



VERMONT LEGISLATIVE  
**Joint Fiscal Office**

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## Fiscal Note

June 5, 2024

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### **H.687 – An act relating to community resilience and biodiversity protection through land use**

**As passed by the General Assembly<sup>1</sup>**

#### **Bill Summary**

The bill would make changes to land use regulations, municipal zoning laws, Act 250, and laws pertaining to the construction and maintenance of housing supply in Vermont. The bill would also restructure the administration of Act 250 with a professionalized Land Use Review Board (LURB) replacing the current Natural Resources Board (NRB) on July 1, 2025. The bill would also make appropriations and establish programs and special funds to support housing development and revitalization efforts, funded by an increase to the property transfer tax (PTT) on second homes. The bill also includes a property tax freeze for qualifying improvements to properties in certain flood-impacted communities.

#### **Fiscal Impact**

The Joint Fiscal Office (JFO) estimates that the bill would have the following fiscal impacts:

- **Changes to the Act 250 process could decrease annual Act 250 Permit Fund revenue beginning in fiscal year 2025.**
  - Natural Resources Board (NRB): \$900,000 estimated annual revenue loss. This represents approximately 30% of annual NRB fee revenue.
  - Agency of Natural Resources (ANR): \$70,000 estimated annual revenue loss.
- **Implementation of three additional fees could increase Act 250 Permit Fund revenue beginning in fiscal year 2025.**
  - A portion of this would be due to the transition of the Act 250 appeals process from the Judiciary's Environmental Division to the newly-created LURB. Since appeals come with a fee to, this would result in a negligible annual General Fund revenue loss for the Judiciary beginning in fiscal year 2027.
- **An increase in the PTT rate on year-round habitable secondary residences without a landlord certificate from 1.25% to 3.4%. Exemption thresholds for the general 1.25% rate of the PTT and CWS would also increase. These combined changes would generate \$15.7 million in additional revenue in fiscal year 2025.**
  - The bill would allocate \$8.3 million of the additional revenue generated by PTT changes to the

<sup>1</sup>The bill as passed by the General Assembly is available here:

<https://legislature.vermont.gov/Documents/2024/Docs/BILLS/H-0687/H-0687%20Senate%20proposal%20of%20amendment%20to%20House%20proposal%20of%20amendment%20to%20Senate%20proposal%20of%20amendment%20Official.pdf>

- General Fund for various appropriations contained in it
- The Vermont Housing and Conservation Trust Fund (VHCTF) would receive a \$6.1 million General Fund appropriation
- The Municipal and Regional Planning Fund (MRPF) would receive a \$1.28 million General Fund appropriation
- **An increase in Clean Water Surcharge (CWS) exemption values in the PTT from \$100,000 to \$200,000 for principal residences and from \$200,000 to \$250,000 for principal residences financed through the Vermont Housing and Conservation Board (VHCB), the Vermont Housing Finance Agency (VHFA), or U.S. Department of Agriculture Rural Development (USDA-RD) housing programs. The CWS increases from 0.2% to 0.22%.**
  - This would generate an additional \$60,000 in annual revenue for the Clean Water Fund
- **A property tax freeze for property rehabilitation or new construction in certain designated areas impacted by flooding in 2023.**
  - This is expected to lead to \$1.16 million in forgone Education Fund revenue in fiscal year 2026, \$2.44 million in foregone revenue in fiscal year 2027, and \$3.90 million in foregone revenue in fiscal years 2028.

FY25 - Additional PTT Revenue Generated and Allocations		
15,700,000	Additional PTT 2 <sup>nd</sup> Homes Revenue (Sec. 73)	
<b>15,700,000</b>	<b>Remainder</b>	
8,288,950	Additional Dollars to GF (Sec. 78)	
6,106,335	Additional Dollars to VHCTF (Sec. 78)	
1,279,740	Additional Dollars to MRPF (Sec. 78)	
<b>15,675,025</b>	<b>Total</b>	

FY25 - Appropriations from Additional General Fund Revenue		
Sec. 74	GF Allocation of New PTT Revenue	8,288,950
Sec. 15	NRB Staff Attorney	56,250
Sec. 90	First Generation Homebuyer Program	1,000,000
Sec. 91	Land Access Opportunities Board	1,000,000
Sec. 94	Rental Housing Stabilization Services	400,000
Sec. 95	Tenant Representation Pilot Program	1,025,000
Sec. 96	Rent Arrears Assistance	2,500,000
Sec. 107	DHCD – Manufactured Homes	1,000,000
Sec. 113	Landlord-Tenant Law Study Committee	7,700
Sec. 113b	NRB Lost Fee Revenue & Board Members	1,300,000
<b>Total Appropriations</b>		<b>8,288,950</b>

## Background and Details

The following sections would have a fiscal impact.

### Sections 2-3: Land Use Review Board (LURB) and Nominating Committee

These sections would establish the LURB to administer the Act 250 program. The LURB would retain the current duties of the NRB in addition to hearing appeals, reviewing the future land use maps of regional plans, reviewing applications’ Tier 1A area status, and reviewing the maps that establish Tier 1B areas.

The LURB would consist of five members appointed by the Governor after review and approval from the LURB Nominating Committee. The chair and four members of the LURB would be full-time positions. The Nominating Committee would be created in the bill and be comprised of two members of the House, two members of the Senate, and two members of the Executive Branch. Legislative members of the Committee would be eligible for per diem compensation and expense reimbursement.

### **Section 9: Act 250 Fees**

Section 9 would create two fees. The first fee would be \$295 for any municipality filing an application for Tier 1A status. The second would be \$295 and apply to any regional planning commission (RPC) filing a regional plan or future land use map that is reviewed by the LURB. Revenue would depend both on the number of towns that file applications and how RPCs file plans and maps. If all 247 municipalities and 11 RPCs were to submit plans, the two fees could generate approximately \$76,000 for the Act 250 Permit Fund. However, it is unclear how many towns will apply for Tier 1A status and when they will apply. Therefore, revenue is likely to be far less than \$76,000. RPCs would also have to pay the \$295 fee when they resubmit regional plans or land use maps every eight years, generating nominal additional revenue when they resubmit.

### **Section 10: LURB Positions and Appropriations**

Section 10 would create one staff attorney position and four full-time LURB member positions. These positions are in addition to the current full-time chair at the NRB. The bill would appropriate \$56,250 from the General Fund in fiscal year 2025 to the NRB to fund the attorney position for a partial year. The LURB Board positions would be appointed on or after July 1, 2025, and therefore do not require a fiscal year 2025 appropriation. The NRB indicated that two attorneys will be needed at the start of fiscal year 2026 but requested that start early to facilitate the transition for the newly appointed board. The bill would provide partial year funding for one of the positions.

Act 182 (2022) and Act 47 (2023) directed the NRB to report on “necessary updates to the Act 250 program.” In the report, published December 2023, the cost of NRB governance and staffing reforms was estimated using the Public Utility Commission’s (PUC) operating cost as a model. Using the methodology laid out in the report, the annual cost of the two attorneys and four full-time board members would be approximately \$1.2 million.<sup>2</sup> The LURB members would be appointed and begin their positions in fiscal year 2026.

Also, in fiscal year 2026, the LURB would appoint an executive director. NRB anticipates the annual cost of the Executive Director to be approximately \$160,000. Currently, the NRB Executive Director is funded with American Rescue Plan Act – State Fiscal Recovery (ARPA-SFR) dollars through December 31, 2025. The need for additional funds for this position would be approximately \$80,000 in fiscal year 2026 and \$160,000 in fiscal years after that.

The NRB has indicated that in order to carry out existing work, and in anticipation of needs to implement and administer the new LURB framework, two limited-service positions are needed. The annual cost of these positions would be \$225,000. Currently, two limited-service positions exist and are funded with ARPA-SFR dollars through December 31, 2025. The need for additional funds for these positions would be approximately \$112,500 in fiscal year 2026 and \$225,000 in fiscal years thereafter.

### **Section 18: Accessory On-Farm Businesses, Act 250 Permit Exemption**

Section 18 modifies the definition of accessory on-farm businesses and exempts improvements to those businesses from Act 250 permitting. Due to the limited number of current permits issued to on-farm accessory businesses, this change is estimated to have a negligible impact to Act 250 Permit Fund revenues.

### **Section 19: Act 250 Road Rule**

Section 19 would create an Act 250 jurisdictional trigger for the creation or improvement of a new single road

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<sup>2</sup> [https://legislature.vermont.gov/assets/Legislative-Reports/NRB-Necessary-Updates-to-Act-250-Study\\_FINAL-1.pdf](https://legislature.vermont.gov/assets/Legislative-Reports/NRB-Necessary-Updates-to-Act-250-Study_FINAL-1.pdf)

of greater than 800 feet or of roads and any associated driveways greater than 2,000 feet, after July 1, 2026. This provision would not affect developments within a Tier 1A or Tier 1B area. This provision could generate revenue for the Act 250 Permit Fund, however, without information about the number of new developments that would be subject to this rule, JFO is unable to provide an estimate.

This section also clarifies that routine maintenance on class four roads would not trigger Act 250.

#### **Section 24: Act 250 Exemption for Priority Housing Projects**

Section 24 would extend the Act 250 exemption created by Act 47 of 2023 for priority housing projects within a designated center through January 1, 2027, which is an additional six months compared to current law. It would also add an exemption to developments within a half-mile of the designated center, so long as the area already has zoning bylaws and is served by sewer or water service or has soil suitable for wastewater disposal. As in other provisions of the bill, the number of new projects that may fall into this exemption category is unknown, so JFO is not able to estimate the additional revenue loss that would result from the expansion of the exemption to priority housing projects within one-half mile of a designated center.

#### **Section 26: Act 250 Exemption for Electric Utilities**

Section 26 would extend the Act 250 exemption for electric utility rebuilding of utility lines and related facilities to improve reliability per Act 47 (2023) from January 1, 2026 until December 31, 2030. This provision would extend the existing indeterminate loss in Act 250 revenues resulting from the provision through 2030.

#### **Sections 27-32: Tier 1A and Tier 1B creation, Act 250 Permit Requirements**

Sections 27-31 create two stages of Act 250 exemptions. Interim exemptions, in effect until January 1, 2027, would exempt all construction housing within downtowns with permanent zoning and subdivision bylaws, and sewer, water, or appropriate soil. It would also exempt the construction of 75 units within a half-mile of a designated downtown development district, or within new town centers, growth centers, or neighborhood development areas. Interim exemptions would also include housing projects of 50 units or less on ten acres of land within a quarter-mile of village centers with permanent zoning or subdivision bylaws, and sewer, water, or appropriate soil. Areas within a quarter mile of a transit route in an urbanized area of greater than 50,000 would also be exempt.

The bill would not require Act 250 permitting for the construction of improvements for a hotel or motel converted to permanently affordable housing. The bill would also exempt the construction of improvements for an accessory dwelling unit until July 1, 2028.

The adoption of Tier 1A and Tier 1B areas could create further expansions of areas exempt from Act 250. Municipalities could apply for Tier 1A status starting January 1, 2026 if they meet certain criteria related to flood risk, capital budget, and municipal staffing to support development, zoning and by-law requirements, wastewater infrastructure, and historic and environmental planning. Residential developments in these areas would be exempt from Act 250 and associated permitting fees.

Tier 1B areas would be noted on regional plans developed by RPCs and approved by the LURB if they meet certain requirements related to permanent zoning and bylaws, flood risk, water supply and wastewater infrastructure, and municipal staff available to support the development. Residential or mixed-use developments in these areas would be exempt from Act 250 and related permitting fees if they have fewer than 50 housing units on ten acres or less of land.

The exemptions contained in this section would reduce Act 250 permitting fees that flow to the Act 250 Permit Fund, which funds NRB and ANR activities related to the Act 250 process. Fees for the NRB are \$6.65 per \$1,000 of the first \$15,000,000 of construction costs. Fees decrease to \$3.12 per \$1,000 of additional construction costs, up to a maximum of \$165,000 per permit. Projects may also be subject to subdivision

review fees of \$125 per lot created, and a master plan review fee of \$0.10 per \$1,000 of estimated construction costs.

The changes to permitting requirements in these sections may result in a reduction in fee revenue for the Act 250 Permit Fund of approximately \$900,000 beginning in fiscal year 2025 – approximately 30% of permitting and subdivision fee revenue. The exact magnitude of revenue loss after interim exemptions in fiscal year 2027 depends on the designation of tier areas by municipalities and RPCs. These areas are likely to be more expansive than the land area covered by interim expansions.

ANR also reviews Act 250 permit applications for compliance with environmental criteria. It receives a portion of Act 250 fees for this work; approximately \$200,000 annually. This revenue supports the full-time employees tasked with completing the work, which incurs a cost to ANR of approximately \$380,000 per year. JFO estimates a similar percentage of fee revenue loss for the Act 250 Permit Fund of approximately \$70,000 starting in fiscal year 2025.

### **Section 62: Municipal Planning Grant Program**

Section 62 would rename the Municipal Planning Grant Program as the Municipal Planning and Resilience Grant Program. It would retain its existing purpose but also support resiliency planning and provide funding to RPCs to increase staff to support municipalities' resiliency efforts.

### **Section 66: State Community Investment Program**

Section 66 would establish the Vermont Community Investment Board (VCIB), which would coordinate funding and benefits for the State Community Investment Program, review proposed regional plan future use maps in conjunction with the LURB, award Downtown and Village Tax Credits, manage the Downtown Transportation and Related Capital Improvement Fund program, and review LURB guidelines. VCIB would be comprised of 16 members and meet quarterly.

This section would also modify the downtown and neighborhood designation process. Step 1 would automatically qualify village centers for funding and technical assistance through the Better Places Grant Program. Downtowns and Village Centers that attain a Step 2 or Step 3 designation would be eligible for certain benefits that are currently only available to property holders in areas with a neighborhood designation, such as a \$50 cap on ANR-DEC wastewater fees, and an exemption from the land gains tax. Regional plans could also create designated neighborhoods, which in addition to current funding and tax benefits, would be allowed to create special taxing districts currently authorized in 24 V.S.A. chapter 87.

These provisions could expand the number or size of the areas that are ultimately designated and eligible to receive the benefits outlined above. The exemption on the land gains Tax or Special Fund revenues from the \$50 cap on ANR stormwater fees could reduce General Fund revenue. The exact magnitude of this change ultimately depends on the number of areas designated on land use maps.

### **Section 71: Downtown and Village Center Program Tax Credits**

Section 71 would make an adjustment to Downtown and Village Center Program Tax Credits. The first would increase the maximum credit for combined costs of qualified code improvements from \$75,000 to \$100,000. The second would increase the maximum credit for flood mitigation improvements from \$75,000 to \$100,000. These provisions are not expected to have an overall fiscal impact, as they do not modify the \$3.0 million cap on annual tax credits for the program

### **Section 73-74: Property Transfer Tax (PTT) and Clean Water Surcharge (CWS)**

Section 73 would adjust threshold amounts for the PTT. The bill would increase the \$100,000 threshold value for the 1.25% general rate to \$200,000 for principal residences, and from \$110,000 to \$250,000 for principal residences financed through VHFA, VHCTF or USDA-RD housing programs. These exemptions are expected to cost approximately \$3.6 million annually. Section 73 would also increase the PTT rate on

secondary residences that are fit for year-round habitation and not associated with a landlord certificate from 1.25% to 3.4%. This increase combined with the increases in the exemptions above is forecasted to generate approximately \$15.7 million in additional revenue in fiscal year 2025 and approximately \$18.4 million in annual revenue in fiscal year 2026 and beyond. This would be made effective August 1, 2024.

Section 74 and would adjust the exemption from the CWS from \$100,000 to \$200,000 for principal residences and from \$200,000 to \$250,000 for non-principal residences financed through certain mortgage programs. To account for the revenue loss caused by the adjusted exemption, the bill would increase the CWS rate from 0.2% to 0.22%. This, combined with the changes to the CWS exemptions, would generate an additional \$60,000 in net annual revenue for the Clean Water Fund. The following table shows the new rates and threshold values as proposed in H.687.

**Section 75a-77: PTT and CWS Statutory Allocations**

Sections 75a-77 propose changes to PTT revenue allocations. Under current statute, after bond payments and a 2% allocation to the Department of Taxes’ Division of Property Valuation and Review (PVR) for administrative expenses, the VHCTF receives 50% of PTT revenue, the MRPF receives 17%, and the General Fund receives 33%.

H.687 would adjust these percentages. The portion of revenues allocated to the VHCTF would remain unchanged, however, the percentage allocated to the MRPF would decrease from 17% to 13% percent and the General Fund portion would increase from 33% to 37%. The portion allocated to the Department of Taxes would decrease from 2% to 1.5%.

The underlying percentage allocations in the bill would apply to fiscal year 2026 property transfer tax revenues, as shown below. Note that statutory percentage allocations are typically notwithstanding in the budget process.

	Current Law Allocations	FY 2026 PTT Distribution - Current Law (\$)	Allocations – H.687	FY 2026 PTT Distribution – H.687 (\$)	Difference from FY 2026 Current Law (\$)
<b>Total Forecasted Revenues</b>		59,900,000		78,300,000	17,800,000
<b>Bond Payment</b>		2,500,000		2,500,000	
<b>Department of Tax</b>	2%	1,148,000	1.5%	1,137,000	(11,000)
<b>General Fund</b>	33%	18,563,160	37%	27,625,310	9,062,150
<b>VHCTF</b>	50%	28,126,000	50%	37,331,500	9,205,500
<b>MRPF</b>	17%	9,562,840	13%	9,706,190	143,350

**Section 78: Fiscal Year 2025 PTT Revenue Allocation**

The percentage allocations in Sections 75a-77 would be notwithstanding for fiscal year 2025. Through allocations in the bill, the General Fund would receive \$8.3 million, the VHCTF \$6.1 million, and the MRPF would receive approximately \$1.3 million. The allocation to the General fund would be appropriated to various uses in the bill.

<b>Additional PTT Revenue Generated and Allocations</b>	
15,700,000	Additional PTT Revenue (Sec. 73)
<b>15,700,000</b>	<b>Remainder</b>
8,288,950	Additional Dollars to GF (Sec. 78)
6,106,335	Additional Dollars to VHCTF (Sec. 78)
1,279,740	Additional Dollars to MRPF (Sec. 78)
<b>15,675,025</b>	<b>Total</b>

**Sections 79-82: Property Tax Exemptions**

These sections would create a new construction or rehabilitation property tax exemption that would freeze the education property tax of qualifying properties for three years. A property would qualify by:

- Being located within a half-mile of a designated downtown development district, village center, neighborhood development area, or new market tax credit area. Properties in a tax increment finance (TIF) district would qualify if the legislative body of a municipality voted to allow the exemption in those areas;
- Receiving a “qualifying improvement”;
- Being used as a principal residence; and
- Being located in an area that was declared a federal disaster between July 1, 2023 and October 15, 2023 and eligible for Federal Emergency Management Agency (FEMA) individual assistance or located in Franklin or Addison county. This would include all counties in the state except for Grand Isle, Essex, and Bennington.

JFO forecasts a \$1.16 million cost to the Education Fund starting in fiscal year 2026 for this exemption. The cost would increase in fiscal years 2027 and 2028 as more properties receive exemptions; it would stabilize as the properties that received exemptions in the first year pass the three-year exemption window.

	FY 2026	FY 2027	FY 2028
Education Fund Forgone Revenue	\$1.16 million	\$2.43 million	\$3.90 million

Absent any other changes in policy, the statewide homestead property yield and/or statewide nonhomestead property tax rate may need to be adjusted to account for the forgone revenue from this exemption.

**Section 83a: Property Transfer Tax (PTT) Exemptions**

Section 83a contains exemptions to the PTT. Transfers of abandoned properties would be exempt if the property is rehabilitated and used as a principal residence within three years of the transfer. The limited scope of the exemption means that very few properties meeting the criteria will be transferred, leading to a negligible General Fund revenue impact starting in fiscal year 2025. Transfers of new, energy efficient mobile homes would also be exempt. The number of transfers of new mobile homes that are currently assessed the PTT is limited, leading to a nominal loss in PTT revenue compared to current law.

**Section 86: Vermont Rental Housing Improvement Program (VHIP)**

Section 86 would make changes to the Vermont Rental Housing Improvement Program’s (VHIP) five-year forgivable loans. For any unit converted from commercial to residential, loans could be made for up to

\$70,000. The maximum loan amount for eligible rental housing units, \$50,000, will remain unchanged.

This section would also place requirements on ten-year forgivable loans offered through the program. These include requirements relating to affordability, accessibility, and housing status of prospective tenants. For each year that recipients meet the requirements of the program 10% of the loan amount is forgiven.

#### **Section 90: Appropriation for First-Generation Homebuyer Program**

Section 90 would appropriate \$1.0 million from the General Fund in fiscal year 2025 to the Department of Housing and Community Development (DHCD) to grant to VHFA for the First-Generation Homebuyer Program.

#### **Section 91: Appropriation for Land Access and Opportunity Board**

Section 91 would appropriate \$1.0 million from the General Fund in fiscal year 2025 to the Vermont Housing and Conservation Board (VHCB) to administer the Land Access and Opportunity Board. Act 182 of 2022 specified that the Land Use and Opportunity Board would work with organizations to “improve access to woodlands, farmland, and land and home ownership for Vermonters from historically marginalized or disadvantaged communities who continue to face barriers to land and home ownership.”

#### **Section 94: Rental Housing Stabilization Services**

Section 94 would appropriate \$400,000 from the General Fund in fiscal year 2025 to the Department for Children and Families’ Office of Economic Opportunity within the for a grant to the Champlain Valley Office of Economic Opportunity for the Rental Housing Stabilization Services Program established in Act 47 (2023).

#### **Section 95: Tenant Representation Pilot Program**

Section 95 would appropriate \$1 million from the General Fund in fiscal year 2025 to the Agency of Human Services for a grant to Vermont Legal Aid for the Tenant Representation Pilot Program established in Act 47.

#### **Section 96: Rent Arrears Assistance Fund**

Section 96 would appropriate \$2.5 million from the General Fund in fiscal year 2025 to the Vermont State Housing Authority for the Rent Arrears Assistance Fund established in Act 47.

#### **Section 107: DHCD Mobile Home Infrastructure**

Section 107 would appropriate \$1.0 million from the General Fund in fiscal year 2025 to DHCD to improve mobile home park infrastructure under the Manufactured Home Improvement and Repair Program and to expand the Home Repair Awards Program.

#### **Section 113: Appropriation for Landlord-Tenant Law Study Committee**

Section 113 would create the Landlord-Tenant Law Study Committee to review landlord-tenant laws and evictions processes in Vermont. The Committee would be comprised of two House members, two Senate members, a representative from Vermont Legal Aid, a representative from the Vermont Landlords Association, a representative from DHCD, and a representative from the Judiciary, a person who has experienced an eviction who is appointed by the Champlain Valley Office of Economic Opportunity. The Committee would be eligible for per diem compensation for not more than six meetings. The bill would appropriate \$7,700 from the General Fund in fiscal year 2025 to the General Assembly for the cost of eligible Committee members’ per diem compensation.



**Section 113b: Appropriation to NRB**

Section 113b would appropriate \$1.3 million from the General Fund in fiscal year 2025 to the NRB to compensate the four new full-time LURB board members and lost Act 250 permit fee revenue. This accounts for the approximate cost of \$400,000 in compensation costs for the LURB board and \$900,000 in lost fee revenue in fiscal year 2025.