Enforcement Provisions* * *

8 Sec. 1. 10 V.S.A. § 2600 is added to read:

9 § 2600. FINDINGS

10 The General Assembly finds that:

11 (1) Private and public forestlands:

12 (A) constitute unique and irreplaceable resources, benefits, and
13 values of statewide importance;

14 (B) contribute to the protection and conservation of wildlife habitat,
15 air, water, and soil resources of the State;

16 (C) mitigate the effects of climate change; and

17 (D) benefit the general health and welfare of the people of the State.

18 (2) The forest products industry, including maple sap collection:

19 (A) is a major contributor to and is valuable to the State’s economy
20 by providing jobs to its citizens;

1 (B) is essential to the manufacture of forest products that are used
2 and enjoyed by the people of the State; and

3 (C) benefits the general welfare of the people of the State.

4 (3) Private and public forestlands are critical for and contribute
5 significantly to the State’s outdoor recreation and tourism economies.

6 (4) Forestry operations are adversely affected by the encroachment of
7 urban, commercial, and residential land uses throughout the State that result in
8 forest fragmentation and conversion and erode the health and sustainability of
9 remaining forests.

10 (5) As a result of encroachment on forests, conflicts have arisen between
11 traditional forestry land uses and urban, commercial, and residential land uses
12 that threaten to convert forestland permanently to other uses, resulting in an
13 adverse impact to the economy and natural environment of the State.

14 (6) The encouragement, development, improvement, and preservation of
15 forestry operations will result in a general benefit to the health and welfare of
16 the people of the State and the State’s economy.

17 (7) The forest products industry, in order to survive, likely will need to
18 change, adopt new technologies, and diversify into new products.

19 (8) Forestry operations, including logging, transportation, and
20 processing of on-site-derived forest products, may be subject to lawsuits based

1 on the theory of nuisance. Nuisance suits could encourage and result in the
2 conversion of forestland and loss of the forest products industry.

3 (9) It is in the public interest of the people of the State to ensure that
4 forestry operations that are conducted in accordance with the following are
5 protected and encouraged and are not subject to public and private nuisance
6 actions arising out of conflicts between forestry operations and urban,
7 commercial, and residential uses:

8 (A) the Acceptable Management Practices for Protecting Water
9 Quality on Logging Jobs in Vermont, as adopted by the Commissioner of
10 Forests, Parks and Recreation;

11 (B) accepted silvicultural practices as defined by the Commissioner
12 of Forests, Parks and Recreation; and

13 (C) the requirements of this subchapter.

14 Sec. 2. 10 V.S.A. § 2601 is amended to read:

15 § 2601. POLICY AND PURPOSES

16 (a) The conservation of the forests, timberlands, woodlands, and soil and
17 recreational resources of the ~~state~~ State are hereby declared to be in the public
18 interest. It is the policy of the ~~state~~ State to encourage economic management
19 of its forests and woodlands, to sustain long-term forest health, integrity, and
20 productivity, to maintain, conserve, and improve its soil resources, and to
21 control forest pests to the end that forest benefits, including maple sugar

1 production, are preserved for its people, floods and soil erosion are alleviated,
2 hazards of forest fires are lessened, its natural beauty is preserved, its wildlife
3 is protected, the development of its recreational interests is encouraged, the
4 fertility and productivity of its soil are maintained, the impairment of its dams
5 and reservoirs is prevented, its tax base is protected, and the health, safety, and
6 general welfare of its people are sustained and promoted.

7 (b) The ~~department~~ Department shall implement the policies of this chapter
8 by assisting ~~forest land~~ forestland owners and lumber operators in the cutting
9 and marketing of forest growth, encouraging cooperation between forest
10 owners, lumber operators, and the ~~state~~ State of Vermont in the practice of
11 conservation and management of ~~forest lands~~ forestlands, managing,
12 promoting, and protecting the multiple use of publicly owned forest and park
13 lands; planning, constructing, developing, operating, and maintaining the
14 system of ~~state~~ State parks; determining the necessity of repairs and
15 replacements to all ~~department-owned~~ Department-owned buildings and
16 causing urgent repairs and replacements to be accomplished, with the approval
17 of the ~~secretary of administration~~ Secretary of Administration, if within the
18 limits of specific appropriations or if approved by the ~~emergency board~~
19 Emergency Board; and providing advice and assistance to municipalities, other
20 political subdivisions, ~~state~~ State departments and nongovernmental

1 organizations in the development of wholesome and adequate community or
2 institutional recreation programs.

3 (c) The Commissioner shall implement the policy established under this
4 section when constructing the provisions of this chapter related to the
5 management of forestlands and the construction of chapters 85 and 87 of
6 this title.

7 Sec. 3. 10 V.S.A. § 2602 is amended to read:

8 § 2602. DEFINITIONS

9 As used in this chapter:

10 (1) “Agency” means the ~~agency of natural resources~~ Agency of Natural
11 Resources as created by 3 V.S.A. chapter 51 of Title 3;

12 (2) “Department” means the ~~department of forests, parks and recreation~~
13 Department of Forests, Parks and Recreation within the ~~agency of natural~~
14 ~~resources~~; Agency of Natural Resources.

15 (3) “Commissioner” means the ~~commissioner of the department of~~
16 ~~forests, parks and recreation~~; Commissioner of Forests, Parks and Recreation.

17 (4) “Secretary” means the ~~secretary of the agency of natural resources~~
18 Secretary of Natural Resources.

19 (5) “Forest product” mean logs; pulpwood; veneer; bolt wood; wood
20 chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.

1 (6) “Forestry operation” means activities related to the management of
2 forests, including a timber harvest; pruning; planting; reforestation; pest,
3 disease, and invasive species control; wildlife habitat management; and
4 fertilization. “Forestry operation” includes the primary processing of forest
5 products of commercial value on a parcel where the timber harvest occurs.

6 (7) “Timber” means trees, saplings, seedlings, bushes, shrubs, and
7 sprouts from which trees may grow, of every size, nature, kind, and
8 description.

9 (8) “Timber harvest” means a forestry operation involving the harvest
10 of timber.

11 Sec. 4. 10 V.S.A. § 2608 is amended to read:

12 § 2608. ENFORCEMENT; PENALTIES; LIABILITY

13 ~~(a) Enforcement of the provisions of this chapter or any regulations or~~
14 ~~proclamations promulgated~~ rules adopted hereunder shall be in accordance
15 with the provisions of ~~3 V.S.A. § 2822(e)~~ chapter 201 or 211 of this title.

16 ~~(b) A person who violates any provision of this chapter or regulations or~~
17 ~~proclamations promulgated hereunder, or neglects or refuses to assist a fire~~
18 ~~warden when called upon to do so as provided in section 2644 of this title,~~
19 ~~shall be imprisoned not more than 30 days or fined not more than \$ 50.00, or~~
20 ~~both. Such person shall be liable for all damages resulting from a violation to~~
21 ~~be recovered in a civil action under this statute by the person injured.~~

1 * * * Harvest Notification Pilot Program * * *

2 Sec. 5. 10 V.S.A. § 2613 is added to read:

3 § 2613. HARVEST NOTIFICATION; PILOT PROGRAM

4 (a) Findings. The General Assembly finds that:

5 (1) The public will benefit from accountability of persons conducting
6 timber harvests by providing a mechanism for the Department to distribute
7 information and guidance to achieve compliance with existing laws and
8 programs related to harvesting, including Use Value Appraisal eligibility
9 requirements, and those that protect landowners, the environment, and the
10 economy.

11 (2) Enforcement of compliance with the Acceptable Management
12 Practices for Maintaining Water Quality on Logging Jobs in Vermont will be
13 facilitated through notification and documentation of timber harvests.

14 (3) Owners of forestlands will benefit from proactive and timely
15 delivery of guidance and resources that support successful forestry operations,
16 including timber harvesting, provided by the Department, including the
17 Vermont Voluntary Harvesting Guidelines.

18 (4) State knowledge of harvest locations will improve the understanding
19 of factors affecting the forest economy, thereby informing opportunities to
20 support it.

1 (b) Harvest notification; pilot. The Commissioner shall establish a harvest
2 notification pilot program under which a landowner of property may notify the
3 Commissioner prior to commencement of a timber harvest. The process
4 established by the Commissioner shall allow for a harvest notification by
5 electronic means, telephone, or paper submission.

6 (c) Requested information. The Commissioner shall designate the
7 information to be submitted to the Department in a voluntary harvest
8 notification. The requested information shall contain, at a minimum, the
9 following information:

10 (1) the landowner's name; mailing address; physical address of
11 residence; e-mail address, if any; and telephone number;

12 (2) the name of the logger or contractor conducting the harvest and his
13 or her mailing address; address of the principal place of business or residence;
14 e-mail address, if any; and telephone number;

15 (3) the name of the landowner's agent or consulting forester, if any, and
16 his or her mailing address; address of the principal place of business or
17 residence; e-mail address, if any; and telephone number;

18 (4) the location of the timber harvest, including the town and the nearest
19 public town highway used to access the timber harvest;

20 (5) the school property account number (SPAN) of the parcel where the
21 timber harvest will occur;

1 (6) the estimated date the timber harvest will commence and the
2 estimated date the harvest will be completed;

3 (7) the estimate of the acreage of the timber harvest area; and

4 (8) whether the parcel where the timber harvest will occur is enrolled in
5 the use value appraisal program.

6 (d) Harvest number; technical assistance. Upon receipt of a complete
7 harvest notification, the Commissioner shall assign a unique harvest number to
8 the timber harvest and shall provide the landowner with technical guidance or
9 information, including: a sample timber sale contract; voluntary harvesting
10 guidelines; guidance on compliance with maintaining water quality protection
11 during a timber harvest; and referral, where applicable, to appropriate natural
12 resource professionals.

13 (e) Confidentiality. Information submitted by a landowner in a voluntary
14 harvest notification under this section is confidential and exempt from public
15 inspection under the Public Records Act.

16 Sec. 6. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
17 HARVEST NOTIFICATION REPORT

18 On or before January 1, 2020, the Commissioner of Forests, Parks and
19 Recreation shall submit to the House Committees on Natural Resources and
20 Energy and on Agriculture and Forest Products and the Senate Committee on
21 Natural Resources and Energy a report regarding implementation of the

1 Harvest Notification Pilot Program established under 10 V.S.A. § 2613. The
2 report shall:

3 (1) Summarize implementation of and participation in the Pilot Program,
4 including the number of harvest notifications received.

5 (2) Summarize the technical assistance and information provided to
6 landowners under the program.

7 (3) Summarize the effectiveness of the program in increasing
8 compliance with the Acceptable Management Practices for Maintaining Water
9 Quality on Logging Jobs in Vermont.

10 (4) Summarize whether the Pilot Program increased the amount or
11 quality of information collected by the Department of Forests, Parks and
12 Recreation regarding timber harvests in the State.

13 (5) Recommend whether harvest notification should continue as a
14 voluntary or mandatory program. The recommendations may include proposed
15 changes to the Pilot Program and draft legislation to implement the changes.

16 Sec. 7. SUNSET; HARVEST NOTIFICATION PILOT PROGRAM

17 10 V.S.A. § 2613 (Harvest Notification Pilot Program) shall be repealed on
18 February 15, 2020.

1 * * * Maple Sugar Production on State Lands * * *

2 Sec. 8. 10 V.S.A. § 2606b is amended to read:

3 § 2606b. LICENSE OF ~~FOREST LANDS~~ FORESTLANDS FOR MAPLE
4 SUGAR PRODUCTION

5 (a) The ~~general assembly~~ General Assembly finds and declares that:

6 (1) Maple sugaring is an important cultural tradition of Vermont life that
7 should be maintained and encouraged.

8 (2) Maple sugaring is an important component of the agricultural and
9 forest products economy in Vermont and is increasingly necessary for farmers
10 that must diversify in order to continue to farm in Vermont.

11 (3) Maple sugaring is a sustainable use of ~~forest land~~ forestland.

12 (4) State ~~forest land~~ forestland should be managed and used for multiple
13 uses, including maple sugar production.

14 (b) It is hereby adopted as ~~state~~ State policy to permit limited use of
15 designated ~~state-owned~~ State-owned land under the jurisdiction of the
16 ~~department~~ Department for maple sugar production.

17 (c) ~~Beginning on July 1, 2009, pursuant~~ Pursuant to guidelines developed
18 jointly by the ~~department of forests, parks and recreation and the Vermont~~
19 ~~maple sugar makers' association~~ Department of Forests, Parks and Recreation,
20 in consultation with the Vermont Maple Sugar Makers' Association, the
21 ~~department shall~~ Department may issue licenses for the use of ~~state forest land~~

1 State forestland for the tapping of maple trees, the collection of maple sap, and
2 the transportation of such sap to a processing site located off ~~state forest land~~
3 State forestland or to sites located on ~~state forest land~~ State forestland if
4 approved by the ~~commissioner~~ Commissioner. All tapping of maple trees
5 authorized under a license shall be conducted according to the guidelines for
6 tapping maple trees ~~agreed to~~ established by the ~~department and the Vermont~~
7 ~~maple sugar makers' association~~ Department of Forests, Parks and Recreation,
8 in consultation with the Vermont Maple Sugar Makers' Association. Each
9 person awarded a license under this section shall maintain and repair any road,
10 water crossing, or work area according to requirements set by the ~~department~~
11 Department in the license. Each license shall include such additional terms
12 and conditions set by the ~~department~~ Department as may be necessary to
13 preserve forest health and to assure compliance with the requirements of this
14 chapter and applicable rules. A license shall be issued for a fixed term not to
15 exceed five years and shall be renewable for two five-year terms subsequent to
16 the initial license. Subsequent renewals shall be allowed where agreed upon
17 by the ~~department~~ Department and the licensee. The ~~department~~ Department
18 shall have power to terminate or modify a license for cause, including damage
19 to forest health.

20 * * *

1 (f) ~~There shall be an annual license fee~~ A per tap license charge shall be
2 imposed based on the ~~number of~~ taps installed in the license area. ~~The per tap~~
3 fee for a license issued under this section shall be one quarter of the average of
4 the per pound price of Vermont fancy grade syrup and the per pound price of
5 Vermont commercial grade syrup as those prices are set on May 1 of each
6 year. ~~The fee set each May 1 shall apply to licenses issued by the department~~
7 for the succeeding period beginning June 1 and ending May 31. The
8 Commissioner shall establish this per tap license charge at a reasonable rate
9 that reflects current market rates. ~~Fees~~ Charges collected under this section
10 shall be deposited in the forest parks revolving fund Lands and Facilities Trust
11 Fund established under section 2609 of this title and shall be used by the
12 department to ~~implement the license program established by this section~~
13 3 V.S.A. § 2807.

14 (g) ~~On or before January 15, 2010, the commissioner of forests, parks and~~
15 recreation shall submit to the senate and house committees on natural resources
16 and energy and the senate and house committees on agriculture a report
17 regarding the implementation of the requirements of this section. ~~The report~~
18 shall include:

19 (1) ~~A copy of the guidelines required by this section for issuing licenses~~
20 for the use of state forest land for maple sap collection and production.

1 ~~(2) A summary of the process used to identify parcels of state forest land~~
2 ~~suitable for licensing for maple sap collection and production and the process~~
3 ~~by which the department allocated licenses.~~

4 ~~(3) A summary of the licenses issued for maple sap collection and~~
5 ~~production on state forest land.~~

6 ~~(4) An estimate of the fees collected for licenses issued under this~~
7 ~~section.~~

8 ~~(5) A copy of any rules adopted by or proposed for adoption by the~~
9 ~~commissioner to implement the requirements of this section. [Repealed.]~~

10 * * * Working Group on Intergenerational Transfer of Forestland * * *

11 Sec. 9. DEPARTMENT OF FORESTS, PARKS AND RECREATION;

12 WORKING GROUP ON INTERGENERATIONAL TRANSFER OF
13 FORESTLAND

14 (a) On or before August 1, 2016, the Commissioner of Forests, Parks and
15 Recreation shall establish a working group of interested parties to develop
16 recommendations for a statewide program to improve the capacity of providing
17 successional planning technical assistance to forestland owners in Vermont.

18 The working group shall:

19 (1) develop recommended priorities for succession planning for
20 forestland owners;

1 (2) develop strategies for improving conservation investments or
2 incentives that facilitate the intergenerational transfers of intact forestland;

3 (3) develop other strategies for lessening the impact of estate taxes or
4 other pressures that could lead to the breaking up and subdivision of intact
5 forest parcels;

6 (4) develop recommended legislative changes that may be needed to
7 implement its recommendations and strategies; and

8 (5) identify fiscal issues related to its recommendations.

9 (b) On or before December 15, 2016, the Commissioner shall submit a
10 report to the House Committees on Natural Resources and Energy and on
11 Ways and Means and the Senate Committees on Natural Resources and Energy
12 and Finance that shall include the working group’s findings and any
13 recommendations for legislative action.

14 * * * Forest Fire Wardens; Fire Suppression; Open Burning * * *

15 Sec. 10. 10 V.S.A. chapter 83, subchapter 4 is amended to read:

16 Subchapter 4. Forest Fires and Fire Prevention

17 § 2641. TOWN FOREST FIRE WARDENS; APPOINTMENT AND
18 REMOVAL

19 (a) Upon approval by the ~~select board~~ selectboard and acceptance by the
20 appointee, the ~~commissioner~~ Commissioner shall appoint a town forest fire
21 warden for a term of five years or until a successor is appointed. A town forest

1 fire warden may be reappointed for successive five-year terms by the
2 Commissioner or until a successor is approved by the selectboard and
3 appointed by the Commissioner. The warden may be removed for cause at any
4 time by the ~~commissioner~~ Commissioner with the approval of the ~~select board~~
5 selectboard. A warden shall comply with training requirements established by
6 the ~~commissioner by rule~~ Commissioner.

7 (b) The ~~commissioner~~ Commissioner may appoint a forest fire warden for
8 an unorganized town or gore, who shall ~~hold office until he or she resigns or is~~
9 ~~removed for cause~~ serve for a term of five years or until a successor is
10 appointed. An appointed forest fire warden for an unorganized town or gore
11 may be reappointed for successive five-year terms by the Commissioner until
12 the Commissioner appoints and the unorganized town or gore approves a
13 successor. The warden may be removed for cause at any time by the
14 Commissioner with the approval of the unorganized town or gore. The forest
15 fire warden of an unorganized town or gore shall have the same powers and
16 duties as town forest fire wardens and shall be subject to the requirements of
17 this subchapter.

18 (c) When there are woodlands within the limits of a city ~~or incorporated~~
19 ~~village~~, the chief of the fire department of such city ~~or village~~ shall act as the
20 ~~city or village~~ forest fire warden with all the powers and duties of town forest
21 fire wardens.

1 (d) When the ~~commissioner~~ Commissioner deems it difficult in any
2 municipality for one warden to take charge of protecting the entire
3 municipality from forest fires, he or she may appoint one or more deputy forest
4 fire wardens. Such wardens under the direction of the fire warden shall have
5 the same powers, duties, and pay and make the same reports through the fire
6 warden to the ~~commissioner~~ Commissioner as forest fire wardens.

7 (e) The ~~commissioner~~ Commissioner may appoint special forest fire
8 wardens who shall hold office during the pleasure of the ~~commissioner~~
9 Commissioner. Such fire wardens shall have the same powers and duties
10 throughout the ~~state~~ State as town forest fire wardens, except that all expenses
11 and charges incurred on account of their official acts shall be paid from the
12 appropriations for the ~~department~~ Department.

13 § 2642. SALARY AND COMPENSATION OF TOWN FOREST FIRE
14 WARDENS

15 (a) The salary of a town forest fire warden shall be determined by the
16 selectboard members for time spent in the performance of the duties of his or
17 her office, which shall be paid by the town. ~~He or she shall also receive from~~
18 ~~the town the sum of \$0.15 for each fire permit issued.~~ In addition thereto, he
19 or she shall receive from the ~~commissioner~~ Commissioner ~~\$20.00~~ \$30.00
20 annually for ~~properly making out and submitting reports of fires in his or her~~
21 ~~district~~ fulfilling the requirements of section 2645 of this title and keeping the

1 required ~~state~~ State records. He or she shall also receive from the
2 ~~commissioner~~ \$15.00 Commissioner \$30.00 per diem for attendance at each
3 training ~~meeting called~~ required by the ~~commissioner~~ Commissioner. He or
4 she shall also receive annually an amount of \$10.00 for each fire report that is
5 submitted by the forest fire warden under section 2644 of this title.

6 (b) ~~The pay of a warden of an unorganized town or gore and his or her~~
7 ~~assistants, including patrolmen, and all expenses incurred by him or her in~~
8 ~~extinguishing forest fires, as provided for by the Commissioner, including~~
9 ~~employment of a person to assist him or her, on the approval of the~~
10 ~~Commissioner, shall be paid by the State from the monies annually available~~
11 ~~from taxes in the unorganized town and gore, and the Commissioner of~~
12 ~~Finance and Management shall issue his or her warrant therefor. [Repealed.]~~

13 (c) ~~A person employed by a warden to assist him or her in extinguishing a~~
14 ~~forest fire as authorized under section 2644 of this title, shall be paid at the~~
15 ~~same rate per hour as is paid for labor upon highways. A minimum of two~~
16 ~~hours' pay for the first hour or any portion thereof shall be allowed persons~~
17 ~~who are officially summoned to assist in the extinguishment of forest fires.~~
18 ~~When a warden employs men or women in extinguishing a fire in a~~
19 ~~municipality adjoining his or her own, the expense incurred shall be paid by~~
20 ~~the municipality in which the work was done at the rate of pay prevailing in the~~
21 ~~municipality where the laborers reside. A municipality wherein such warden~~

1 ~~resides shall forthwith pay the warden and assistants for their services, and the~~
2 ~~municipality may recover the expense thereof in a civil action on this statute~~
3 ~~from the municipality where the work was done. [Repealed.]~~

4 § 2643. TOWN'S LIABILITY FOR ~~EXTINGUISHING~~ SUPPRESSION OF
5 FOREST FIRES; STATE AID

6 (a) ~~For the purpose of extinguishing forest fires, a town shall not be held~~
7 ~~liable in any one year for an amount greater than ten percent of its grand list.~~
8 A municipality in which a forest fire occurs shall pay the cost to suppress a
9 forest fire that occurs on land that is not owned by the Agency of Natural
10 Resources, including the costs of personnel and equipment. The
11 Commissioner may, according to the Department fire suppression
12 reimbursement policy, reimburse a municipality for all or a portion of the costs
13 of suppressing a forest fire on land that is not owned by the Agency of Natural
14 Resources.

15 (b) ~~The state shall reimburse a town for its forest fire suppression costs in~~
16 ~~excess of ten percent of its grand list and for one half its forest fire suppression~~
17 ~~costs up to and including ten percent of its grand list when the bills are~~
18 ~~presented to the commissioner by December 31 of each year with proper~~
19 ~~vouchers and in a form approved by him~~ For the purpose of suppressing forest
20 fires on lands owned by the Agency of Natural Resources, the State shall
21 reimburse a town for all its forest fire suppression costs at a rate determined by

1 the Commissioner according to the Department fire suppression
2 reimbursement policy. If the total acreage of a forest fire is determined to be
3 partially on land owned by the Agency of Natural Resources and partially on
4 land owned by another party, the Commissioner shall, at a minimum,
5 reimburse the town at a rate determined by the Commissioner according to the
6 Department fire suppression reimbursement policy for costs incurred by the
7 municipality on land owned by the Agency of Natural Resources.

8 (c) For any forest fire on lands owned by the Agency of Natural Resources
9 to be considered eligible for reimbursement from the State, a town forest fire
10 warden shall have reported the forest fire to the Commissioner within 14 days
11 of extinguishment of the fire as required under section 2644 of this title. For
12 reimbursement of fire suppression costs for forest fires on land owned by the
13 Agency of Natural Resources, the town forest fire warden and the
14 Commissioner or designee shall approve the costs before submission to the
15 municipality for payment. The town forest fire warden may submit to the State
16 on an annual basis a request for reimbursement of fire suppression costs on
17 lands owned by the Agency of Natural Resources. The State shall reimburse a
18 town for all applicable forest fire suppression costs when the reimbursement
19 request is presented in a form approved by the Commissioner to the
20 Commissioner by December 31 of each year.

1 § 2644. DUTIES AND POWERS OF FIRE WARDEN

2 (a) When a forest fire or fire threatening a forest is discovered in his or her
3 town, the town forest fire warden shall enter upon any premises and take
4 measures for its prompt control, suppression, and extinguishment. The town
5 forest fire warden may call upon any person for assistance. ~~He or she may~~
6 ~~arrest without warrant any person found in the act of violating a provision of~~
7 ~~law or proclamation pertaining to forest fires.~~ The town forest fire warden
8 may choose to share or delegate command authority to a chief engineer of a
9 responding fire department or, in the chief's absence, the highest ranking
10 assistant firefighter present during the fire.

11 (b) A town forest fire warden shall keep a record of his or her acts, ~~the~~
12 ~~amount of expenses incurred~~, the number of fires and causes, the areas burned
13 over, and the character and amount of damages done in the warden's
14 jurisdiction. Within two weeks after the ~~discovery of such~~ extinguishment of a
15 fire, he or she the town forest fire warden shall report the same fire to the
16 ~~commissioner on forms which shall be furnished by him or her~~ Commissioner,
17 but the making of ~~such a report~~ under this subsection shall not be a charge
18 against the town.

19 (c) ~~During the danger season and subject to the approval or direction of the~~
20 ~~commissioner, a warden shall establish a patrol in dangerous localities, and the~~
21 ~~expense for the same shall be paid as expenses for fighting fires. Wardens shall~~

1 ~~receive the same pay for time spent in posting notices, patrolling or in making~~
2 ~~investigations of damages done that they receive for time spent in actual fire~~
3 ~~fighting. [Repealed.]~~

4 § 2645. OPEN BURNING; PERMITS

5 (a) Except as otherwise provided in this section, a person shall not kindle or
6 authorize another person to kindle a fire in the open air for the purpose of
7 burning natural wood, brush, weeds, or grass ~~or rubbish of any kind except~~
8 ~~where there is snow on the site, without first obtaining permission from the fire~~
9 ~~warden or deputy warden of the town, stating when and where such fire may~~
10 ~~be kindled~~ without first obtaining permission from the town forest fire warden
11 or deputy forest fire warden, stating when and where such fire may be kindled.
12 Wood, brush, weeds, or grass may not be burned if they have been altered in
13 any way by surface applications or injection of paints, stains, preservatives,
14 oils, glues, or pesticides. Whenever such permission is granted, ~~such~~ the fire
15 warden, within 12 hours, shall issue a written permit “Permit to Kindle” for
16 record purposes stating when and where such fire may be kindled. ~~Permission~~
17 ~~shall not be required for the kindling of a fire in a location which is 200 feet or~~
18 ~~more from any woodland, timberland or field containing dry grass or other~~
19 ~~flammable plant material contiguous to woodland. With the written approval~~
20 ~~of the secretary, during periods of extreme fire hazard, the commissioner may~~

1 ~~notify town fire wardens that for a specified period no burning permits shall be~~
2 ~~issued. The wardens shall issue no permits during the specified period.~~

3 (b) ~~Whenever the commissioner deems that the public safety of any town~~
4 ~~or portion of a town of this state does not require the protection provided by~~
5 ~~this section, he or she may cause the town fire warden of any such town to post~~
6 ~~notices to that effect in not less than five conspicuous places in such town.~~

7 [Repealed.]

8 (c) The provisions of this section will not apply to:

9 (1) ~~To areas posted in accordance with subsection (b) of this section the~~
10 kindling of a fire in a location where there is snow surrounding the open
11 burning site;

12 (2) ~~To fires built in stone arches, outdoor fireplaces, or existing fire~~
13 rings at state State recreational areas or fires built in stone arches, outdoor
14 fireplaces, or fire rings on private property that are not located within
15 woodland, timberland, or a field containing dry grass or other flammable plant
16 material contiguous to woodland;

17 (3) ~~To fires built in special containers used for burning brush, waste,~~
18 ~~grass or rubbish when conditions are deemed satisfactory to the town fire~~
19 ~~warden the kindling of a fire in a location that~~ is 200 feet or more from: any
20 woodland, timberland, or field containing dry grass or other flammable plant
21 material contiguous to woodland; or

1 (4) ~~To~~ areas within ~~cities or villages~~ cities maintaining a fire
2 department.

3 (d)(1) As used in this section, “natural wood” means:

4 (A) trees, including logs, boles, trunks, branches, limbs, and stumps;

5 (B) lumber, including timber, logs, or wood slabs, especially when
6 dressed for use; and

7 (C) pallets that are used for the shipment of various materials, so long
8 as such pallets are not chemically treated with any preservative, paint, or oil.

9 (2) “Natural wood” shall not mean other wood products such as
10 sawdust, plywood, particle board, or press board.

11 (e) Nothing in this section shall be construed to limit the authority of the air
12 pollution control officer to prohibit open burning in accordance with the rules
13 adopted under chapter 23 of this title.

14 * * *

15 § 2648. SLASH REMOVAL

16 (a) A person may cut or cause to be cut forest growth only if all slash
17 adjoining the right-of-way of any public highway, or the boundary lines of
18 woodlots owned by adjoining property owners, is treated as follows:

19 (1) All slash shall be removed for a distance of 50 feet from the
20 right-of-way of any public highway or from the boundary lines of woodlots
21 owned by adjoining property owners.

1 (2) All slash shall be removed for a distance of 100 feet from standing
2 buildings on adjoining property.

3 (b) ~~Owners or operators of timber or woodlots shall leave the main logging~~
4 ~~roads through cut-over areas free from slash so that tractors may pass over~~
5 ~~these roads unobstructed in order to carry men and supplies and fire fighting~~
6 ~~equipment to fire suppression crews. [Repealed.]~~

7 (c) If in the opinion of the town forest fire warden there is no fire hazard as
8 a result of a cutting, the warden may issue, upon request, a statement relieving
9 the operator of the conditions required in this section.

10 Sec. 11. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
11 POLICY FOR REIMBURSEMENT OF FIRE SUPPRESSION
12 COSTS

13 On or before January 1, 2017, the Commissioner of Forests, Parks and
14 Recreation, in consultation with the Vermont League of Cities and Towns and
15 other interested parties, shall develop a policy that provides the criteria the
16 Department of Forests, Parks and Recreation shall use in determining whether
17 and how to reimburse towns for the costs of fire suppression. The policy shall
18 include criteria for:

19 (1) whether and how to reimburse a municipality for the costs of forest
20 fire suppression incurred on lands not owned by the Agency of Natural
21 Resources; and

1 (2) determining the rate a municipality shall be reimbursed for fire
2 suppression costs incurred on lands owned by the Agency of Natural
3 Resources.

4 Sec. 12. 10 V.S.A. § 2515 is added to read:

5 § 2515. INTERCOMPACT LIABILITY—ARTICLE XV

6 The provisions of Article IX of this compact that relate to mutual aid in
7 combating, controlling, or preventing forest fires shall be operative as between
8 any state party to this compact and any other state that is party to a regional
9 forest fire protection compact in another region provided that the legislature of
10 such other state shall have given its assent to the mutual aid provisions of this
11 compact.

12 Sec. 13. 12 V.S.A. chapter 196 is added to read:

13 CHAPTER 196. VERMONT RIGHT TO CONDUCT FORESTRY

14 OPERATIONS

15 § 5755. FINDINGS

16 The General Assembly finds that:

17 (1) Private and public forestlands:

18 (A) constitute unique and irreplaceable resources, benefits, and
19 values of statewide importance;

20 (B) contribute to the protection and conservation of wildlife habitat,
21 air, water, and soil resources of the State;

1 (C) mitigate the effects of climate change; and

2 (D) result in general benefit to the health and welfare of the people of
3 the State.

4 (2) The forest products industry, including maple sap collection:

5 (A) is a major contributor to and is valuable to the State’s economy
6 by providing jobs to its citizens;

7 (B) is essential to the manufacture of forest products that are used
8 and enjoyed by the people of the State; and

9 (C) benefits the general welfare of the people of the State.

10 (3) Private and public forestlands are critical for and contribute
11 significantly to the State’s outdoor recreation and tourism economies.

12 (4) The economic management of public and private forestlands
13 contributes to sustaining long-term forest health, integrity, and productivity.

14 (5) Forestry operations are adversely impacted by the encroachment of
15 urban, commercial, and residential land uses throughout the State that result in
16 forest fragmentation and conversion and erode the health and sustainability of
17 remaining forests.

18 (6) As a result of encroachment on forests, conflicts have arisen between
19 traditional forestry land uses and urban, commercial, and residential land uses
20 that threaten to permanently convert forestland to other uses, resulting in an
21 adverse impact to the economy and natural environment of the State.

1 (7) The encouragement, development, improvement, and preservation of
2 forestry operations will result in a general benefit to the health and welfare of
3 the people of the State and the State’s economy.

4 (8) The forest products industry, in order to survive, likely will need to
5 change, adopt new technologies, and diversify into new products.

6 (9) Forestry operations, including logging, transportation, and
7 processing of on-site-derived forest products may be subject to lawsuits based
8 on the theory of nuisance. Nuisance suits could encourage and result in the
9 conversion of forestland and loss of the forest products industry.

10 (10) It is in the public interest of the people of the State to ensure that
11 forestry operations that are conducted in accordance with the following are
12 protected and encouraged and are not subject to public and private nuisance
13 actions arising out of conflicts between forestry operations and urban,
14 commercial, and residential uses:

15 (A) the Acceptable Management Practices for Protecting Water
16 Quality on Logging Jobs in Vermont, as adopted by the Commissioner of
17 Forests, Parks and Recreation;

18 (B) accepted silvicultural practices as defined by the Commissioner
19 of Forests, Parks and Recreation; and

20 (C) the requirements of this subchapter.

1 § 5756. DEFINITIONS

2 As used in this chapter:

3 (1) “Close out” means all activities conducted after cessation of
4 harvesting that are necessary to stabilize areas impacted by forestry operations.
5 Closeout includes the maintenance of landings, logging roads, skid trails, and
6 stream crossings and removal of logging slash and material from roads and
7 landings in compliance with the Acceptable Management Practices for
8 Maintaining Water Quality on Logging Jobs in Vermont as adopted by the
9 Commissioner.

10 (2) “Commissioner” means the Commissioner of Forests, Parks and
11 Recreation.

12 (3) “Forest product” means logs, pulpwood, wood chips, maple sap, or
13 bark.

14 (4) “Forestry operation” means activities related to the management of
15 forests, including timber harvests; pruning; planting; reforestation; pest,
16 disease, and invasive species control; wildlife habitat management; and
17 fertilization. “Forestry operation” includes the primary processing of forest
18 products on a parcel where a timber harvest occurs.

19 (5) “Timber” means trees, saplings, bushes, seedlings, shrubs, and
20 sprouts from which trees, of every size, nature, kind, and description, may
21 grow.

1 (6) “Timber harvest” means a forestry operation involving the harvest of
2 timber.

3 § 5757. FORESTRY OPERATIONS; PROTECTION FROM NUISANCE

4 LAWSUITS

5 (a) The following activities shall be entitled to a rebuttable presumption
6 that the activity does not constitute a public or private nuisance if the activities
7 are conducted in substantial compliance with the Acceptable Management
8 Practices for Maintaining Water Quality on Logging Jobs in Vermont as
9 adopted by the Commissioner, accepted silvicultural practices as defined by
10 the Commissioner, and other applicable law:

11 (1) a forestry operation;

12 (2) a change in ownership or size of a parcel on which a forestry
13 operation is being conducted;

14 (3) cessation or interruption of a forestry operation;

15 (4) enrollment in governmental forestry or conservation programs;

16 (5) adoption of new forestry technology;

17 (6) a change in a forestry operation, including a change in the type of a
18 forestry operation;

19 (7) construction, maintenance, and repair of log landings, logging roads,
20 and skid trails;

21 (8) removal, storage, or stockpiling of vegetation or timber;

1 (9) visual changes due to the removal, storage, or stockpiling of
2 vegetation or forest products;

3 (10) noise from forestry equipment used in normal, generally accepted
4 forestry operations; or

5 (11) the use of chemicals normally utilized in forestry operations and
6 applied in accordance with all State and federal requirements.

7 (b) The presumption under subsection (a) of this section that a listed
8 forestry operation or other activity does not constitute a nuisance may be
9 rebutted by a showing that the forestry operation or other activity has a
10 substantial adverse effect on health, safety, or welfare, or has a noxious and
11 significant interference with the use and enjoyment of the neighboring
12 property.

13 (c) Nothing in this section shall be construed to limit the authority of State
14 or local boards of health to abate nuisances affecting the public health.

15 § 5758. RECOVERY OF COSTS AND ATTORNEY'S FEES

16 If a court determines that a nuisance action brought against a person
17 conducting a forestry operation or other activity listed under subsection
18 5757(a) of this title must be dismissed because the forestry operation or other
19 activity does not constitute a public or private nuisance under section 5757 of
20 this title, the person conducting the forestry operation or other activity shall be
21 awarded the actual amount of costs and expenses reasonably incurred in

1 connection with the defense of the action, including reasonable attorney’s fees.

2 No costs or attorney’s fees shall be assessed or awarded against the State.

3 * * * Timber Trespass * * *

4 Sec. 14. 13 V.S.A. chapter 77 is amended to read:

5 CHAPTER 77. TREES AND PLANTS

6 § 3601. DEFINITIONS

7 As used in this chapter:

8 (1) “Diameter breast height” or “DBH” means the diameter of a
9 standing tree at four and one-half feet from the ground.

10 (2) “Harvest” means the cutting, felling, or removal of timber.

11 (3) ~~“Harvest unit” means the area of land from which timber will be~~
12 ~~harvested or the area of land on which timber stand improvement will occur.~~

13 [Repealed.]

14 (4) ~~“Harvester” means a person, firm, company, corporation, or other~~
15 ~~legal entity that harvests timber. [Repealed.]~~

16 (5) “Landowner” means the person, firm, company, corporation, or
17 other legal entity that owns or controls the land or owns or controls the right to
18 harvest timber on the land.

19 (6) “Landowner’s agent” means a person, firm, company, corporation,
20 or other legal entity representing the landowner in a timber sale, timber
21 harvest, or land management.

1 (7) “Stump diameter” means the diameter of a tree stump remaining
2 after cutting, felling, or destruction.

3 (8) “Forest products” means logs; pulpwood; veneer; bolt wood; wood
4 chips; stud wood; poles; pilings; biomass; fuel wood; or bark.

5 (9) “Timber” means trees, saplings, bushes, seedlings, shrubs, and
6 sprouts from which trees may grow, of every size, nature, kind, and
7 description.

8 § 3602. UNLAWFUL CUTTING OF TREES VALUATION OF TREES OR
9 TIMBER

10 (a) Any person ~~who cuts, fells, destroys to the point of no value, or~~
11 ~~substantially damages the potential value of a tree without the consent of the~~
12 ~~owner of the property on which the tree stands shall be assessed a civil penalty~~
13 ~~in the following amounts for each tree over two inches in diameter that is cut,~~
14 ~~felled, or destroyed~~ who is entitled to damages pursuant to section 3606 of this
15 title may provide an assessment of the value, based upon the kind, condition,
16 location, and use of the timber cut down, destroyed, removed, injured,
17 damaged, or carried away or, in the alternative, may assess the value of the
18 timber as follows:

19 (1) if ~~the~~ a tree is no more than six inches in stump diameter or DBH,
20 ~~not more than \$25.00~~ \$100.00;

1 (2) if ~~the~~ a tree is more than six inches and not more than ten inches in
2 stump diameter or DBH, ~~not more than \$50.00~~ \$200.00;

3 (3) if ~~the~~ a tree is more than 10 inches and not more than 14 inches in
4 stump diameter or DBH, ~~not more than \$150.00~~ \$500.00;

5 (4) if ~~the~~ a tree is more than 14 inches and not more than 18 inches in
6 stump diameter or DBH, ~~not more than \$500.00~~ \$1,000.00;

7 (5) if ~~the~~ a tree is more than 18 inches and not more than 22 inches in
8 stump diameter or DBH, ~~not more than \$1,000.00~~ \$1,500.00;

9 (6) if ~~the~~ a tree is greater than 22 inches in stump diameter or DBH, ~~not~~
10 ~~more than \$1,500.00~~ \$2,000.00;

11 (7) for a bush or shrub, \$50.00.

12 ~~(b) In calculating the diameter and number of trees cut, felled, or destroyed~~
13 ~~under this section, a law enforcement officer may rely on a written damage~~
14 ~~assessment completed by a professional arborist or forester.~~

15 § 3603. MARKING HARVEST UNITS

16 ~~A landowner who authorizes timber harvesting or who in fact harvests~~
17 ~~timber shall clearly and accurately mark with flagging or other temporary and~~
18 ~~visible means the harvest unit. Each mark of a harvest unit shall be visible~~
19 ~~from the next and shall not exceed 100 feet apart. The marking of a harvest~~
20 ~~unit shall be completed prior to commencement of a timber harvest. If a~~
21 ~~violation as described in section 3602 of this title occurs due to the failure of a~~

1 ~~landowner to mark a harvest unit, the landowner who failed to mark a harvest~~
2 ~~unit in accordance with the requirements of this subsection shall be assessed a~~
3 ~~civil penalty of not less than \$250.00 and not more than \$1,000.00.~~

4 [Repealed.]

5 § 3604. EXEMPTIONS

6 The cutting, felling, or destruction of a tree or the harvest of timber by the
7 following ~~is exempt from the requirements of sections 3602, 3603, and 3606~~
8 shall not be subject to a civil action under section 3606 of this title or a
9 criminal penalty under section 3606a of this title:

10 (1) The Agency of Transportation, or its representatives, conducting
11 ~~brush removal on State highways or Agency maintained trails~~ vegetation
12 management.

13 (2) A municipality conducting brush removal subject to the
14 requirements of 19 V.S.A. § 904.

15 (3) A utility conducting vegetation maintenance within the boundaries
16 of the utility's established right-of-way.

17 (4) ~~A harvester harvesting timber that a landowner has authorized for~~
18 ~~harvest within a harvest unit that has been marked by a landowner under~~
19 ~~section 3603 of this title. A landowner who harvests timber on his or her own~~
20 ~~property shall not be a "harvester" for the purposes of this subdivision.~~

21 [Repealed.]

1 (5) A railroad conducting vegetation ~~maintenance or brush removal in~~
2 ~~the railroad right-of-way~~ management.

3 (6) A licensed surveyor establishing boundaries between abutting
4 parcels under 27 V.S.A. § 4.

5 § 3606. ~~TREBLE DAMAGES FOR CONVERSION OF TREES OR~~

6 ~~DEFACING MARKS ON LOGS~~ TRESPASS; CIVIL ACTION

7 (a) ~~If~~ In addition to any other civil liability or criminal penalty allowed by
8 law, if a person cuts down, fells, destroys, removes, injures, damages, or
9 carries away any ~~tree or trees, brush, or shrubs~~ timber placed or growing for
10 any use or purpose whatsoever, or ~~timber, wood, or underwood~~ forest products
11 standing, lying, or growing belonging to another person, without ~~leave~~
12 permission from the owner of ~~such trees, the timber, wood, or underwood or~~
13 forest product, or cuts out, alters, or defaces the mark of a log or other valuable
14 ~~timber, in a river or other place~~ forest product, the party injured may recover of
15 such person, in an action on this statute, treble damages ~~or for each tree the~~
16 ~~same amount that would be assessed as a civil penalty under section 3602 of~~
17 ~~this title, whichever is greater~~ for the value of the timber or forest product, and
18 any damage caused to the land or improvements thereon as a result of such
19 action. The injured party or landowner may rely on an assessment of damages
20 based on the kind, condition, location, and use of the timber or forest product

1 by the injured party or landowner, or alternatively, may elect to rely on the
2 values established under section 3602 of this title.

3 ~~(b) However, if it appears on trial that the defendant acted through mistake,~~
4 ~~or~~ If the defendant in an action brought pursuant to subsection (a) of this
5 section establishes by a preponderance of the evidence that he or she had good
6 reason to believe that the trees, timber, wood, or underwood or forest products
7 belonged to him or her, or that he or she had a legal right to perform the acts
8 complained of, the plaintiff shall recover single damages only, with costs.

9 ~~(c) For purposes of~~ As used in this section, “damages” shall include any
10 damage caused to the land or improvements thereon as a result of a person
11 cutting, felling, destroying ~~to the point of no value, substantially reducing the~~
12 ~~potential value,~~ removing, injuring, damaging, or carrying away ~~a trees,~~
13 ~~timber, wood,~~ or forest products without the ~~consent~~ permission of the owner
14 of the property on which the tree stands. ~~If a person cuts down, destroys, or~~
15 ~~carries away a tree or trees placed or growing for any use or purpose~~
16 ~~whatsoever or timber, wood, or underwood standing, lying, or growing~~
17 ~~belonging to another person due to the failure of the landowner or the~~
18 ~~landowner’s agent to mark the harvest unit properly, as required under section~~
19 ~~3603 of this title, a cause of action for damages may be brought against the~~
20 ~~landowner.~~

1 § 3606a. TRESPASS; CRIMINAL PENALTY

2 (a) No person shall knowingly or recklessly:

3 (1) cut down, fell, destroy, remove, injure, damage, or carry away any
4 timber or forest product placed or growing for any use or purpose whatsoever,
5 or timber or forest product lying or growing belonging to another person,
6 without permission from the owner of the timber or forest product; or

7 (2) deface the mark of a log, forest product, or other valuable timber in a
8 river or other place.

9 (b) Any person who violates subsection (a) of this section shall:

10 (1) be imprisoned not more than one year or fined not more than
11 \$5,000.00, or both, if the value of the timber or forest product is less than
12 \$1,000.00; or

13 (2) be imprisoned not more than two years or fined not more than
14 \$10,000.00, or both, if the value of the timber or forest product is \$1,000.00 or
15 greater.

16 Sec. 15. 4 V.S.A. § 1102(b) is amended to read:

17 (b) The Judicial Bureau shall have jurisdiction of the following matters:

18 * * *

19 (21) ~~Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful~~
20 ~~cutting of trees and the marking of harvest units. [Repealed.]~~

21 * * *

1 * * * Forest Integrity; Municipal and Regional Planning * * *

2 Sec. 16. 24 V.S.A. § 4302(c) is amended to read:

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

5 * * *

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

8 * * *

9 (C) Vermont’s forestlands should be managed so as to maintain and
10 improve forest blocks and habitat connectors.

11 * * *

12 (9) To encourage and strengthen agricultural and forest industries.

13 (A) Strategies to protect long-term viability of agricultural and ~~forest~~
14 ~~lands~~ forestlands should be encouraged and should include maintaining low
15 overall density.

16 * * *

17 Sec. 17. 24 V.S.A. § 4303 is amended to read:

18 § 4303. DEFINITIONS

19 The following definitions shall apply throughout this chapter unless the
20 context otherwise requires:

21 * * *

1 (10) “Land development” means the division of a parcel into two or
2 more parcels, the construction, reconstruction, conversion, structural alteration,
3 relocation, or enlargement of any building or other structure, or of any mining,
4 excavation, or landfill, and any change in the use of any building or other
5 structure, or land, or extension of use of land.

6 * * *

7 (34) “Forest block” means a contiguous area of forest in any stage of
8 succession and not currently developed for nonforest use. A forest block may
9 include recreational trails, wetlands, or other natural features that do not
10 themselves possess tree cover, and uses exempt from regulation under
11 subsection 4413(d) of this title.

12 (35) “Forest fragmentation” means the division or conversion of a forest
13 block by land development other than by a recreational trail or use exempt
14 from regulation under subsection 4413(d) of this title.

15 (36) “Habitat connector” means land or water, or both, that links patches
16 of wildlife habitat within a landscape, allowing the movement, migration, and
17 dispersal of animals and plants and the functioning of ecological processes. A
18 habitat connector may include recreational trails and uses exempt from
19 regulation under subsection 4413(d) of this title. In a plan or other document
20 issued pursuant to this chapter, a municipality or regional plan commission
21 may use the phrase “wildlife corridor” in lieu of “habitat connector.”

1 (37) “Recreational trail” means a corridor that is not paved and that is
2 used for hiking, walking, bicycling, cross-country skiing, snowmobiling,
3 all-terrain vehicle riding, horseback riding, and other similar recreational
4 activity.

5 Sec. 18. 24 V.S.A. § 4348a(a)(2) is amended to read:

6 (2) A land use element, which shall consist of a map and statement of
7 present and prospective land uses, that:

8 (A) ~~indicating~~ Indicates those areas proposed for forests, recreation,
9 agriculture (using the agricultural lands identification process established in
10 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses,
11 open spaces, areas reserved for flood plain, and areas identified by the State,
12 regional planning commissions, or municipalities, ~~which~~ that require special
13 consideration for aquifer protection; for wetland protection; for the
14 maintenance of forest blocks, wildlife habitat, and habitat connectors; or for
15 other conservation purposes;.

16 (B) ~~indicating~~ Indicates those areas within the region that are likely
17 candidates for designation under sections 2793 (downtown development
18 districts), 2793a (village centers), 2793b (new town centers), and 2793c
19 (growth centers) of this title;.

20 (C) ~~indicating~~ Indicates locations proposed for developments with a
21 potential for regional impact, as determined by the regional planning

1 commission, including flood control projects, surface water supply projects,
2 industrial parks, office parks, shopping centers and shopping malls, airports,
3 tourist attractions, recreational facilities, private schools, public or private
4 colleges, and residential developments or subdivisions;

5 (D) ~~setting~~ Sets forth the present and prospective location, amount,
6 intensity, and character of such land uses and the appropriate timing or
7 sequence of land development activities in relation to the provision of
8 necessary community facilities and services;

9 (E) ~~indicating~~ Indicates those areas that have the potential to sustain
10 agriculture and recommendations for maintaining them which may include
11 transfer of development rights, acquisition of development rights, or farmer
12 assistance programs.

13 (F) Indicates those areas that are important as forest blocks and
14 habitat connectors and plans for land development in those areas to minimize
15 forest fragmentation and promote the health, viability, and ecological function
16 of forests. A plan may include specific policies to encourage the active
17 management of those areas for wildlife habitat, water quality, timber
18 production, recreation, or other values or functions identified by the regional
19 planning commission.

20 * * *

1 Sec. 19. 24 V.S.A. § 4382(a)(2) is amended to read:

2 (2) A land use plan:

3 ~~(A) consisting of, which shall consist of~~ a map and statement of
4 present and prospective land uses, that:

5 ~~(A) indicating~~ Indicates those areas proposed for forests, recreation,
6 agriculture (using the agricultural lands identification process established in
7 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses,
8 and open spaces, areas reserved for flood plain, and areas identified by the
9 State, the regional planning commission, or the municipality that require
10 special consideration for aquifer protection; for wetland protection; for the
11 maintenance of forest blocks, wildlife habitat, and habitat connectors; or for
12 other conservation purposes;

13 ~~(B) setting~~ Sets forth the present and prospective location, amount,
14 intensity, and character of such land uses and the appropriate timing or
15 sequence of land development activities in relation to the provision of
16 necessary community facilities and service;

17 ~~(C) identifying~~ Identifies those areas, if any, proposed for designation
18 under chapter 76A of this title, together with, for each area proposed for
19 designation, an explanation of how the designation would further the plan's
20 goals and the goals of section 4302 of this title, and how the area meets the
21 requirements for the type of designation to be sought.

1 (D) Indicates those areas that are important as forest blocks and
2 habitat connectors and plans for land development in those areas to minimize
3 forest fragmentation and promote the health, viability, and ecological function
4 of forests. A plan may include specific policies to encourage the active
5 management of those areas for wildlife habitat, water quality, timber
6 production, recreation, or other values or functions identified by the
7 municipality.

8 Sec. 20. STUDY AND REPORT; LAND USE REGULATION; FOREST
9 INTEGRITY

10 (a) Creation. There is created a Study Committee on Land Use Regulation
11 and Forest Integrity to study potential revisions to 10 V.S.A. chapter 151
12 (Act 250) and to 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect
13 contiguous areas of forestland from fragmentation and promote habitat
14 connectivity between forestlands.

15 (b) Membership. The Committee shall be composed of the following nine
16 members:

17 (1) a current member of the House of Representatives, appointed by the
18 Speaker of the House;

19 (2) a current member of the Senate, appointed by the Committee on
20 Committees;

1 (3) a current officer of a municipality, appointed by the Vermont League
2 of Cities and Towns;

3 (4) a representative of the Vermont Association of Planning and
4 Development Agencies, appointed by that Association;

5 (5) the Commissioner of Housing and Community Development or
6 designee;

7 (6) the Chair of the Natural Resources Board or designee;

8 (7) the Commissioner of Forests, Parks and Recreation or designee;

9 (8) a representative of the Vermont Forest Roundtable through the
10 Vermont Natural Resources Council;

11 (9) a representative of the Vermont Working Lands Enterprise Board
12 established under 6 V.S.A. § 4606, appointed by that Board; and

13 (10) a representative of the Vermont Forest Products Association,
14 appointed by that Association.

15 (c) Powers and duties. The Committee shall study potential revisions to
16 Act 250 and 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect
17 contiguous areas of forestland from fragmentation and promote habitat
18 connectivity between forestlands. This study shall include the following:

19 (1) a review of the relevant provisions of Act 250 and 24 V.S.A.
20 chapter 117 as they exist on passage of this act;

1 (2) a development and review of options to revise Act 250 and the bylaw
2 provisions of chapter 117 to protect forestland from fragmentation and promote
3 habitat connectivity;

4 (3) an evaluation of the impact of those options on land use;

5 (4) a recommendation on whether to make such revisions and the reason
6 for the recommendation and, if the recommendation is affirmative, the
7 revisions that the Committee suggests be made; and

8 (5) a review of the definitions added by Sec. 17 of this act to 24 V.S.A.
9 § 4303 and the amendments made by Secs. 18 and 19 of this act to 24 V.S.A.
10 §§ 4348a and 4382, a recommendation on whether to make revisions to these
11 provisions and the reasons for the recommendation and, if the recommendation
12 is affirmative, the revisions that the Committee suggests be made.

13 (d) Assistance. For purposes of scheduling meetings, preparing its
14 recommendation on whether to make statutory revisions, and preparing any
15 recommended legislation, the Committee shall have the assistance of the Office
16 of Legislative Council. The Committee also shall be entitled to the technical
17 and professional assistance of the Departments of Housing and Community
18 Development and of Forests, Parks and Recreation and of the Natural
19 Resources Board.

20 (e) Report. On or before **December 30, 2016**, the Committee shall submit
21 its written recommendation and any proposed legislation to the House

1 Committee on Fish, Wildlife and Water Resources and the House and Senate
2 Committees on Natural Resources and Energy.

3 (f) Meetings.

4 (1) The Office of Legislative Council shall call the first meeting of the
5 Committee to occur on or before July 15, 2016.

6 (2) The Committee shall select a chair from among its legislative
7 members at the first meeting.

8 (3) A majority of the membership shall constitute a quorum.

9 (g) Reimbursement.

10 (1) For attendance at meetings during adjournment of the General
11 Assembly, legislative members of the Committee shall be entitled to per diem
12 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
13 no more than four meetings.

14 (2) Other members of the Committee who are not employees of the State
15 of Vermont and who are not otherwise compensated or reimbursed for their
16 attendance shall be entitled to per diem compensation and reimbursement of
17 expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings.

18 * * * Municipal Regulation of Forestry Operations * * *

19 Sec. 21. 24 V.S.A. § 4413(d) is amended to read:

20 (d)(1) A bylaw under this chapter shall not regulate;

1 (A) required agricultural practices, including the construction of farm
2 structures, as those practices are defined by the Secretary of Agriculture, Food
3 and Markets ~~or~~;

4 (B) accepted silvicultural practices, as defined by the Commissioner
5 of Forests, Parks and Recreation, including practices which are in compliance
6 with the Acceptable Management Practices for Maintaining Water Quality on
7 Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks
8 and Recreation; or

9 (C) forestry operations.

10 ~~(1)(2)~~ For purposes of As used in this section;

11 (A) “~~farm~~ Farm structure” means a building, enclosure, or fence for
12 housing livestock, raising horticultural or agronomic plants, or carrying out
13 other practices associated with accepted agricultural or farming practices,
14 including a silo, as “farming” is defined in 10 V.S.A. § 6001(22), but excludes
15 a dwelling for human habitation.

16 (B) “Forestry operations” has the same meaning as in 10 V.S.A.
17 § 2602.

18 ~~(2)(3)~~ A person shall notify a municipality of the intent to build a farm
19 structure and shall abide by setbacks approved by the Secretary of Agriculture,
20 Food and Markets. No municipal permit for a farm structure shall be required.

1 ~~(3) A municipality may enact a bylaw that imposes forest management~~
2 ~~practices resulting in a change in a forest management plan for land enrolled in~~
3 ~~the use value appraisal program pursuant to 32 V.S.A. chapter 124 only to the~~
4 ~~extent that those changes are silviculturally sound, as determined by the~~
5 ~~Commissioner of Forests, Parks and Recreation, and protect specific natural,~~
6 ~~conservation, aesthetic, or wildlife features in properly designated zoning~~
7 ~~districts. These changes also must be compatible with 32 V.S.A. § 3755.~~

8 (4) This subsection does not prevent an appropriate municipal panel,
9 when issuing a decision on an application for land development over which the
10 panel otherwise has jurisdiction under this chapter, from imposing reasonable
11 conditions under subsection 4464(b) of this title to protect wildlife habitat,
12 threatened or endangered species, or other natural, historic, or scenic resources
13 and does not prevent the municipality from enforcing such conditions,
14 provided that the reasonable conditions do not restrict or regulate forestry
15 operations unrelated to land development.

16 * * * Land Use Change Tax; Transfer of Lands to State
17 and Federal Forest * * *

18 Sec. 22. 32 V.S.A. § 3757 is amended to read:

19 § 3757. LAND USE CHANGE TAX

20 (a) Land which has been classified as agricultural land or managed
21 forestland pursuant to this chapter shall be subject to a land use change tax

1 upon the development of that land, as defined in section 3752 of this chapter.
2 The tax shall be at the rate of 10 percent of the full fair market value of the
3 changed land determined without regard to the use value appraisal. If changed
4 land is a portion of a parcel, the fair market value of the changed land shall be
5 the fair market value of the changed land as a separate parcel, divided by the
6 common level of appraisal. Such fair market value shall be determined as of
7 the date the land is no longer eligible for use value appraisal. This tax shall be
8 in addition to the annual property tax imposed upon such property. Nothing in
9 this section shall be construed to require payment of an additional land use
10 change tax upon the subsequent development of the same land, nor shall it be
11 construed to require payment of a land use change tax merely because
12 previously eligible land becomes ineligible, provided no development of the
13 land has occurred.

14 * * *

15 (f)(1) When the application for use value appraisal of agricultural and
16 forestland has been approved by the State, the State shall record a lien against
17 the enrolled land in the land records of the municipality ~~which~~ that shall
18 constitute a lien to secure payment of the land use change tax to the State upon
19 development. The landowner shall bear the recording cost. The land use
20 change tax and any obligation to repay benefits paid in error shall not
21 constitute a personal debt of the person liable to pay the same, but shall

1 constitute a lien which shall run with the land. All of the administrative
2 provisions of chapter 151 of this title, including those relating to collection and
3 enforcement, shall apply to the land use change tax. The Director shall release
4 the lien when notified that:

5 (A) the land use change tax is paid;

6 (B) the land use change tax is abated pursuant to this section;

7 (C) the land use change tax is abated pursuant to subdivision 3201(5)
8 of this title;

9 (D) the land is exempt from the levy of the land use change tax
10 pursuant to this section and the owner requests release of the lien; or

11 (E) the land is exempt from the levy of the land use change tax
12 pursuant to this section and the land is developed.

13 (2) Nothing in this subsection shall be construed to allow the enrollment
14 of agricultural land or managed forestland without a lien to secure payment of
15 the land use change tax. Any fees related to the release of a lien under this
16 subsection shall be the responsibility of the owner of the land subject to the
17 lien.

18 (g) Upon application, the Commissioner may abate a use change tax levy
19 concerning agricultural land found eligible for use value appraisal under
20 subdivision 3752(1)(A) of this title, in the following cases:

1 (1) If a disposition of such property resulting in a change of use of it
2 takes place within five years of the initial assessment at use value because of
3 the permanent physical incapacity or death of the individual farmer-owner or
4 farmer-operator of the property.

5 (2) If a disposition of the property was necessary in order to raise funds
6 to continue the agriculture operation of the seller. In this case, the
7 Commissioner shall consider the financial gain realized by the sale of the land
8 and whether, in respect to that gain, payment of the use change tax would
9 significantly reduce the ability of the seller to continue using the remaining
10 property, or any part thereof, as agricultural land.

11 (h) Land condemned as a result of eminent domain or sold voluntarily to a
12 condemning authority in anticipation of eminent domain proceedings is exempt
13 from the levy of a land use change tax under this section.

14 * * *

15 (j)(1) Land transferred to the ~~United States~~ U.S. Forest Service is exempt
16 from the levy of a use change tax under this section, provided ~~all~~ one of the
17 following ~~apply~~ applies:

18 (4)(A) land transferred is eligible for use value appraisal at the time
19 of the transfer;

1 ~~(2)~~(B) the transfer is in consideration for the receipt from the ~~United~~
2 ~~States~~ U.S. Forest Service of land of approximately equal value, as determined
3 by the Commissioner; ~~and~~ or

4 ~~(3)~~(C) the landowner has submitted to the Commissioner in writing a
5 binding document that would substitute the land received for the land
6 transferred to the Forest Service, for the purposes of this chapter.

7 (2) Land acquired by the Green Mountain National Forest for public use
8 is exempt from the levy of a use change tax under this section.

9 (k) Conservation and preservation rights and interests held by an agency of
10 the United States or by a qualified holder, as defined in 10 V.S.A. chapter 34,
11 shall be exempt from the levy of a use change tax. Upon request of the agency
12 or qualified holder, the Commissioner may petition the Director to release the
13 conservation and preservation rights and interests from any lien recorded
14 pursuant to this chapter.

15 (l) Land acquired by the Agency of Natural Resources; the Department of
16 Forests, Parks and Recreation; the Department of Fish and Wildlife; or the
17 Department of Environmental Conservation for public uses, as authorized by
18 10 V.S.A. § 6301(a)(1)–(4), is exempt from the levy of a land use change tax
19 under this section.

20 * * * Effective Dates * * *

21 Sec. 23. EFFECTIVE DATES

1 (a) This section and Secs. 9 (intergenerational working group) and 20
2 (forest integrity study and report) shall take effect on passage.

3 (b) Secs. 1–4 (general policy and enforcement), 5–7 (harvest notification
4 pilot program), 8 (maple sugar production on State lands), 10–12 (fire
5 wardens; fire suppression), 13 (right to forest), 14–15 (timber trespass), 16
6 (forest integrity; purpose; goals), 21 (municipal regulation of forestry
7 operations), and 22 (land use change tax) shall take effect on July 1, 2016.

8 (c) Secs. 17 (forest integrity; definitions), 18 (elements of a regional plan)
9 and 19 (plan for municipality) shall take effect on January 1, 2018. Secs. 17
10 through and 19 shall apply to municipal and regional plans adopted or
11 amended on or after January 1, 2018.

12

13

14

15

16 (Committee vote: _____)

17

18

Senator _____

19

FOR THE COMMITTEE