

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Environment and Energy to which was referred House
3 Bill No. 687 entitled “An act relating to community resilience and biodiversity
4 protection through land use” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Act 250 * * *

8 Sec. 1. PURPOSE

9 The purpose of this act is to further assist the State in achieving the
10 conservation vision and goals for the State established in 10 V.S.A. § 2802
11 and 24 V.S.A. § 4302. It provides a regulatory framework that supports the
12 vision for Vermont of human and natural community resilience and
13 biodiversity protection in the face of climate change, as described in 2023 Acts
14 and Resolves No. 59. It would strengthen the administration of the Act 250
15 program by changing the structure, function, and name of the Natural
16 Resources Board. It requires that appeals of Act 250 permit decisions be heard
17 by a five-member board called the Environmental Review Board. The
18 Environmental Division of the Superior Court would continue to hear the other
19 types of cases within its jurisdiction. The Environmental Review Board would
20 retain the current duties of the Natural Resources Board in addition to hearing
21 appeals, reviewing applications for the Tier 1A area status, review for approval

1 the future land use maps of regional plans, and review the maps that establish
2 the **rural and working lands areas** and **Tier 1A and 1B**. The Board would
3 provide oversight, management, and training to the Act 250 program staff and
4 District Commissions and develop Act 250 program policy through permit
5 decisions and rulemaking. This change would allow the Act 250 program to
6 be a more citizen-friendly process **applied more consistently across districts**.
7 The **program updates** established in this act would be used to guide State
8 financial investment in **human and natural** infrastructure.

9 Sec. 2. 10 V.S.A. § 6000 is added to read:

10 § 6000. PURPOSE; CONSTRUCTION

11 The purposes of this chapter are to protect and conserve the environment of
12 the State and to support the achievement of the goals of the Capability and
13 Development Plan, of 24 V.S.A. § 4302(c), and of the conservation vision and
14 goals for the State established in section 2802 of this title, while supporting
15 equitable access to infrastructure.

16 Sec. 3. 10 V.S.A. § 6021 is amended to read:

17 § 6021. BOARD; VACANCY; REMOVAL

18 (a) ~~A Natural Resources~~ Board established. The Environmental Review
19 Board is created to administer the Act 250 program and hear appeals.

20 (1) The Board shall consist of five members appointed by the Governor,
21 after review and approval by the Environmental Review Board Nominating

1 Committee in accordance with subdivision (2) of this subsection and
2 confirmed with the advice and consent of the Senate, so that one appointment
3 expires in each year. The Chair shall be a full-time position, and the other four
4 members shall be half-time positions. In making these appointments, the
5 Governor and the Senate shall give consideration to candidates who have
6 experience, expertise, or skills relating to ~~the environment or land use~~ one or
7 more of the following areas: environmental science; land use law, policy,
8 planning, and development; and community planning. All candidates shall
9 have a commitment to environmental justice.

10 (A) The Governor shall appoint a chair of the Board, a position that
11 shall be a full-time position. The Governor shall ensure Board membership
12 reflects, to the extent possible, the racial, ethnic, gender, and geographic
13 diversity of the State. The Board shall not contain two members who reside in
14 the same county.

15 (B) Following initial appointments, the members, ~~except for the~~
16 ~~Chair,~~ shall be appointed for terms of ~~four~~ five years. All terms shall begin on
17 July 1 and expire on June 30. A member may continue serving until a
18 successor is appointed. The initial appointments shall be for staggered terms
19 of one year, two years, three years, four years, and five years.

20 (2) ~~The Governor shall appoint up to five persons, with preference given~~
21 ~~to former Environmental Board, Natural Resources Board, or District~~

1 ~~Commission members, with the advice and consent of the Senate, to serve as~~
2 ~~alternates for Board members.~~

3 (A) ~~Alternates shall be appointed for terms of four years, with initial~~
4 ~~appointments being staggered~~ The Environmental Review Board Nominating
5 Committee shall advertise the position when a vacancy will occur on the
6 Environmental Review Board.

7 (B) ~~The Chair of the Board may assign alternates to sit on specific~~
8 ~~matters before the Board in situations where fewer than five members are~~
9 ~~available to serve~~ The Nominating Committee shall review the applicants to
10 determine which are well qualified for appointment to the Board and shall
11 recommend those candidates to the Governor. The names of candidates shall
12 be confidential.

13 (C) The Governor shall appoint, with the advice and consent of the
14 Senate, a chair and four members of the Board from the list of well-qualified
15 candidates sent to the Governor by the Committee.

16 (b) ~~Any vacancy occurring in the membership of the Board shall be filled~~
17 ~~by the Governor for the unexpired portion of the term~~ Terms; vacancy;
18 succession. The term of each appointment subsequent to the initial
19 appointments described in subsection (a) of this section shall be five years.
20 Any appointment to fill a vacancy shall be for the unexpired portion of the
21 term vacated. A member may seek reappointment by informing the Governor.

1 If the Governor decides not to reappoint the member, the Nominating
2 Committee shall advertise the vacancy.

3 (c) Removal. Notwithstanding the provisions of 3 V.S.A. § 2004, members
4 shall only be removable for cause ~~only, except the Chair, who shall serve at the~~
5 ~~pleasure of the Governor~~ by the remaining members of the Board in
6 accordance with the Vermont Administrative Procedures Act. The Board shall
7 adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for
8 removal.

9 (d) Disqualified members. The Chair of the Board, upon request of the
10 Chair of a District Commission, may appoint and assign former Commission
11 members to sit on specific Commission cases when some or all of the regular
12 members and alternates of the District Commission are disqualified or
13 otherwise unable to serve. If necessary to achieve a quorum, the Chair of the
14 Board may appoint a member of a District Commission who has not worked
15 on the case to sit on a specific case before the Board.

16 (e) Retirement from office. When a Board member who hears all or a
17 substantial part of a case retires from office before the case is completed, the
18 member may remain a member of the Board, at the member's discretion, for
19 the purpose of concluding and deciding that case and signing the findings and
20 judgments involved. A retiring chair shall also remain a member for the
21 purpose of certifying questions of law if a party appeals to the Supreme Court.

1 For the service, the member shall receive a reasonable compensation to be
2 fixed by the remaining members of the Board and necessary expenses while on
3 official business.

4 Sec. 4. 10 V.S.A. § 6032 is added to read:

5 § 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING
6 COMMITTEE

7 (a) Creation. The Environmental Review Board Nominating Committee is
8 created for the purpose of assessing the qualifications of applicants for
9 appointment to the Environmental Review Board in accordance with section
10 6021 of this title.

11 (b) Members. The Committee shall consist of six members who shall be
12 appointed by July 31, 2024 as follows:

13 (1) The Governor shall appoint two members from the Executive
14 Branch, with at least one being an employee of the Department of Human
15 Resources.

16 (2) The Speaker of the House of Representatives shall appoint two
17 members from the House of Representatives.

18 (3) The Senate Committee on Committees shall appoint two members
19 from the Senate.

20 (c) Terms. The members of the Committee shall serve for terms of two
21 years. Members shall serve until their successors are appointed. Members

1 shall serve not more than three consecutive terms. A legislative member who
2 is appointed as a member of the Committee shall retain the position for the
3 term appointed to the Committee even if the member is subsequently not
4 reelected to the General Assembly during the member's term on the
5 Committee.

6 (d) Chair. The members shall elect their own chair.

7 (e) Quorum. A quorum of the Committee shall consist of four members.

8 (f) Staff and services. The Committee is authorized to use the staff and
9 services of appropriate State Agencies and Departments as necessary to
10 conduct investigations of applicants.

11 (g) Confidentiality. Except as provided in subsection (h) of this section,
12 proceedings of the Committee, including the names of candidates considered
13 by the Committee and information about any candidate submitted to the
14 Governor, shall be confidential. The provisions of 1 V.S.A. § 317(e)
15 (expiration of Public Records Act exemptions) shall not apply to the
16 exemptions or confidentiality provisions in this subsection.

17 (h) Public information. The following shall be public:

18 (1) operating procedures of the Committee;

19 (2) standard application forms and any other forms used by the
20 Committee, provided they do not contain personal information about a
21 candidate or confidential proceedings;

1 (3) all proceedings of the Committee prior to the receipt of the first
2 candidate’s completed application; and

3 (4) at the time the Committee sends the names of the candidates to the
4 Governor, the total number of applicants for the vacancies and the total number
5 of candidates sent to the Governor.

6 (i) Reimbursement. Legislative members of the Committee shall be
7 entitled to per diem compensation and reimbursement for expenses in
8 accordance with 2 V.S.A. § 23. Compensation and reimbursement shall be
9 paid from the legislative appropriation.

10 (j) Duties.

11 (1) When a vacancy occurs, the Committee shall review applicants to
12 determine which are well qualified for the Board and submit those names to
13 the Governor. The Committee shall submit to the Governor a summary of the
14 qualifications and experience of each candidate whose name is submitted to the
15 Governor together with any further information relevant to the matter.

16 (2) An applicant for the position of member of the Environmental
17 Review Board shall not be required to be an attorney. If the candidate is
18 admitted to practice law in Vermont or practices a profession requiring
19 licensure, certification, or other professional regulation by the State, the
20 Committee shall submit the candidate’s name to the Court Administrator or the
21 applicable State professional regulatory entity, and that entity shall disclose to

1 the Committee any professional disciplinary action taken or pending
2 concerning the candidate.

3 (3) Candidates shall be sought who have experience, expertise, or skills
4 relating to one or more of the following areas: environmental science; land use
5 law, policy, planning, and development; and community planning. All
6 candidates shall have a commitment to environmental justice

7 (4) The Committee shall ensure a candidate possesses the following
8 attributes:

9 (A) Integrity. A candidate shall possess a record and reputation for
10 excellent character and integrity.

11 (B) Impartiality. A candidate shall exhibit an ability to make judicial
12 determinations in a manner free of bias.

13 (C) Work ethic. A candidate shall demonstrate diligence.

14 (D) Availability. A candidate shall have adequate time to dedicate to
15 the position.

16 Sec. 5. 10 V.S.A. § 6025 is amended to read:

17 § 6025. RULES

18 (a) The Board may adopt rules of procedure for itself and the District
19 Commissions. The Board shall adopt rules of procedure that govern appeals
20 and other contested cases before it that are consistent with this chapter. The
21 Board's procedure for approving regional plans and regional plan maps, which

1 may be adopted as rules or issued as guidance, shall ensure that the maps are
2 consistent with legislative intent as expressed in 2802 of this title and 24
3 V.S.A. §§ 4302 and 4348a.

4 * * *

5 Sec. 6. 10 V.S.A. § 6027 is amended to read:

6 § 6027. POWERS

7 (a) The Board and District Commissions ~~each~~ shall have supervisory
8 authority in environmental matters respecting projects within their jurisdiction
9 and shall apply their independent judgment in determining facts and
10 interpreting law. Each shall have the power, with respect to any matter within
11 its jurisdiction, to:

12 (1) administer oaths, take depositions, subpoena and compel the
13 attendance of witnesses, and require the production of evidence;

14 (2) allow parties to enter upon lands of other parties for the purposes of
15 inspecting and investigating conditions related to the matter before the Board
16 or Commission;

17 (3) enter upon lands for the purpose of conducting inspections,
18 investigations, examinations, tests, and site evaluations as it deems necessary
19 to verify information presented in any matter within its jurisdiction; and

20 (4) apply for and receive grants from the federal government and from
21 other sources.

1 (b) The powers granted under this chapter are additional to any other
2 powers ~~which~~ that may be granted by other legislation.

3 (c) The ~~Natural Resources~~ Board may designate or establish ~~such~~ regional
4 offices as it deems necessary to implement the provisions of this chapter and
5 the rules adopted ~~hereunder~~. The ~~Natural Resources~~ Board may designate or
6 require a regional planning commission to receive applications, provide
7 administrative assistance, perform investigations, and make recommendations.

8 (d) At the request of a District Commission, if the Board Chair determines
9 that the workload in the requesting district is likely to result in unreasonable
10 delays or that the requesting District Commission is disqualified to hear a case,
11 the Chair may authorize the District Commission of another district to sit in the
12 requesting district to consider one or more applications.

13 (e) The ~~Natural Resources~~ Board may by rule allow joint hearings to be
14 conducted with specified State agencies or specified municipalities.

15 (f) The Board shall publish its decisions online. The Board may publish
16 online or contract to publish annotations and indices of its decisions, the
17 decisions of the Environmental Division of the Superior Court and the
18 Supreme Court, and the text of those decisions. The published product shall be
19 available at a reasonable rate to the general public and at a reduced rate to
20 libraries and governmental bodies within the State.

1 (g) The ~~Natural Resources~~ Board shall manage the process by which land
2 use permits are issued under section 6086 of this title, may initiate enforcement
3 on related matters under the provisions of chapters 201 and 211 of this title,
4 and may ~~petition the Environmental Division~~ initiate and hear petitions for
5 revocation of land use permits issued under this chapter. Grounds for
6 revocation are:

7 (1) noncompliance with this chapter, rules adopted under this chapter, or
8 an order that is issued that relates to this chapter;

9 (2) noncompliance with any permit or permit condition;

10 (3) failure to disclose all relevant and material facts in the application or
11 during the permitting process;

12 (4) misrepresentation of any relevant and material fact at any time;

13 (5) failure to pay a penalty or other sums owed pursuant to, or other
14 failure to comply with, court order, stipulation agreement, schedule of
15 compliance, or other order issued under Vermont statutes and related to the
16 permit; or

17 (6) failure to provide certification of construction costs, as required
18 under subsection 6083a(a) of this title, or failure to pay supplemental fees as
19 required under that section.

1 (h) ~~The Natural Resources Board may~~ shall hear appeals of decisions made
2 by District Commissions and district coordinators, including fee refund
3 requests under section 6083a of this title.

4 (i) The Chair, subject to the direction of the Board, shall have general
5 charge of the offices and employees of the Board and the offices and
6 employees of the District Commissions.

7 (j) ~~The Natural Resources Board may participate as a party in all matters~~
8 ~~before the Environmental Division that relate to land use permits issued under~~
9 ~~this chapter~~ The Board shall review for compliance regional plans and the
10 future land use maps, including proposed Tier 1B areas, developed by the
11 regional planning commissions pursuant to 24 V.S.A. § 4348a.

12 (k) The Board shall review applications for Tier 1A areas and approve or
13 disapprove based on whether the application demonstrates compliance with the
14 requirements of section 6034 of this title. The Board shall produce guidelines
15 for municipalities seeking to obtain the Tier 1A status.

16 * * *

17 Sec. 7. 10 V.S.A. § 6022 is amended to read:

18 § 6022. PERSONNEL

19 (a) Regular personnel. The Board may appoint legal counsel, scientists,
20 engineers, experts, investigators, temporary employees, and administrative
21 personnel as it finds necessary in carrying out its duties, ~~unless the Governor~~

1 ~~shall otherwise provide~~ in providing personnel to assist the District
2 Commissions and in investigating matters within its jurisdiction.

3 (b) Executive Director. The Board shall appoint an Executive Director.
4 The Director shall be a full-time State employee, shall be exempt from the
5 State classified system, and shall serve at the pleasure of the Board. The
6 Director shall be responsible for:

7 (1) supervising and administering the operation and implementation of
8 this chapter and the rules adopted by the Board as directed by the Board;

9 (2) assisting the Board in its duties and administering the requirements
10 of this chapter;

11 (3) employing any staff as may be required to carry out the functions of
12 the Board; and

13 (4) preparing an annual budget for submission to the Board.

14 Sec. 8. 10 V.S.A. § 6084 is amended to read:

15 § 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF
16 REVIEW

17 (a) ~~On or before the date of~~ Upon the filing of an application with the
18 District Commission, the applicant District Commission shall send, by
19 electronic means, notice and a copy of the initial application to the owner of
20 the land if the applicant is not the owner; the municipality in which the land is
21 located; the municipal and regional planning commissions for the municipality

1 in which the land is located; the Vermont Agency of Natural Resources; and
2 any adjacent Vermont municipality and municipal and regional planning
3 commission if the land is located on a municipal or regional boundary. The
4 ~~applicant shall furnish to the District Commission the names of those furnished~~
5 ~~notice by affidavit, and shall post~~ send by electronic means a copy of the notice
6 ~~in~~ to the town clerk's office of the town or towns in which the project lies. The
7 town clerk shall post the notice in the town office. The applicant shall also
8 provide a list of adjoining landowners to the District Commission. Upon
9 request and for good cause, the District Commission may authorize the
10 applicant to provide a partial list of adjoining landowners in accordance with
11 Board rules.

12 * * *

13 (e) Any notice for a major or minor application, as required by this section,
14 shall also be published by the District Commission in a local newspaper
15 generally circulating in the area where the development or subdivision is
16 located and on the Board's website not more than ~~ten~~ 10 days after receipt of a
17 complete application.

18 * * *

19 Sec. 9. 10 V.S.A. § 6086(f) is amended to read:

20 (f) Prior to any appeal of a permit issued by a District Commission, any
21 aggrieved party may file a request for a stay of construction with the District

1 Commission together with a declaration of intent to appeal the permit. The
2 stay request shall be automatically granted for seven days upon receipt and
3 notice to all parties and pending a ruling on the merits of the stay request
4 pursuant to Board rules. The automatic stay shall not extend beyond the 30-
5 day appeal period unless a valid appeal has been filed with the ~~Environmental~~
6 ~~Division~~ Board. The automatic stay may be granted only once under this
7 subsection during the 30-day appeal period. Following appeal of the District
8 Commission decision, any stay request must be filed with the ~~Environmental~~
9 ~~Division pursuant to the provisions of chapter 220 of this title~~ Board. A
10 District Commission shall not stay construction authorized by a permit
11 processed under the Board's minor application procedures.

12 Sec. 10. 10 V.S.A. § 6089 is amended to read:

13 § 6089. APPEALS

14 ~~Appeals of any act or decision of a District Commission under this chapter~~
15 ~~or a district coordinator under subsection 6007(c) of this title shall be made to~~
16 ~~the Environmental Division in accordance with chapter 220 of this title. For~~
17 ~~the purpose of this section, a decision of the Chair of a District Commission~~
18 ~~under section 6001e of this title on whether action has been taken to~~
19 ~~circumvent the requirements of this chapter shall be considered an act or~~
20 ~~decision of the District Commission.~~

1 (a)(1) Appeals to the Board. An appeal of any act or decision of a District
2 Commission shall be to the Board and shall be accompanied by a fee
3 prescribed by section 6083a of this title.

4 (2) Participation before District Commission. A person shall not appeal
5 an act or decision that was made by a District Commission unless the person
6 was granted party status by the District Commission pursuant to subdivision
7 6085(c)(1)(E) of this title, participated in the proceedings before the District
8 Commission, and retained party status at the end of the District Commission
9 proceedings. In addition, the person may only appeal those issues under the
10 criteria with respect to which the person was granted party status. However,
11 notwithstanding these limitations, a person may appeal an act or decision of the
12 District Commission if the Board determines that:

13 (A) there was a procedural defect that prevented the person from
14 obtaining party status or participating in the proceeding;

15 (B) the decision being appealed is the grant or denial of party status;
16 or

17 (C) some other condition exists that would result in manifest injustice
18 if the person's right to appeal was disallowed.

19 (3) Filing the appeal. An appellant to the Board, under this section,
20 shall file with the notice of appeal a statement of the issues to be addressed in

1 the appeal, a summary of the evidence that will be presented, and a preliminary
2 list of witnesses who will testify on behalf of the appellant.

3 (4) De novo hearing. The Board shall hold a de novo hearing on all
4 findings requested by any party that files an appeal or cross appeal, according
5 to the rules of the Board. The hearing shall be held in the municipality where
6 the project subject to the appeal is located, if possible, or as close as possible.

7 (5) Notice of appeal. Notice of appeal shall be filed with the Board
8 within 30 days following the act or decision by the District Commission. The
9 Board shall notify the parties who had party status before the District
10 Commission of the filing of any appeal.

11 (6) Prehearing discovery.

12 (A) A party may obtain discovery of expert witnesses who may
13 provide testimony relevant to the appeal. Expert witness prefiled testimony
14 shall be in accordance with the Vermont Rules of Evidence. The use of
15 discovery for experts shall comply with the requirements in the Vermont Rules
16 of Civil Procedure 26–37.

17 (B) Interrogatories served on nonexpert witnesses shall be limited to
18 discovery of the identity of witnesses and a summary of each witness'
19 testimony, except by order of the Board for cause shown. Interrogatories
20 served on expert witnesses shall be in accordance with the Vermont Rules of
21 Civil Procedure.

1 (C) Parties may submit requests to produce and requests to enter
2 upon land pursuant to the Vermont Rule of Civil Procedure 34.

3 (D) Parties may not take depositions of witnesses, except by order of
4 the Board for cause shown.

5 (E) The Board may require a party to supplement, as necessary, any
6 prehearing testimony that is provided.

7 (b) Prior decisions. Prior decisions of the former Environmental Board, the
8 Water Resources Board, the Waste Facilities Panel, and the Environmental
9 Division of the Superior Court shall be given the same weight and
10 consideration as prior decisions of the Environmental Review Board.

11 (c) Appeals to Supreme Court. An appeal from a decision of the Board
12 under subsection (a) of this section shall be to the Supreme Court by a party as
13 set forth in subsection 6085(c) of this title.

14 (d) Objections. No objection that has not been raised before the Board may
15 be considered by the Supreme Court, unless the failure or neglect to urge such
16 objection shall be excused because of extraordinary circumstances.

17 (e) Appeals of decisions. An appeal of a decision by the Board shall be
18 allowed pursuant to 3 V.S.A. § 815, including the unreasonableness or
19 insufficiency of the conditions attached to a permit. An appeal from the
20 District Commission shall be allowed for any reason, except no appeal shall be
21 allowed when an application has been granted and no hearing was requested.

1 (f) Precedent. Precedent from the former Environmental Board and of the
2 Environmental Review Board that interpret this chapter shall be provided the
3 same deference by the Supreme Court as precedents accorded to other
4 Executive Branch agencies charged with administering their enabling act. On
5 appeal to the Supreme Court from the Environmental Review Board, decisions
6 of the Environmental Review Board interpreting this act also shall be accorded
7 that deference.

8 (g) Clearly erroneous. Upon appeal to the Supreme Court, the Board’s
9 findings of fact shall be accepted unless clearly erroneous.

10 (h) Completion of case. A case shall be deemed completed when the Board
11 enters a final decision even though that decision is appealed to the Supreme
12 Court and remanded by that Court.

13 (i) Court of record; jurisdiction. The Board shall have the powers of a
14 court of record in the determination and adjudication of all matters within its
15 jurisdiction. It may initiate proceedings on any matter within its jurisdiction.
16 It may render judgments and enforce the same by any suitable process issuable
17 by courts in this State. An order issued by the Board on any matter within its
18 jurisdiction shall have the effect of a judicial order. The Board’s jurisdiction
19 shall include:

20 (1) the issuance of declaratory rulings on the applicability of this chapter
21 and rules or orders issued under this chapter, pursuant to 3 V.S.A. § 808; and

1 demonstrate a particularized interest protected by this chapter that may be
2 affected by an act or decision by a District Commission.

3 (d) A person who seeks review of a jurisdictional opinion issued by a
4 district coordinator shall bring to the Board an appeal of issues addressed in the
5 opinion.

6 (1) The appellant shall provide notice of the filing of an appeal to each
7 person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this
8 title and to each person on an approved subdivision 6085(c)(1)(E) list.

9 (2) Failure to appeal within 30 days following the issuance of the
10 jurisdictional opinion shall render the decision of the district coordinator under
11 subsection (c) of this section the final determination regarding jurisdiction
12 unless the underlying jurisdictional opinion was not properly served on persons
13 listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on
14 a subdivision 6085(c)(1)(E) list approved under subsection (c) of this section.

15 Sec. 12. 10 V.S.A. § 6083a is amended to read:

16 § 6083a. ACT 250 FEES

17 * * *

18 (i) All persons filing an appeal, cross appeal, or petition from a District
19 Commission decision or jurisdictional opinion shall pay a fee of \$295.00, plus
20 publication costs, unless the Board approves a waiver of fees based on
21 indigency.

1 It is the purpose of this chapter to:

2 (1) consolidate existing appeal routes for municipal zoning and
3 subdivision decisions and acts or decisions of the Secretary of Natural
4 Resources, ~~district environmental coordinators, and District Commissions,~~
5 excluding enforcement actions brought pursuant to chapters 201 and 211 of
6 this title and the adoption of rules under 3 V.S.A. chapter 25;

7 (2) standardize the appeal periods, the parties who may appeal these acts
8 or decisions, and the ability to stay any act or decision upon appeal, taking into
9 account the nature of the different programs affected;

10 (3) ~~encourage people to get involved in the Act 250 permitting process~~
11 ~~at the initial stages of review by a District Commission by requiring~~
12 ~~participation as a prerequisite for an appeal of a District Commission decision~~
13 ~~to the Environmental Division;~~

14 (4) ~~assure~~ ensure that clear appeal routes exist for acts and decisions of
15 the Secretary of Natural Resources; and

16 (5)(4) consolidate appeals of decisions related to renewable energy
17 generation plants and telecommunications facilities with review under,
18 respectively, 30 V.S.A. §§ 248 and 248a, with appeals and consolidation of
19 proceedings pertaining to telecommunications facilities occurring only while
20 30 V.S.A. § 248a remains in effect.

21 § 8502. DEFINITIONS

1 As used in this chapter:

2 (1) ~~“District Commission” means a District Environmental Commission~~
3 ~~established under chapter 151 of this title. [Repealed.]~~

4 (2) ~~“District coordinator” means a district environmental coordinator~~
5 ~~attached to a District Commission established under chapter 151 of this title.~~
6 ~~[Repealed.]~~

7 (3) “Environmental Court” or “Environmental Division” means the
8 Environmental Division of the Superior Court established by 4 V.S.A. § 30.

9 (4) ~~“Natural Resources~~ Environmental Review Board” or “Board”
10 means the Board established under chapter 151 of this title.

11 (5) “Party by right” means the following:

12 (A) the applicant;

13 (B) the landowner, if the applicant is not the landowner;

14 (C) the municipality in which the project site is located and the
15 municipal and regional planning commissions for that municipality;

16 (D) if the project site is located on a boundary, any Vermont
17 municipality adjacent to that border and the municipal and regional planning
18 commissions for that municipality;

19 (E) the solid waste management district in which the land is located,
20 if the development or subdivision constitutes a facility pursuant to subdivision
21 6602(10) of this title; and

1 (F) any State agency affected by the proposed project.

2 (6) “Person” means any individual; partnership; company; corporation;
3 association; joint venture; trust; municipality; the State of Vermont or any
4 agency, department, or subdivision of the State; any federal agency; or any
5 other legal or commercial entity.

6 (7) “Person aggrieved” means a person who alleges an injury to a
7 particularized interest protected by the provisions of law listed in section 8503
8 of this title; attributable to an act or decision by ~~a district coordinator, District~~
9 ~~Commission,~~ the Secretary; or the Environmental Division that can be
10 redressed by the Environmental Division or the Supreme Court.

11 (8) “Secretary” means the Secretary of Natural Resources or the
12 Secretary’s duly authorized representative. As used in this chapter,
13 “Secretary” ~~shall also mean~~ means the Commissioner of Environmental
14 Conservation; the Commissioner of Forests, Parks and Recreation; and the
15 Commissioner of Fish and Wildlife; with respect to those statutes that refer to
16 the authority of that commissioner or department.

17 § 8503. APPLICABILITY

18 (a) This chapter shall govern all appeals of an act or decision of the
19 Secretary, excluding enforcement actions under chapters 201 and 211 of this
20 title and rulemaking, under the following authorities and under the rules
21 adopted under those authorities:

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* * *

(b) ~~This chapter shall govern:~~

~~(1) all appeals from an act or decision of a District Commission under chapter 151 of this title, excluding appeals of application fee refund requests;~~

~~(2) appeals from an act or decision of a district coordinator under subsection 6007(c) of this title;~~

~~(3) appeals from findings of fact and conclusions of law issued by the Natural Resources Board in its review of a designated growth center for conformance with the criteria of subsection 6086(a) of this title, pursuant to authority granted at 24 V.S.A. § 2793e(f). [Repealed.]~~

(c) This chapter shall govern all appeals arising under 24 V.S.A. chapter 117, the planning and zoning chapter.

(d) This chapter shall govern all appeals from an act or decision of the Environmental Division under this chapter.

(e) This chapter shall not govern appeals from rulemaking decisions by the ~~Natural Resources~~ Environmental Review Board under chapter 151 of this title or enforcement actions under chapters 201 and 211 of this title.

(f) This chapter shall govern all appeals of acts or decisions of the legislative body of a municipality arising under 24 V.S.A. chapter 61, subchapter 10, relating to the municipal certificate of approved location for salvage yards.

1 (g) This chapter shall govern all appeals of an act or decision of the
2 Secretary of Natural Resources that a solid waste implementation plan for a
3 municipality proposed under 24 V.S.A. § 2202a conforms with the State Solid
4 Waste Implementation Plan adopted pursuant to section 6604 of this title.

5 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

6 (a) ~~Act 250 and~~ Agency appeals. Within 30 days of the date of following
7 the act or decision, any person aggrieved by an act or decision of the Secretary,
8 ~~a District Commission, or a district coordinator~~ under the provisions of law
9 listed in section 8503 of this title, or any party by right, may appeal to the
10 Environmental Division, except for an act or decision of the Secretary under
11 subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

12 * * *

13 (c) Notice of the filing of an appeal.

14 (1) ~~Upon filing an appeal from an act or decision of the District~~
15 ~~Commission, the appellant shall notify all parties who had party status as of the~~
16 ~~end of the District Commission proceeding, all friends of the Commission, and~~
17 ~~the Natural Resources Board that an appeal is being filed. In addition, the~~
18 ~~appellant shall publish notice not more than 10 days after providing notice as~~
19 ~~required under this subsection, at the appellant's expense, in a newspaper of~~
20 ~~general circulation in the area of the project that is the subject of the decision.~~

21 [Repealed.]

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(d) Requirement to participate before ~~the District Commission or the~~
Secretary.

(1) ~~Participation before District Commission. An aggrieved person shall not appeal an act or decision that was made by a District Commission unless the person was granted party status by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title, participated in the proceedings before the District Commission, and retained party status at the end of the District Commission proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status. However, notwithstanding these limitations, an aggrieved person may appeal an act or decision of the District Commission if the Environmental judge determines that:~~

~~(A) there was a procedural defect that prevented the person from obtaining party status or participating in the proceeding;~~

~~(B) the decision being appealed is the grant or denial of party status;~~

~~or~~

~~(C) some other condition exists that would result in manifest injustice if the person's right to appeal was disallowed. [Repealed.]~~

(2) Participation before the Secretary.

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(k) Limitations on appeals. Notwithstanding any other provision of this section;

~~(1) there shall be no appeal from a District Commission decision when the Commission has issued a permit and no hearing was requested or held, or no motion to alter was filed following the issuance of an administrative amendment;~~

~~(2) a municipal decision regarding whether a particular application qualifies for a recorded hearing under 24 V.S.A. § 4471(b) shall not be subject to appeal;~~

~~(3) if a District Commission issues a partial decision under subsection 6086(b) of this title, any appeal of that decision must be taken within 30 days of the date of that decision.~~

(l) Representation. The Secretary may represent the Agency of Natural Resources in all appeals under this section. ~~The Chair of the Natural Resources Board may represent the Board in any appeal under this section, unless the Board directs otherwise.~~ If more than one State agency, ~~other than the Board,~~ either appeals or seeks to intervene in an appeal under this section, only the Attorney General may represent the interests of those agencies of the State in the appeal.

1 (m) Precedent. Prior decisions of the former Environmental Board, Water
2 Resources Board, and Waste Facilities Panel shall be given the same weight
3 and consideration as prior decisions of the Environmental Division.

4 (n) Intervention. Any person may intervene in a pending appeal if that
5 person:

6 (1) appeared as a party in the action appealed from and retained party
7 status;

8 (2) is a party by right;

9 (3) ~~is the Natural Resources Board;~~ [Repealed.]

10 (4) is a person aggrieved, as defined in this chapter;

11 (5) qualifies as an “interested person,” as established in 24 V.S.A.

12 § 4465, with respect to appeals under 24 V.S.A. chapter 117; or

13 (6) meets the standard for intervention established in the Vermont Rules
14 of Civil Procedure.

15 (o) With respect to review of an act or decision of the Secretary pursuant to
16 3 V.S.A. § 2809, the Division may reverse the act or decision or amend an
17 allocation of costs to an applicant only if the Division determines that the act,
18 decision, or allocation was arbitrary, capricious, or an abuse of discretion. In
19 the absence of such a determination, the Division shall require the applicant to
20 pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

1 (p) Administrative record. The Secretary shall certify the administrative
2 record as defined in chapter 170 of this title and shall transfer a certified copy
3 of that record to the Environmental Division when:

4 (1) there is an appeal of an act or decision of the Secretary that is based
5 on that record; or

6 (2) ~~there is an appeal of a decision of a District Commission, and the~~
7 ~~applicant used a decision of the Secretary based on that record to create a~~
8 ~~presumption under a criterion of subsection 6086(a) of this title that is at issue~~
9 ~~in the appeal.~~

10 § 8505. APPEALS TO THE SUPREME COURT

11 (a) Any person aggrieved by a decision of the Environmental Division
12 pursuant to this subchapter, any party by right, or any person aggrieved by a
13 decision of the Environmental Review Board may appeal to the Supreme Court
14 within 30 days ~~of~~ following the date of the entry of the order or judgment
15 appealed from, provided that:

16 (1) the person was a party to the proceeding before the Environmental
17 Division; or

18 (2) the decision being appealed is the denial of party status; or

19 (3) the Supreme Court determines that:

20 (A) there was a procedural defect that prevented the person from
21 participating in the proceeding; or

1 (B) some other condition exists that would result in manifest injustice
2 if the person's right to appeal were disallowed.

3 * * *

4 * * * Environmental Division * * *

5 Sec. 15. 4 V.S.A. § 34 is amended to read:

6 § 34. JURISDICTION; ENVIRONMENTAL DIVISION

7 The Environmental Division shall have:

8 (1) jurisdiction of matters arising under 10 V.S.A. chapters 201 and 220;

9 and

10 (2) jurisdiction of matters arising under 24 V.S.A. chapter 61,

11 subchapter 12 and 24 V.S.A. chapter 117; ~~and~~

12 ~~(3) original jurisdiction to revoke permits under 10 V.S.A. chapter 151.~~

13 * * * Transition; Revision Authority * * *

14 Sec. 16. ENVIRONMENTAL REVIEW BOARD POSITIONS;

15 APPROPRIATION

16 (a) The following new positions are created at the Environmental Review
17 Board for the purposes of carrying out this act:

18 (1) two Staff Attorneys; and

19 (2) four half-time Environmental Review Board members.

20 (b) The sum of \$484,000.00 is appropriated to the Environmental Review
21 Board from the General Fund in fiscal year 2025 for the positions established

1 in subsection (a) of this section and for additional operating costs required to
2 implement the appeals process established in this act.

3 Sec. 17. NATURAL RESOURCES BOARD TRANSITION

4 (a) The Governor shall appoint the members of Environmental Review
5 Board on or before July 1, 2025, and the terms of any Natural Resources Board
6 member not appointed consistent with the requirements of 10 V.S.A.
7 § 6021(a)(1)(A) or (B) shall expire on that day.

8 (b) As of July 1, 2025, all appropriations and employee positions of the
9 Natural Resources Board are transferred to the Environmental Review Board.

10 (c) The Environmental Review Board shall adopt rules of procedure for its
11 hearing process pursuant to 10 V.S.A. § 6025(a) on or before July 1, 2026.

12 Sec. 18. ENVIRONMENTAL DIVISION; CONTINUED JURISDICTION

13 Notwithstanding the repeal of its jurisdictional authority to hear appeals
14 relative to land use permits under Sec. 13 of this act, the Environmental
15 Division of the Superior Court shall continue to have jurisdiction to complete
16 its consideration of any appeal that is pending before it as of July 1, 2026 if the
17 act or appeal has been filed. The Environmental Review Board shall have
18 authority to be a party in any appeals pending under this section until July 1,
19 2026.

1 Sec. 19. REVISION AUTHORITY

2 In preparing the Vermont Statutes Annotated for publication in 2024, the
3 Office of Legislative Counsel shall replace all references to the “Natural
4 Resources Board” with the “Environmental Review Board” in Title 3, Title 10,
5 Title 24, Title 29, Title 30, and Title 32.

6 * * * Forest Blocks * * *

7 Sec. 20. 10 V.S.A. § 6001 is amended to read:

8 § 6001. DEFINITIONS

9 As used in this chapter:

10 * * *

11 (45) “Habitat connector” means land or water, or both, that links patches
12 of habitat within a landscape, allowing the movement, migration, and dispersal
13 of wildlife and plants and the functioning of ecological processes. A
14 connecting habitat may include features including recreational trails and
15 improvements constructed for farming, logging, or forestry purposes.

16 (46) “Forest block” means a contiguous area of forest in any stage of
17 succession and not currently developed for nonforest use. A forest block may
18 include features including recreational trails, wetlands, or other natural features
19 that do not themselves possess tree cover and improvements constructed for
20 farming, logging, or forestry purposes.

1 ~~(47) “Fragmentation” means the division or conversion of a forest block~~
2 ~~or connecting habitat by the separation of a parcel into two or more parcels; the~~
3 ~~construction, conversion, relocation, or enlargement of any building or other~~
4 ~~structure, or of any mining, excavation, or landfill; and any change in the use~~
5 ~~of any building or other structure, or land, or extension of use of land.~~

6 ~~However, “fragmentation” does not include the division or conversion of a~~
7 ~~forest block or connecting habitat by a recreational trail or by improvements~~
8 ~~constructed for farming, logging, or forestry purposes below the elevation of~~
9 ~~2,500 feet.~~

10 (48) “Habitat” means the physical and biological environment in which
11 a particular species of plant or wildlife lives.

12 Sec. 21. 10 V.S.A. § 6086(a)(8) is amended to read:

13 (8) Ecosystem protection; scenic beauty; historic sites.

14 (A) Scenic beauty. Will not have an undue adverse effect on the
15 scenic or natural beauty of the area, aesthetics, historic sites, or rare and
16 irreplaceable natural areas.

17 (A)(B) Necessary wildlife habitat and endangered species. A permit
18 will not be granted if it is demonstrated by any party opposing the applicant
19 that a development or subdivision will destroy or significantly imperil
20 necessary wildlife habitat or any endangered species; ~~and;~~

1 (i) the economic, social, cultural, recreational, or other benefit to
2 the public from the development or subdivision will not outweigh the
3 economic, environmental, or recreational loss to the public from the
4 destruction or imperilment of the habitat or species; or

5 (ii) all feasible and reasonable means of preventing or lessening
6 the destruction, diminution, or imperilment of the habitat or species have not
7 been or will not continue to be applied; or

8 (iii) a reasonably acceptable alternative site is owned or controlled
9 by the applicant which would allow the development or subdivision to fulfill
10 its intended purpose.

11 (C) Forest blocks and habitat connector. A permit will not be granted
12 for a development or subdivision within or partially within a forest block or
13 habitat connector unless the applicant demonstrates that a project will not
14 result in an undue adverse impact on forest blocks or habitat connector. If a
15 project as proposed would result in an undue adverse impact, a permit may
16 only be granted if effects are avoided, minimized, or mitigated as allowed in
17 accordance with rules adopted by the Board.

18 Sec. 22. CRITERION 8(C) RULEMAKING

19 (a) The Environmental Review Board (Board), in collaboration with the
20 Agency of Natural Resources, shall adopt rules to implement the requirements
21 for the administration of 10 V.S.A. § 6086(a)(8)(C). It is the intent of the

1 **General Assembly that these rules discourage fragmentation of the forest**
2 **blocks and habitat connectors by encouraging clustering of development.**

3 **Rules adopted by the Board shall include:**

4 **(1) How forest blocks and habitat connectors are further defined,**
5 **including their size, location, and function, which may include:**

6 **(A) information that will be available to the public to determine**
7 **where forest blocks and habitat connectors are located; or**

8 **(B) advisory mapping resources, how they will be made available,**
9 **how they will be used, and how they will be updated.**

10 **(2) Standards establishing how impacts can be avoided or minimized,**
11 **including how fragmentation of forest blocks or habitat connectors is avoided**
12 **or minimized, which may include steps to promote proactive site design of**
13 **buildings, roadways and driveways, utility location, and location relative to**
14 **existing features such as roads, tree lines, and fence lines.**

15 **(3)(A) As used in this section “fragmentation” generally means dividing**
16 **land that has naturally occurring vegetation and ecological processes into**
17 **smaller areas as a result of land uses that remove vegetation and create**
18 **physical barriers that limit species’ movement and interrupt ecological**
19 **processes between previously connected natural vegetation. However, the**
20 **rules shall further define “fragmentation” for purposes of avoiding,**
21 **minimizing, and mitigating undue adverse impacts on forest blocks and habitat**

1 connectors. “Fragmentation” does not include the division or conversion of a
2 forest block or habitat connectors by an unpaved recreational trail or by
3 improvements constructed for farming, logging, or forestry purposes below the
4 elevation of 2,500 feet.

5 (B) As used in this subsection, “recreational trail” has the same
6 meaning as “trails” in 10 V.S.A. § 442.

7 (4) Criteria to identify the circumstances when a forest block or habitat
8 connectors is eligible for mitigation. As part of this, the criteria shall identify
9 the circumstances when the function, value, unique sensitivity, or location of
10 the forest block or habitat connector would not allow mitigation.

11 (5) Standards for how impacts to a forest block or habitat connectors
12 may be mitigated. Standards may include:

13 (A) appropriate ratios for compensation;

14 (B) appropriate forms of compensation such as conservation
15 easements, fee interests in land, and other forms of compensation; and

16 (C) appropriate uses of on-site and off-site mitigation.

17 (b) The Board shall convene a working group of stakeholders to provide
18 input to the rule prior to pre-filing with the Interagency Committee on
19 Administrative Rules. The Board shall convene the working group on or
20 before July 1, 2025.

1 (c) The Board shall file a final proposed rule with the Secretary of State
2 and Legislative Committee on Administrative Rules on or before June 15,
3 2026.

4 Sec. 23. 10 V.S.A. § 127 is amended to read:

5 § 127. RESOURCE MAPPING

6 (a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources
7 shall complete and maintain resource mapping based on the Geographic
8 Information System (GIS) or other technology. The mapping shall identify
9 natural resources throughout the State, including forest blocks and habitat
10 connectors, that may be relevant to the consideration of energy projects and
11 projects subject to chapter 151 of this title. The Center for Geographic
12 Information shall be available to provide assistance to the Secretary in carrying
13 out the ~~GIS-based~~ resource mapping.

14 (b) The Secretary ~~of Natural Resources~~ shall consider the ~~GIS-based~~
15 resource maps developed under subsection (a) of this section when providing
16 evidence and recommendations to the Public Utility Commission under
17 30 V.S.A. § 248(b)(5) and when commenting on or providing
18 recommendations under chapter 151 of this title to District Commissions on
19 other projects.

20 (c) The Secretary shall establish and maintain written procedures that
21 include a process and science-based criteria for updating resource maps

1 developed under subsection (a) of this section. Before establishing or revising
2 these procedures, the Secretary shall provide opportunities for affected parties
3 and the public to submit relevant information and recommendations.

4 * * * Road Rule * * *

5 Sec. 24. 10 V.S.A. § 6001(3)(A)(xii) is added to read:

6 (xii) The construction of a road or roads and any associated
7 driveways to provide access to or within a tract of land of more than one acre
8 owned or controlled by a person. For the purposes of determining jurisdiction
9 under this subdivision, any new development or subdivision on a parcel of land
10 that will be provided access by the road and associated driveways is land
11 involved in the construction of the road. Jurisdiction under this subdivision
12 shall not apply unless the length of any single road is greater than 800 feet, and
13 the length all roads and any associated driveways in combination is greater
14 than 2,000 feet. As used in this subdivision (xii), “roads” shall include any
15 new road or improvement to a Class IV road by a private person, including
16 roads that will be transferred to or maintained by a municipality after their
17 construction or improvement. For the purpose of determining the length of any
18 road and associated driveways, the length of all other roads and driveways
19 within the tract of land constructed after July 1, 2024 shall be included. This
20 subdivision shall not apply to a State or municipal road, a utility corridor of an
21 electric transmission or distribution company, or a road used primarily for

1 farming or forestry purposes. The conversion of a road used for farming or
2 forestry purposes that also meets the requirements of this subdivision shall
3 constitute development. This subdivision shall not apply to development
4 within a Tier 1A area established in accordance with 10 V.S.A. § 6034 or a
5 Tier 1B area established in accordance with 10 V.S.A. § 6033. The intent of
6 this subdivision (xii) is to encourage the design of clustered subdivisions and
7 development that does not fragment Tier 2 or critical resources areas.

8 **Sec. 25. RULEMAKING; ROAD CONSTRUCTION**

9 The Natural Resources Board may adopt rules providing additional
10 specificity to the necessary elements of 10 V.S.A. § 6001(3)(A)(xii). It is the
11 intent of the General Assembly that these rules encourage the design of
12 clustered subdivisions and development that does not fragment rural and
13 working lands or critical resources areas.

14 * * * Location-Based Jurisdiction * * *

15 Sec. 26. 10 V.S.A. § 6001 is amended to read:

16 § 6001. DEFINITIONS

17 As used in this chapter:

18 * * *

19 (3)(A) “Development” means each of the following:

20 (i) The construction of improvements on a tract or tracts of land,
21 owned or controlled by a person, involving more than 10 acres of land within a

1 radius of five miles of any point on any involved land, for commercial or
2 industrial purposes in a municipality that has adopted permanent zoning and
3 subdivision bylaws.

4 (ii) The construction of improvements on a tract or tracts of land,
5 owned or controlled by a person, involving more than one acre of land within a
6 radius of five miles of any point on any involved land, for commercial or
7 industrial purposes in a municipality that has not adopted permanent zoning
8 and subdivision bylaws.

9 (iii) The construction of improvements for commercial or
10 industrial purposes on a tract or tracts of land, owned or controlled by a person,
11 involving more than one acre of land within a municipality that has adopted
12 permanent zoning and subdivision bylaws, if the municipality in which the
13 proposed project is located has elected by ordinance, adopted under 24 V.S.A.
14 chapter 59, to have this jurisdiction apply.

15 (iv) The construction of housing projects such as cooperatives,
16 condominiums, or dwellings, or construction or maintenance of mobile homes
17 or mobile home parks, with 10 or more units, constructed or maintained on a
18 tract or tracts of land, owned or controlled by a person, within a radius of five
19 miles of any point on any involved land and within any continuous period of
20 five years. However:

21 * * *

1 (vi) The construction of improvements for commercial, industrial,
2 or residential use at or above the elevation of 2,500 feet or in or within 25 feet
3 of a critical resource area.

4 * * *

5 (xiii) The construction of improvements for commercial,
6 industrial, or residential purpose in a critical resource area as determined by
7 rules adopted by the Board.

8 * * *

9 (19)(A) “Subdivision” means each of the following:

10 (i) A tract or tracts of land, owned or controlled by a person, that
11 the person has partitioned or divided for the purpose of resale into 10 or more
12 lots within a radius of five miles of any point on any lot, or within the
13 jurisdictional area of the same District Commission, within any continuous
14 period of five years located within a rural and working lands area. In
15 determining the number of lots, a lot shall be counted if any portion is within
16 an area and within five miles or within the jurisdictional area of the same
17 District Commission.

18 (ii) A tract or tracts of land, owned or controlled by a person, that
19 the person has partitioned or divided for the purpose of resale into six or more
20 lots, within a continuous period of five years, in a municipality that does not
21 have duly adopted permanent zoning and subdivision bylaws.

1 (iii) A tract or tracts of land, owned or controlled by a person, that
2 have been partitioned or divided for the purpose of resale into five or more
3 separate parcels of any size within a radius of five miles of any point on any
4 such parcel, and within any period of ~~ten~~ 10 years, by public auction.

5 (I) ~~In~~ As used in this subdivision (iii), “public auction” means
6 any auction advertised or publicized in any manner or to which more than ~~ten~~
7 10 persons have been invited.

8 (II) If sales described under this subdivision (iii) are of interests
9 that, when sold by means other than public auction, are exempt from the
10 provisions of this chapter under the provisions of subsection 6081(b) of this
11 title, the fact that these interests are sold by means of a public auction shall not,
12 in itself, create a requirement for a permit under this chapter.

13 * * *

14 (50) “Critical resource area” means a river corridor, headwaters stream,
15 a habitat connector of Statewide significance, and as may be further defined by
16 the Board.

17 (51) “Rural and working lands area” means an area that is not a Tier 1
18 area or a critical resource area.

19 **Sec. 27. CRITICAL RESOURCE AREA RULEMAKING**

20 (a) The Environmental Review Board in consultation with the Secretary of
21 Natural Resources shall adopt rules to implement the requirements for the

1 administration of 10 V.S.A. § 6001(3)(A)(xiii) and 10 V.S.A. § 6001(50). The
2 Board shall review the definition of critical resource area and its use in 10
3 V.S.A. chapter 151, recommend any additional significant natural resources
4 that should be added to the definition. **It is the intent of the General**
5 **Assembly that these rules address the natural resources of statewide**
6 **significance.** Rules adopted by the Board shall include:

7 (1) any necessary changes to how the critical resource areas definition is
8 used in 10 V.S.A. chapter 151;

9 (2) any necessary changes to how 10 V.S.A. § 6001(3)(A)(xiii) should
10 be administered, and when jurisdiction should be triggered to protect the
11 functions and values of critical resource areas;

12 (3) the process for how critical resource areas will be mapped or
13 identified by Agency of Natural Resources and the Board; and

14 (4) other policies or programs that shall be developed to review
15 development impacts to critical resource areas if they are not included in 10
16 V.S.A. § 6001(50).

17 (b) On or before January 1, 2025, the Board shall convene a working group
18 of stakeholders to provide input to the rule prior to prefilng with the
19 Interagency Committee on Administrative Rules. The working group shall
20 include representation from regional planning commissions, environmental
21 groups, science and ecological research organizations, woodland or forestry

1 organizations, the Vermont Housing and Conservation Board, the Vermont
2 Chamber of Commerce, the League of Cities of Towns, the Land Access and
3 Opportunity Board, and other stakeholders.

4 (c) The Board shall file a final proposed rule with the Secretary of State
5 and Legislative Committee on Administrative Rules on or before February 1,
6 2026.

7 * * * Tier 1 Areas * * *

8 Sec. 28. 10 V.S.A. § 6033 is added to read:

9 § 6033. REGIONAL PLAN FUTURE LAND USE MAP REVIEW;

10 TIERS 1B AND 3

11 (a) The Board shall review requests from regional planning commissions to
12 approve or disapprove portions of future land use maps for the purposes of
13 changing jurisdictional thresholds under this chapter by identifying areas on
14 future land use maps for Tier 1B status and to approve designations pursuant to
15 24 V.S.A. chapter 139. The Board may produce guidelines for regional
16 planning commissions seeking Tier 1B status. If requested by the regional
17 planning commission, the Board shall complete this review concurrently with
18 regional plan approval. A request for Tier 1B status made by a regional
19 planning commission separate from regional plan approval shall follow the
20 process set forth in 24 V.S.A. § 4348.

1 (b) The Board shall review the portions of future land use maps that
2 include downtowns or village centers, planned growth areas, and **village areas**
3 to ensure they meet the requirements under 24 V.S.A. §§ 5803 and 5804 for
4 designation as downtown and village centers and neighborhood areas.

5 (c) To obtain a Tier 1B area status under this section the regional planning
6 commission shall demonstrate to the Board that the municipalities with Tier 1B
7 areas meet the following requirements as included in subsection 24 V.S.A.
8 § 4348a(a)(12)(C):

9 (A) The municipality has requested to the have the area mapped for
10 Tier 1B.

11 (B) The municipality has a duly adopted and approved plan and a
12 planning process that is confirmed in accordance with 24 V.S.A. § 4350.

13 (C) The municipality has adopted permanent zoning and subdivision
14 bylaws in accordance with 24 V.S.A. §§ 4414, 4418, and 4442.

15 (D) The area excludes identified flood hazard and fluvial erosion
16 areas, except those areas containing preexisting development in areas suitable
17 for infill development as defined in § 29-201 of the Vermont Flood Hazard
18 Area and River Corridor Rule unless the municipality has adopted flood hazard
19 and river corridor bylaws applicable to the entire municipality that are
20 consistent with the standards established pursuant to subsection 755(b) of this
21 title (flood hazard) and subsection 1428(b) of this title (river corridor).

1 (E) The municipality has water supply, wastewater infrastructure, or
2 soils that can accommodate a community system for compact housing
3 development in the area proposed for Tier 1B.

4 (F) Municipal staff adequate to support coordinated comprehensive
5 and capital planning, development review and zoning administration in the
6 Tier 1B area.

7 ~~(d) Beginning on January 1, 2027, the Board shall review the portions of~~
8 ~~future land use maps that include rural conservation areas to ensure they meet~~
9 ~~the definition of critical resource areas in section 6001 of this title. These~~
10 ~~portions of the future land use maps shall be referred to as Tier 3 for the~~
11 ~~purpose of jurisdiction under this chapter.~~

12 Sec. 29. 10 V.S.A. § 6034 is added to read:

13 § 6034. TIER 1A STATUS

14 (a) Application and approval.

15 (1) Beginning on January 1, 2027, a municipality, by resolution of its
16 legislative body, may apply to the Environmental Review Board for Tier 1A
17 status for the area of the municipality that is suitable for dense development
18 and meets the requirements of subsection (b) of this section.

19 (2) The Board shall issue an affirmative determination on finding that
20 the municipality meets the requirements of subsection (b) of this section within
21 45 days after the application is received.

1 (b) Tier 1A status requirements.

2 (1) To obtain a Tier 1A area status under this section, a municipality
3 shall demonstrate to the Board that it has each of the following:

4 (A) A municipal plan that is approved in accordance with 24 V.S.A.
5 § 4350.

6 (B) Municipal flood hazard planning, applicable to the entire
7 municipality, in accordance with 24 V.S.A. § 4382(12) and the guidelines
8 issued by the Department pursuant to 24 V.S.A. chapter 139.

9 (C) Flood hazard and river corridor bylaws, applicable to the entire
10 municipality, that are consistent with the standards established pursuant to
11 subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this
12 title (river corridor) or the proposed Tier 1A area excludes the flood hazard
13 areas and river corridor.

14 (D) A capital budget and program pursuant to 24 V.S.A. § 4430 that
15 make substantial investments in the ongoing development of the Tier 1A area,
16 are consistent with the plan’s implementation program, and are consistent with
17 the smart growth principles defined in 24 V.S.A. chapter 139.

18 (E) Permanent zoning and subdivision bylaws that do not include
19 broad exemptions that exclude significant private or public land development
20 from requiring a municipal land use permit.

1 (F) Urban form bylaws for the Tier 1A area that further the smart
2 growth principles of 24 V.S.A. chapter 117, adequately regulate the physical
3 form and scale of development, with reasonable provision for a portion of the
4 areas with sewer and water to allow at least four stories, and conform to the
5 guidelines established by the Board.

6 (G) Historic preservation bylaws for established design review
7 districts, historic districts, or historic landmarks pursuant to 24 V.S.A.
8 § 4414(1)(E) and (F) for the portion of the Tier 1A area that meet State historic
9 preservation guidelines issued by the Department of Housing and Community
10 Development pursuant to 24 V.S.A. chapter 139.

11 (H) Wildlife habitat planning bylaws for the Tier 1A area that protect
12 significant natural communities; rare, threatened, and endangered species; and
13 river corridors or exclude these areas from the proposed Tier 1A area.

14 (I) Permitted water and wastewater systems with the capacity to
15 support additional development within the Tier 1A area. The municipality
16 shall have adopted consistent policies, by municipal plan and ordinance, on the
17 allocation, connection, and extension of water and wastewater lines that
18 include a defined and mapped service area to support the Tier 1A area.

19 (J) Municipal staff adequate to support coordinated comprehensive
20 and capital planning, development review, and zoning administration in the
21 Tier 1A area.

1 (K) The applicable regional plan has been approved by the Board.

2 (2) If any party entitled to notice under subdivision (c)(4)(A) of this
3 section or any resident of the municipality raises concerns about the
4 municipality’s compliance with the requirements, those concerns shall be
5 addressed as part of the municipality’s application.

6 (c) Process for issuing determinations of Tier 1A area status.

7 (1) A preapplication meeting shall be held with the Board staff,
8 municipal staff, and staff of the relevant regional planning commission (RPC)
9 to review the requirements of subsection (b) of this section. The meeting shall
10 be held in person or electronically.

11 (2) An application by the municipality shall include the information and
12 analysis required by the Board’s guidelines on how to meet the requirements of
13 subsection (b) of this section.

14 (3) The RPC shall issue a preapplication memorandum incorporating the
15 comments to the applicant after receipt of a draft preliminary application and a
16 preliminary approval or denial of the application. A municipality shall not
17 submit an application to the Environmental Review Board unless it has been
18 approved by the RPC.

19 (4) After receipt of a complete final application, the Environmental
20 Review Board shall convene a public hearing in the municipality to consider
21 whether to issue a determination of Tier 1A area status under this section.

1 (A) Notice.

2 (i) At least 35 days in advance of the Board’s meeting, the
3 regional planning commission shall post notice of the meeting on its website.

4 (ii) The municipality shall publish notice of the meeting at least 30
5 days and 15 days in advance of the Board’s meeting in a newspaper of general
6 circulation in the municipality, and deliver physically or electronically, with
7 proof of receipt or by certified mail, return receipt requested to the Agency of
8 Natural Resources; the Division for Historic Preservation; the Agency of
9 Agriculture Food and Markets; the Agency of Transportation; the regional
10 planning commission; the regional development corporations; and the entities
11 providing educational, police, and fire services to the municipality.

12 (iii) The notice shall also be posted by the municipality in or near
13 the municipal clerk’s office and in at least two other designated public places
14 in the municipality, on the websites of the municipality and the regional
15 planning commission, and on any email lists or social media that the
16 municipality uses.

17 (iv) The municipality shall also certify in writing that the notice
18 required by this subsection (c) has been published, delivered, and posted within
19 the specified time.

1 (v) Notice of an application for Tier 1A status shall be delivered
2 physically or electronically with proof of receipt or sent by certified mail,
3 return receipt requested, to each of the following:

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

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

8 (3) the Department of Housing and Community Development
9 within the Agency of Commerce and Community Development and the
10 Community Investment Board for a formal review and comment; and

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

14 (B) No defect in the form or substance of any requirements of this
15 subsection (c) shall invalidate the action of the Board where reasonable efforts
16 are made to provide adequate posting and notice. However, the action shall be
17 invalid when the defective posting or notice was materially misleading in
18 content. If an action is ruled to be invalid by the Superior Court or by the
19 Board itself, the municipality shall issue new posting and notice, and the Board
20 shall hold a new hearing and take a new action.

1 (5) The Board may recess the proceedings on any application pending
2 submission of additional information. The Board shall close the proceedings
3 promptly after all parties have submitted the requested information.

4 (6) The Board shall issue its determination in writing. The
5 determination shall include explicit findings on each of the requirements in
6 subsection (b) of this section.

7 (d) Review of status.

8 (1) Initial determination of status may be made at any time. Thereafter,
9 review of a status shall occur every eight years with a compliance review after
10 four years.

11 (2) The Board, on its motion, may review compliance with the Tier 1A
12 area requirements at more frequent intervals.

13 (3) If at any time the Board determines that the Tier 1A area no longer
14 meets the standards for the status, it shall take one of the following actions:

15 (A) require corrective action within a reasonable time frame; or

16 (B) terminate the status.

17 (e) Appeal.

18 (1) An interested person may appeal any act or decision of the Board
19 under this section to the Supreme Court within 30 days following the act or
20 decision.

1 (2) As used in this section, an “interested person” means any one of the
2 following:

3 (A) A person owning title to or occupying property within or abutting
4 the Tier 1A area.

5 (B) The municipality making the application or a municipality that
6 adjoins the municipality making the application.

7 (C) The RPC for the region that includes the Tier 1A area or a RPC
8 whose region adjoins the municipality in which the Tier 1A area is located.

9 (D) Any 20 persons who, by signed petition, allege that the decision
10 is not in accord with the requirements of this chapter, and who own or occupy
11 real property located within the municipality in which the Tier 1A area is
12 located or an adjoining municipality. The petition must designate one person
13 to serve as the representative of the petitioners regarding all matters related to
14 the appeal. The designated representative must have participated in the public
15 hearing described in subdivision (c)(4) of this section.

16 (E) Any person entitled to receive notice under this section that
17 participated in the Board’s hearing on an application.

18 Sec. 30. TIER 1A AREA GUIDELINES

19 On or before January 1, 2026, the Environmental Review Board shall
20 publish guidelines to direct municipalities seeking to obtain the Tier 1A area
21 status.

1 Sec. 31. 24 V.S.A. § 4382 is amended to read:

2 § 4382. THE PLAN FOR A MUNICIPALITY

3 (a) A plan for a municipality shall be consistent with the goals established
4 in section 4302 of this title and compatible with approved plans of other
5 municipalities in the region and with the regional plan and shall include the
6 following:

7 * * *

8 (2) A land use plan, which shall consist of a map and statement of
9 present and prospective land uses, that:

10 * * *

11 (C) Identifies those areas, if any, proposed for designation under
12 chapter ~~76A~~ 139 of this title and for status under 10 V.S.A. §§ 6033 and 6034,
13 together with, for each area proposed for designation, an explanation of how
14 the designation would further the plan's goals and the goals of section 4302 of
15 this title; and how the area meets the requirements for the type of designation
16 to be sought.

17 * * *

18 Sec. 32. 10 V.S.A. § 6081 is amended to read:

19 § 6081. PERMITS REQUIRED; EXEMPTIONS

20 * * *

1 (C) has applied for a permit or permit amendment required by zoning
2 regulations or bylaws adopted pursuant to this subchapter.

3 (2) The appropriate municipal panel reviewing a municipal permit or
4 permit amendment pursuant to this subsection shall include conditions
5 contained within a permit previously issued pursuant to 10 V.S.A. chapter 151
6 unless the panel determines that the permit condition pertains to any of the
7 following:

8 (A) the construction phase of the project that has already been
9 constructed;

10 (B) compliance with another State permit that has independent
11 jurisdiction;

12 (C) federal or State law that is no longer in effect or applicable;

13 (D) an issue that is addressed by municipal regulation and the project
14 will meet the municipal standards; or

15 (E) a physical or use condition that is no longer in effect or
16 applicable or that will no longer be in effect or applicable once the new project
17 is approved.

18 (3) After issuing or amending a permit containing conditions pursuant to
19 this subsection, the appropriate municipal panel shall provide notice and a
20 copy of the permit to the Environmental Review Board.

1 (4) The appropriate municipal panel shall comply with the notice and
2 hearing requirements provided in subdivision 4464(a)(1) of this title. In
3 addition, notice shall be provided to those persons requiring notice under
4 10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

5 (5) The appropriate municipal panel’s decision shall be issued in
6 accordance with subsection 4464(b) of this title and shall include specific
7 findings with respect to its determinations pursuant to subdivision (2) of this
8 subsection.

9 (6) Any final action by the appropriate municipal panel affecting a
10 condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall
11 be recorded in the municipal land records.

12 (h) Within a designated Tier 1A area, the appropriate municipal panel shall
13 enforce any existing permits issued under 10 V.S.A. chapter 151 that has not
14 has its permit conditions transferred to a municipal permit pursuant to
15 subsection (g).

16 **Sec. 34. TIER 2 REPORT**

17 On or before February 15, 2025, the Environmental Review Board shall
18 report on any recommendations to address Act 250 jurisdiction in rural and
19 working lands. The recommendations shall address the issues with use of the
20 existing jurisdictional trigger for commercial development based on the size of
21 a parcel. The report shall recommend statutory changes to address

1 fragmentation of rural and working lands while allowing for development
2 review. The report shall be submitted to the House Committees on
3 Agriculture, Food Resiliency, and Forestry and on Environment and Energy
4 and the Senate Committees on Agriculture and on Natural Resources and
5 Energy.

6 **Sec. 35. AFFORDABLE HOUSING DEVELOPMENT REGULATORY**

7 **INCENTIVES STUDY**

8 (a) The Department of Housing and Community Development, the
9 Vermont Housing and Conservation Board, the Land Access and Opportunity
10 Board, and the Vermont Housing Finance Agency shall:

11 (1) engage with diverse stakeholders including housing developers, local
12 government officials, housing advocacy organizations, financial institutions,
13 and community members to identify regulatory policies that incentivize mixed-
14 income, mixed-use development and support affordable housing production as
15 a percentage of new housing units in communities throughout the State,
16 including examining the impact of inclusionary zoning; and

17 (2) develop recommendations for legislative, regulatory, and
18 administrative actions to improve and expand affordable housing development
19 incentives within State designated areas.

20 (b) On or before December 15, 2024, the Department of Housing and
21 Community Development shall submit a report to the Senate Committees on

1 Economic Development, Housing and General Affairs and on Natural
2 Resources and Energy, and the House Committees on General and Housing
3 and on Environment and Energy with its findings and recommendations.

4 * * * Future Land Use Maps * * *

5 Sec. 36. 24 V.S.A. § 4302 is amended to read:

6 §4302. PURPOSE; GOALS

7 * * *

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

10 (1) To plan development so as to maintain the historic settlement pattern
11 of compact village and urban centers separated by rural countryside.

12 (A) Intensive residential development should be encouraged
13 primarily in ~~areas related to community centers~~ downtowns, village centers,
14 planned growth areas, and village areas as described in section 4348a of this
15 title, and strip development along highways ~~should be discouraged~~ should be
16 avoided. These areas should be planned so as to accommodate a substantial
17 majority of housing needed to reach the housing targets developed for each
18 region pursuant to subdivision 4348a(a)(9) of this title.

19 (B) Economic growth should be encouraged in locally and regionally
20 designated growth areas, employed to revitalize existing village and urban

1 centers, or both, ~~and should be encouraged in growth centers designated under~~
2 ~~chapter 76A of this title.~~

3 (C) Public investments, including the construction or expansion of
4 infrastructure, should reinforce the ~~general character and~~ planned growth
5 patterns of the area.

6 (D) Development should be undertaken in accordance with smart
7 growth principles as defined in subdivision **2791(13)** of this title.

8 * * *

9 (5) To identify, protect, and preserve important natural and historic
10 features of the Vermont landscape, including:

11 (A) significant natural and fragile areas;

12 (B) outstanding water resources, including lakes, rivers, aquifers,
13 shorelands, and wetlands;

14 (C) significant scenic roads, waterways, and views;

15 (D) important historic structures, sites, or districts, archaeological
16 sites, and archaeologically sensitive areas.

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

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

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

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

6 * * *

7 (11) To ensure the availability of safe and affordable housing for all
8 Vermonters.

9 (A) Housing should be encouraged to meet the needs of a diversity of
10 social and income groups in each Vermont community, particularly for those
11 citizens of low and moderate income, and consistent with housing targets
12 provided for in subdivision 4348a(a)(9) of this title.

13 (B) New and rehabilitated housing should be safe, sanitary, located
14 conveniently to employment and commercial centers, and coordinated with the
15 provision of necessary public facilities and utilities.

16 (C) Sites for ~~multi-family~~ multifamily and manufactured housing
17 should be readily available in locations similar to those generally used for
18 single-family ~~conventional~~ dwellings.

19 (D) Accessory ~~apartments~~ dwelling units within or attached to single-
20 family residences ~~which~~ that provide affordable housing in close proximity to

1 cost-effective care and supervision for relatives, elders, or persons who have a
2 disability should be allowed.

3 * * *

4 (14) To encourage flood resilient communities.

5 (A) New development in identified flood hazard, ~~fluvial erosion~~, and
6 river corridor protection areas should be avoided. If new development is to be
7 built in such areas, it should not exacerbate flooding and fluvial erosion.

8 (B) The protection and restoration of floodplains and upland forested
9 areas that attenuate and moderate flooding and fluvial erosion should be
10 encouraged.

11 (C) Flood emergency preparedness and response planning should be
12 encouraged.

13 (15) To equitably distribute environmental benefits and burdens a
14 described in 3 V.S.A. chapter 72.

15 * * *

16 Sec. 37. 24 V.S.A. § 4345a is amended to read:

17 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

18 A regional planning commission created under this chapter shall:

19 * * *

20 (5) Prepare a regional plan and amendments that are consistent with
21 the goals established in section 4302 of this title, and compatible with

1 approved municipal and adjoining regional plans. When preparing a regional
2 plan, the regional planning commission shall:

3 (A) develop and carry out a process that will encourage and enable
4 widespread citizen involvement and meaningful participation, as defined in
5 3 V.S.A. § 6002;

6 (B) develop a regional data base that is compatible with, useful to,
7 and shared with the geographic information system established under 3 V.S.A.
8 § 20;

9 (C) conduct capacity studies;

10 (D) identify areas of regional significance. Such areas may be, but
11 are not limited to, historic sites, earth resources, rare and irreplaceable natural
12 areas, recreation areas, and scenic areas;

13 (E) ~~use a land evaluation and site assessment system, that shall at a~~
14 ~~minimum use the criteria established by the Secretary of Agriculture, Food and~~
15 ~~Markets under 6 V.S.A. § 8, to identify viable agricultural lands~~ consider the
16 potential environmental benefits and environmental burdens, as defined in
17 3 V.S.A. §6002, of the proposed plan;

18 (F) consider the probable social and economic benefits and
19 consequences of the proposed plan; and

20 (G) prepare a report explaining how the regional plan is consistent
21 with the goals established in section 4302 of this title.

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* * *

(11) Review proposed State capital expenditures prepared pursuant to 32 V.S.A. chapter 5 and the Transportation Program prepared pursuant to 19 V.S.A. chapter 1 for compatibility and consistency with regional plans and submit comments to the Secretaries of Transportation and Administration and the legislative committees of jurisdiction.

* * *

(17) As part of its regional plan, define a substantial regional impact, as the term may be used with respect to its region. This definition shall be given ~~due consideration~~ substantial deference, where relevant, in State regulatory proceedings.

* * *

Sec. 38. 24 V.S.A. § 4347 is amended to read:

§ 4347. PURPOSES OF REGIONAL PLAN

A regional plan shall be made with the general purpose of guiding and accomplishing a coordinated, efficient, equitable and economic development of the region ~~which~~ that will, in accordance with the present and future needs and resources, best promote the health, safety, order, convenience, prosperity, and welfare of ~~the~~ current and future inhabitants as well as efficiency and economy in the process of development. This general purpose includes recommending a distribution of population and of the uses of the land for

1 urbanization, trade, industry, habitation, recreation, agriculture, forestry, and
2 other uses as will tend to:

3 (1) create conditions favorable to transportation, health, safety, civic
4 activities, and educational and cultural opportunities;

5 (2) reduce the wastes of financial, energy, and human resources which
6 result from either excessive congestion or excessive scattering of population;

7 (3) promote an efficient and economic utilization of drainage, energy,
8 sanitary, and other facilities and resources;

9 (4) promote the conservation of the supply of food, water, energy, and
10 minerals;

11 (5) promote the production of food and fiber resources and the
12 reasonable use of mineral, water, and renewable energy resources; ~~and~~

13 (6) promote the development of housing suitable to the needs of the
14 region and its communities; and

15 (7) help communities equitably build resilience to address the effects
16 of climate change through mitigation and adaptation consistent with the
17 Vermont Climate Action Plan adopted pursuant to 10 V.S.A. § 592 and
18 3 V.S.A. chapter 72.

1 Sec. 39. 24 V.S.A. § 4348 is amended to read:

2 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

3 (a) A regional planning commission shall adopt a regional plan. Any plan
4 for a region, and any amendment ~~thereof~~, shall be prepared by the regional
5 planning commission. At the outset of the planning process and throughout
6 the process, regional planning commissions shall solicit the participation of
7 municipalities, local citizens, and organizations by holding informal working
8 sessions that suit the needs of local people. The purpose of these working
9 sessions is to allow for meaningful participation as defined in 3 V.S.A. § 6002,
10 provide consistent information about new statutory requirements related to the
11 regional plan, explain the reasons for new requirements, and gather
12 information to be used in the development of the regional plan and future land
13 use element.

14 (b) 60 days prior to holding the first public hearing on a regional plan, a
15 regional planning commission shall submit a draft regional plan to the
16 Environmental Review Board and Agency of Commerce and Community
17 Development for preliminary review and comments related to conformance of
18 the draft with sections 4302 and 4348a of this title, chapter 139 of this title, and
19 10 V.S.A. § 6001 with regards to critical resource areas. The Agency shall
20 coordinate with other State agencies and respond within 60 days unless more
21 time is granted by the regional planning commission.

1 (c) The regional planning commission shall hold two or more public
2 hearings within the region after public notice on any proposed plan or
3 amendment. The minimum number of required public hearings may be
4 specified within the bylaws of the regional planning commission.

5 ~~(e)~~(d) At least 30 days prior to the first hearing, a copy of the proposed plan
6 or amendment, a report documenting conformance with the goals established
7 in section 4302 of this chapter and the plan elements established in section
8 4348a of this chapter, and a description of any changes to the Regional Future
9 Land Use Map, and the definition of substantial regional impact with a request
10 for general comments and for specific comments with respect to the extent to
11 which the plan or amendment is consistent with the goals established in section
12 4302 of this title, shall be delivered physically or electronically with proof of
13 receipt or sent by certified mail, return receipt requested, to each of the
14 following:

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

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

19 (3) the Department of Housing and Community Development within the
20 Agency of Commerce and Community Development and the Community
21 Investment Board for a formal review and comment;

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

4 (5) the Agency of Natural Resources ~~and~~; the Agency of Agriculture,
5 Food and Markets; the Agency of Transportation; the Department of Public
6 Service; the Department of Public Safety’s Division of Emergency
7 Management; and the Environmental Review Board.

8 ~~(d)~~(e) Any of the foregoing bodies, or their representatives, may submit
9 comments on the proposed regional plan or amendment to the regional
10 planning commission and may appear and be heard in any proceeding with
11 respect to the adoption of the proposed plan or amendment.

12 ~~(e)~~(f) The regional planning commission may make revisions to the
13 proposed plan or amendment at any time not less than 30 days prior to the final
14 public hearing held under this section. If the proposal is changed, a copy of the
15 proposed change shall be delivered physically ~~or~~; electronically with proof of
16 receipt; or by certified mail, return receipt requested, to the chair of the
17 legislative body of each municipality within the region; and to any individual
18 or organization requesting a copy; at least 30 days prior to the final hearing.

19 ~~(f)~~(g) A regional plan or amendment shall be adopted by not less than a
20 60 percent vote of the commissioners representing municipalities, in
21 accordance with the bylaws of the regional planning commission, ~~and~~

1 ~~immediately submitted to the legislative bodies of the municipalities that~~
2 ~~comprise the region. The plan or amendment shall be considered duly adopted~~
3 ~~and shall take effect 35 days after the date of adoption, unless, within 35 days~~
4 ~~of the date of adoption, the regional planning commission receives certification~~
5 ~~from the legislative bodies of a majority of the municipalities in the region~~
6 ~~vetoing the proposed plan or amendment. In case of such a veto, the plan or~~
7 ~~amendment shall be deemed rejected.~~

8 (h)(1) Within 15 days following adoption a regional planning commission
9 shall submit its regionally adopted regional plan to the Environmental Review
10 Board for a determination of regional plan compliance with: a report
11 documenting conformance with the goals established in section 4302 of this
12 chapter and the plan elements established in section 4348a of this chapter,
13 showing how the rural conservation area meets the definition of critical
14 resource area established in 10 V.S.A. § 6001, and a description of any
15 changes to the regional plan future land use map, the definition of substantial
16 regional impact.

17 (2) Within 30 days after submittal of the plan, Environmental Review
18 Board staff shall provide a recommendation. The Environmental Review
19 Board shall hold a public hearing within 60 days after receiving a plan and
20 provide notice of it at least 15 days in advance by direct mail or electronically
21 with proof of receipt to the requesting regional planning commission, posting

1 on the website of the Environmental Review Board, and publication in a
2 newspaper of general circulation in the region affected. The regional planning
3 commission shall notify their municipalities and post on their website the
4 public hearing notice.

5 (3) The Environmental Review Board shall issue the determination in
6 writing within 15 days after the close of the hearing on the plan. If the
7 determination is affirmative, a copy of the determination shall be provided to
8 the regional planning commission and the Environmental Review Board. If
9 the determination is negative, the Environmental Review Board shall state the
10 reasons for denial in writing and, if appropriate, suggest acceptable
11 modifications. Submissions for a new determination that follow a negative
12 determination shall receive a new determination within 45 days.

13 (4) The Environmental Review Board’s affirmative determination shall
14 be based upon finding the regional plan meets the following requirements:

15 (A) Consistency with the State planning goals as described in section
16 4302 of this chapter with consistency determined in the manner described
17 under subdivision 4302(f)(1) of this chapter.

18 (B) Consistency with the purposes of the regional plan established in
19 section 4347 of chapter.

20 (C) Consistency with the regional plan elements as described in
21 section 4348a of this chapter, except that the requirements of section 4352 of

1 this chapter related to enhanced energy planning shall be the under the sole
2 authority of the Department of Public Service.

3 (D) Compatibility with adjacent regional planning areas in the
4 manner described under subdivision 4302(f)(2) of this chapter.

5 (i) Objections of interested parties.

6 (1) An interested party who has participated in the regional plan
7 adoption process may object to the approval of the plan or approval of the
8 future land use maps by the Environmental Review Board within 15 days
9 following plan adoption by the regional planning commission. Participation is
10 defined as providing written or oral comments for consideration at a public
11 hearing held by the regional planning commission. Objections shall be
12 submitted using a form provided by the Environmental Review Board.

13 (2) As used in this section, an “interested party” means any one of the
14 following:

15 (A) Any 20 persons by signed petition who own property or reside
16 within the region. The petition must designate one person to serve as the
17 representative of the petitioners regarding all matters related to the objection.
18 The designated representative must have participated in the regional plan
19 adoption process as described in subdivision (e)(1) of this section.

20 (B) A party entitled to notice under subsection (d) of this section.

1 (3) Any objection under this section shall be limited to the question of
2 whether the regional plan is consistent with the regional plan elements and
3 future land use areas as described in section 4348a of this title. The
4 requirements of section 4352 of this title related to enhanced energy planning
5 shall be under the sole authority of the Department of Public Service and shall
6 not be reviewed by the Environmental Review Board.

7 (4) The Environmental Review Board shall hear any objections of
8 regional plan adoption concurrently with regional plan review under subsection
9 (h) of this section and 10 V.S.A. § 6027. The Environmental Review Board
10 decision of approval of a regional plan shall expressly evaluate any objections
11 and state the reasons for their decisions in writing. If applicable, the decision
12 to uphold an objection shall suggest modifications to the regional plan.

13 (j) Minor amendments to regional plan future land use map. A regional
14 planning commission and a municipality may submit a joint request for a
15 minor amendment to boundaries of a future land use area for consideration by
16 the Environmental Review Board with a letter of support from the
17 municipality. The joint request may only be submitted after an affirmative
18 vote of the municipal legislative body and the regional planning commission
19 board. The Environmental Review Board, after consultation with the
20 Community Investment Board and the regional planning commissions, shall
21 provide guidance about what constitutes a minor amendment. Minor

1 amendments may include any change to a future land use area consisting of
2 fewer than 10 acres. A minor amendment to a future land use area shall not
3 require an amendment to a regional plan as outlined in section 4348 of this
4 chapter. The Board may adopt rules to implement this section.

5 (k) An affirmative determination of regional plan compliance issued
6 pursuant to this section shall remain in effect until the end of the period for
7 expiration or readoption of the plan to which it applies.

8 (l) Regional planning commissions shall be provided up to 18 months from
9 a negative determination by the Environmental Review Board to obtain an
10 affirmative determination of regional plan compliance. If a regional planning
11 commission is unable to obtain affirmative determination of regional plan
12 compliance, member municipalities shall lose benefits related to designations,
13 Act 250, or State infrastructure investments.

14 (m) Upon approval by the Environmental Review Board, the plan shall be
15 considered duly adopted, shall take effect, and is not appealable. The plan
16 shall be immediately submitted to the entities listed in subsection (d) of this
17 section.

18 (g)(n) Regional plans may be reviewed from time to time and may be
19 amended in the light of new developments and changed conditions affecting
20 the region. As specifically enabled in this section, minor amendments to the
21 designated areas do not require the amendment of a regional plan. All minor

1 amendments to future land use areas shall be compiled and included in the next
2 iteration of the regional plan.

3 ~~(h)~~(o) In proceedings under 10 V.S.A. chapter 151, 10 V.S.A. chapter 159,
4 and 30 V.S.A. § 248, in which the provisions of a regional plan or a municipal
5 plan are relevant to the determination of any issue in those proceedings:

6 (1) the provisions of the regional plan shall be given effect to the extent
7 that they are not in conflict with the provisions of a duly adopted municipal
8 plan; and

9 (2) to the extent that such a conflict exists, the regional plan shall be
10 given effect if it is demonstrated that the project under consideration in the
11 proceedings would have a substantial regional impact as determined by the
12 definition in the regional plan.

13 (p) Regional planning commissions shall adopt a regional plan in
14 conformance this title by December 31, 2026.

15 Sec. 40. 24 V.S.A. § 4348a is amended to read:

16 §4348a. ELEMENTS OF A REGIONAL PLAN

17 (a) A regional plan shall be consistent with the goals established in section
18 4302 of this title and shall include the following:

19 (1) A statement of basic policies of the region to guide the future growth
20 and development of land and of public services and facilities, and to protect the
21 environment.

1 (2) A ~~land-use~~ natural resources and working lands element, which shall
2 consist of a map or maps and ~~statement of present and prospective land uses~~
3 policies, based on ecosystem function, consistent with Vermont Conservation
4 Design, supports compact centers surrounded by rural and working lands, and
5 that:

6 (A) Indicates those areas of significant natural resources, including
7 existing and proposed for forests, wetlands, vernal pools, rare and irreplaceable
8 natural areas, floodplains, river corridors, recreation, agriculture, ~~(using the~~
9 agricultural lands identification process established in 6 V.S.A. § 8), residence,
10 commerce, industry, public, and ~~semi-public~~ semipublic uses, open spaces,
11 areas reserved for flood plain, forest blocks, habitat connectors, recreation
12 areas and recreational trails, and areas identified by the State, regional planning
13 commissions, or municipalities that require special consideration for aquifer
14 protection; for wetland protection; for the maintenance of forest blocks,
15 wildlife habitat, and habitat connectors; or for other conservation purposes.

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

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

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

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

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

13 ~~(F)~~(C) 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 (D) encourage preservation of rare and irreplaceable natural areas,
21 scenic and historic features, and resources.

1 (E) encourage protection and improvement of the quality of waters of
2 the State to be used in the development and furtherance of the applicable basin
3 plans established by the Secretary of Natural Resources under 10 V.S.A. §
4 1253.

5 (3) An energy element, ~~may include~~ including an analysis of resources,
6 needs, scarcities, costs, and problems within the region across all energy
7 sectors, including electric, thermal, and transportation; a statement of policy on
8 the conservation and efficient use of energy and the development and siting of
9 renewable energy resources; a statement of policy on patterns and densities of
10 land use likely to result in conservation of energy; and an identification of
11 potential areas for the development and siting of renewable energy resources
12 and areas that are unsuitable for siting those resources or particular categories
13 or sizes of those resources.

14 (4) A transportation element, ~~which may consist~~ consisting of a
15 statement of present and prospective transportation and circulation facilities,
16 and a map showing existing and proposed highways, including limited access
17 highways, and streets by type and character of improvement, and where
18 pertinent, anticipated points of congestion, parking facilities, transit routes,
19 terminals, bicycle paths and trails, scenic roads, airports, railroads and port
20 facilities, and other similar facilities or uses, and recommendations to meet

1 future needs for such facilities, with indications of priorities of need, costs, and
2 method of financing.

3 (5) A utility and facility element, consisting of a map and statement of
4 present and prospective local and regional community facilities and public
5 utilities, whether publicly or privately owned, showing existing and proposed
6 educational, recreational and other public sites, buildings and facilities,
7 including public schools, State office buildings, hospitals, libraries, power
8 generating plants and transmission lines, wireless telecommunications facilities
9 and ancillary improvements, water supply, sewage disposal, refuse disposal,
10 storm drainage, and other similar facilities and activities, and recommendations
11 to meet future needs for those facilities, with indications of priority of need.

12 (6) ~~A statement of policies on the:~~

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

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

18 [Repealed.]

19 * * *

20 (12) A future land use element, based upon the elements in this section,
21 that sets forth the present and prospective location, amount, intensity, and

1 character of such land uses in relation to the provision of necessary community
2 facilities and services and that consists of a map delineating future land use
3 area boundaries for the land uses in subdivisions (A)–(J) of this subdivision
4 (12) as appropriate and any other special land use category the regional
5 planning commission deems necessary; descriptions of intended future land
6 uses; and policies intended to support the implementation of the future land use
7 element using the following land use categories:

8 (A) **Downtown or village centers.** These areas are the vibrant,
9 mixed-use centers bringing together community economic activity and civic
10 assets. They include downtowns, villages, and new town centers, previously
11 designated under chapter 76A and downtowns and village centers seeking
12 benefits under the **Community Investment** Program under section 5804 of this
13 title. The downtown or village centers are the central business and civic
14 centers within planned growth areas, village areas, or may stand alone. Village
15 centers are not required to have municipal water, wastewater, zoning, or
16 subdivision bylaws.

17 (B) **Planned growth areas.** These areas include the densest existing
18 settlement and future growth areas with the highest concentrations of
19 population, housing, and employment in each region and town, as appropriate.
20 They include a mix of commercial, residential, and civic or cultural sites with
21 active streetscapes, supported by land development regulations, public water,

1 wastewater, or both, and multimodal transportation systems. These areas
2 include new town centers, downtowns, village centers, growth centers, and
3 neighborhood development areas previously designated under chapter 76A of
4 this title. These areas should generally meet the smart growth principles
5 definition in chapter 139 of this title and the following criteria:

6 (i) The municipality has a duly adopted and approved plan and a
7 planning process that is confirmed in accordance with section 4350 of this title
8 and has adopted bylaws and regulations in accordance with sections 4414,
9 4418, and 4442 of this title.

10 (ii) This area is served by municipal water or wastewater
11 infrastructure.

12 (iii) The area is generally within walking distance from the
13 municipality's or an adjacent municipality's downtown, village center, new
14 town center, or growth center.

15 (iv) The area excludes identified flood hazard and fluvial erosion
16 areas, except those areas containing preexisting development in areas suitable
17 for infill development as defined in section 29-201 of the Vermont Flood
18 Hazard Area and River Corridor Rule.

19 (v) The municipal plan indicates that this area is intended for
20 higher-density residential and mixed-use development.

1 (vi) The area provides for housing that meets the needs of a
2 diversity of social and income groups in the community.

3 (vii) The area is served by planned or existing transportation
4 infrastructure that conforms with “complete streets” principles as described
5 under 19 V.S.A. § 309d and establishes pedestrian access directly to the
6 downtown, village center, or new town center. Planned transportation
7 infrastructure includes those investments included in the municipality’s capital
8 improvement program.

9 (C) **Village areas.** These areas include the traditional settlement area
10 or a proposed new settlement area, typically comprised of a cohesive mix of
11 residential, civic, religious, commercial, and mixed-use buildings, arranged
12 along a main street and intersecting streets that are within walking distance for
13 residents who live within and surrounding the core. Village areas shall have
14 one of the following: municipal water, wastewater, or land development
15 regulations. If no municipal wastewater is available, the area must have soils
16 that are adequate for wastewater disposal. They provide some opportunity for
17 infill development or new development areas where the village can grow and
18 be flood resilient. These areas include existing village center designations and
19 similar areas statewide, but this area is larger than the village center
20 designation. Village areas must meet the following criteria:

1 (i) The municipality has a duly adopted and approved plan and a
2 planning process that is confirmed in accordance with section 4350 of this title.

3 (ii) The municipality has adopted bylaws and regulations in
4 accordance with sections 4414, 4418, and 4442 of this title.

5 (iii) Unless the municipality has adopted flood hazard and river
6 corridor bylaws, applicable to the entire municipality, that are consistent with
7 the standards established pursuant to 10 V.S.A. § 755b (flood hazard) and
8 10 V.S.A. § 1428(b) (river corridor), the area excludes identified flood hazard
9 and fluvial erosion areas, except those areas containing preexisting
10 development in areas suitable for infill development as defined in § 29-201 of
11 the Vermont Flood Hazard Area and River Corridor Rule.

12 (D) Transition or infill area. These areas include areas of existing or
13 planned commercial, office, mixed-use development, or residential uses either
14 adjacent to a planned growth or village area or a new stand-alone Transition or
15 infill area and served by, or planned for, municipal water or wastewater, or
16 both. The intent of this land use category is to transform these areas into
17 higher-density, mixed-use settlements, or residential neighborhoods through
18 infill and redevelopment or new development. New commercial strip auto-
19 oriented development is not allowed as to prevent negatively impacting the
20 economic vitality of commercial areas in the adjacent or nearby planned

1 growth or village area. This area could also include adjacent greenfields safer
2 from flooding and planned for future growth.

3 (E) Resource-based recreation areas. These areas include large-scale
4 resource-based, recreational facilities, often concentrated around ski resorts,
5 lakeshores, or concentrated trail networks, that may provide infrastructure,
6 jobs, or housing to support recreational activities.

7 (F) Enterprise areas. These areas include locations of high economic
8 activity and employment that are not adjacent to planned growth areas. These
9 include industrial parks, areas of natural resource extraction, or other
10 commercial uses that involve larger land areas. Enterprise areas typically have
11 ready access to water supply, sewage disposal, electricity, and freight
12 transportation networks.

13 (G) Hamlet. Small historic clusters of homes and perhaps a school,
14 church, store, or other public buildings not planned for significant growth; no
15 public water supply or wastewater systems; and mostly focused along one or
16 two roads. These may be depicted as points on the future land use map.

17 (H) Rural; general. These areas include areas that promote the
18 preservation of Vermont's traditional working landscape and natural area
19 features. They allow for low-density residential and sometimes limited
20 commercial development that is compatible with productive lands and natural

1 areas. This could also include an area that a municipality is planning to make
2 more rural than it is currently.

3 (I) Rural; agricultural and forestry. These areas include blocks of
4 forest or farmland that sustain resource industries, provide critical wildlife
5 habitat and movement, outdoor recreation, flood storage, aquifer recharge, and
6 scenic beauty, and contribute to economic well-being and quality of life.
7 Development in these areas should be carefully managed to promote the
8 working landscape and rural economy, and address regional goals, while
9 protecting the agricultural and forest resource value.

10 (J) Rural; conservation. These are areas of significant natural
11 resources, including proposed for forests, wetlands, vernal pools, rare and
12 irreplaceable natural areas, floodplains, river corridors, recreation, agriculture,
13 using the agricultural lands identification process established in 6 V.S.A. § 8,
14 residence, commerce, industry, public, and semipublic uses, open spaces, areas
15 reserved for flood plain, forest blocks, habitat connectors, recreation areas and
16 recreational trails, and areas identified by the State, regional planning
17 commissions, or municipalities that require special consideration for aquifer
18 protection; for wetland protection; for the maintenance of forest blocks,
19 wildlife habitat, and habitat connectors; or for other conservation purposes
20 identified by regional planning commissions or municipalities based upon
21 existing Agency of Natural Resources mapping that require special

1 consideration for aquifer protection; for wetland protection; for the
2 maintenance of forest blocks, wildlife habitat, and habitat connectors; or for
3 other conservation purposes. The mapping of these areas and accompanying
4 policies are intended to help meet requirements of 10 V.S.A. chapter 89. Any
5 portion of this area that is approved by the ERB as having Tier 3 status shall be
6 identified on the future land use map as an overlay upon approval.

7 (b) The various elements and statements shall be correlated with the land
8 use element and with each other. The maps called for by this section may be
9 incorporated on one or more maps; and may be referred to in each separate
10 statement called for by this section.

11 (c) The regional plan future land use map shall delineate areas within the
12 regional planning commission’s member municipalities that are eligible to
13 receive designation benefits as Centers and Neighborhoods when the future
14 land use map is approved by the Environmental Review Board per 10 V.S.A.
15 § 6033. The areas eligible for designation shall be identified on the regional
16 plan future land use map as regional downtown centers, village centers,
17 planned growth area, and village areas in a manner consistent with this section.
18 This methodology shall include all approved designated downtowns, villages,
19 new town centers, neighborhood development areas, and growth centers

1 existing on July 1, 2024, unless the subject member municipality requests
2 otherwise.

3 (d) With the exception for preexisting, nonconforming designations
4 approved prior to the establishment of the program under this chapter or areas
5 included in the municipal plan for the purposes of relocating a municipality's
6 center for flood resiliency purposes, the areas eligible for designation benefits
7 upon the Environmental Review Board's approval of the regional plan future
8 land use map for designation as a Center shall not include development that is
9 disconnected from a Center and that lacks a pedestrian connection to the
10 Center via a complete street.

11 **Sec. 41. REGIONAL MAP METHODOLOGY**

12 On or before December 31, 2024, the VAPDA shall develop standard
13 methodology and process for the mapping of areas eligible for Tier 1B status
14 under 10 V.S.A. § 6033 and designation under 24 V.S.A. chapter 139 in
15 consultation with the Department of Housing and Community Development
16 and Environmental Review Board.

17 * * * Resilience Planning * * *

18 Sec.42. 24 V.S.A. § 4306 is amended to read:

19 § 4306. MUNICIPAL AND REGIONAL PLANNING AND RESILIENCE

20 FUND

1 (a)(1) The Municipal and Regional Planning and Resilience Fund for the
2 purpose of assisting municipal and regional planning commissions to carry out
3 the intent of this chapter is hereby created in the State Treasury.

4 (2) The Fund shall be composed of 17 percent of the revenue from the
5 property transfer tax under 32 V.S.A. chapter 231 and any monies from time to
6 time appropriated to the Fund by the General Assembly or received from any
7 other source, private or public. All balances at the end of any fiscal year shall
8 be carried forward and remain in the Fund. Interest earned by the Fund shall
9 be deposited in the Fund.

10 (3) Of the revenues in the Fund, each year:

11 (A) 10 percent shall be disbursed to the Vermont Center for
12 Geographic Information;

13 (B) 70 percent shall be disbursed to the Secretary of Commerce and
14 Community Development for performance contracts with regional planning
15 commissions to provide regional planning services pursuant to section 4341a
16 of this title; and

17 (C) 20 percent shall be disbursed to municipalities.

18 (b)(1) Allocations for performance contract funding to regional planning
19 commissions shall be determined according to a formula to be adopted by rule
20 under 3 V.S.A. chapter 25 by the Department for the assistance of the regional
21 planning commissions. Disbursement of funding to regional planning

1 commissions shall be predicated upon meeting performance goals and targets
2 pursuant to the terms of the performance contract.

3 (2) Disbursement to municipalities shall be awarded annually on or
4 before December 31 through a competitive program administered by the
5 Department providing the opportunity for any eligible municipality or
6 municipalities to compete regardless of size, provided that to receive funds, a
7 municipality:

8 (A) shall be confirmed under section 4350 of this title; or

9 (B)(i) shall use the funds for the purpose of developing a municipal
10 plan to be submitted for approval by the regional planning commission, as
11 required for municipal confirmation under section 4350 of this title; and

12 (ii) shall have voted at an annual or special meeting to provide
13 local funds for municipal planning and resilience purposes and regional
14 planning purposes.

15 (3) Of the annual disbursement to municipalities, an amount not to
16 exceed 20 percent of the total may be disbursed to the Department to
17 administer a program providing direct technical consulting assistance under
18 retainer on a rolling basis to any eligible municipality to meet the requirements
19 for designated neighborhood development area under chapter 76A of this title,
20 provided that the municipality is eligible for funding under subdivision (2) of
21 this subsection and meets funding guidelines established by the Department to

1 ensure accessibility for lower capacity communities, municipal readiness, and
2 statewide coverage.

3 (4) Of the annual disbursement to municipalities, the Department may
4 allocate funding as bylaw modernization grants under section 4307 of this title.

5 (c) Funds allocated to municipalities shall be used for the purposes of:

6 (1) funding the regional planning commission in undertaking capacity
7 studies;

8 (2) carrying out the provisions of subchapters 5 through 10 of this
9 chapter;

10 (3) acquiring development rights, conservation easements, or title to
11 those lands, areas, and strictures identified in either regional or municipal plans
12 as requiring special consideration for provision of needed housing, aquifer
13 protection, flood protection, climate resilience, open space, farmland
14 preservation, or other conservation purposes; and

15 (4) reasonable and necessary costs of administering the Fund by the
16 Department of Housing and Community Development, not to exceed six
17 percent of the municipality allocation.

18 Sec. 43. MUNICIPAL PLANNING AND RESILIENCE GRANT

19 PROGRAM

20 (a) The Agency of Commerce and Community Development shall rename
21 the Municipal Planning Grant Program that the Agency administers under

1 24 V.S.A. § 4306(b)(2) as the Municipal Planning and Resilience Grant
2 Program.

3 (b) In addition to other funds appropriated to the Agency of Commerce and
4 Community Development for grants under 24 V.S.A. § 4306, \$1,500,000.00 is
5 appropriated from the General Fund to the Municipal and Regional Planning
6 and Resilience Fund for the grants from the Fund for the following purposes:

7 (1) assistance to municipalities to support resiliency planning and
8 identify and plan for resiliency projects to reduce damages from flooding and
9 other climate change-related hazards; and

10 (2) funding for regional planning commissions to increase staff in order
11 to support municipalities in conducting climate resiliency planning; project
12 development and implementation; and hazard mitigation locally, regionally,
13 and on a watershed scale.

14 Sec. 44. CLIMATE RESILIENCY PLANNING POSITIONS

15 (a) In addition to other funds appropriated to the Agency of Commerce and
16 Community Development in fiscal year 2025, \$125,000.00 is appropriated
17 from the General Fund to the Agency for the purpose of creating a new
18 permanent full-time position to staff the climate resiliency grants from the
19 Municipal Planning and Resilience Grant Program.

20 (b) In addition to other funds appropriated to the Agency of Natural
21 Resources in fiscal year 2025, \$125,000.00 is appropriated from the General

1 Fund to the Agency for the purposes of funding a new permanent full-time
2 position in the Water Investment Division of the Department of Environmental
3 Conservation for the purposes of assisting in the financing of climate resilience
4 projects from the Special Environmental Revolving Funds under 24 V.S.A.
5 chapter 120.

6 * * * Designated Areas Update * * *

7 Sec. 45. REPEAL

8 24 V.S.A. chapter 76A is repealed.

9 Sec. 46. 24 V.S.A. chapter 139 is added to read:

10 CHAPTER 139. STATE COMMUNITY INVESTMENT PROGRAM

11 § 5801. DEFINITIONS

12 As used in this chapter:

13 (1) “Community Investment Program” means the program established in
14 this chapter, as adapted from the former State designated areas program
15 formerly in chapter 76A of this title. Statutory references outside this chapter
16 referring to the former State-designated village centers, downtown, and new
17 town centers shall mean designated center, once established. Statutory
18 references outside this chapter referring to the former State-designated growth
19 centers and neighborhood development areas shall mean designated
20 neighborhood, once established.

1 (2) “Complete streets” or “complete street principles” has the same
2 meaning as in 19 V.S.A. chapter 24.

3 (3) “Department” means the Department of Housing and Community
4 Development.

5 (4) “Downtown center” or “village center” means areas on the regional
6 plan future land use maps that may be designated as a center consistent with
7 section 4348a of this title.

8 (5) “ERB” refers to the Environmental Review Board established
9 pursuant to 10 V.S.A. § 6021.

10 (6) “Infill” means the use of vacant land or property or the
11 redevelopment of existing buildings within a built-up area for further
12 construction or land development.

13 (7) “Local downtown organization” means either a nonprofit
14 corporation, or a board, council, or commission created by the legislative body
15 of the municipality, whose primary purpose is to administer and implement the
16 community reinvestment agreement and other matters regarding the
17 revitalization of the downtown.

18 (8) “**Planned growth area**” means an area on the regional plan future
19 land use maps required under section 4348a of this title, which may encompass
20 a downtown center or village center on the regional future land use map and
21 may be designated as a center or neighborhood or both.

1 (9) “Regional plan future land use map” means the map prepared
2 pursuant to 24 V.S.A. § 4348a.

3 (10) “Smart growth principles” means growth that:

4 (A) maintains the historic development pattern of compact village
5 and urban centers separated by rural countryside;

6 (B) develops compact mixed-use centers at a scale appropriate for the
7 community and the region;

8 (C) enables choice in modes of transportation;

9 (D) protects the State’s important environmental, natural, and historic
10 features, including natural areas, water quality, scenic resources, and historic
11 sites and districts;

12 (E) serves to strengthen agricultural and forest industries and
13 minimizes conflicts of development with these industries;

14 (F) balances growth with the availability of economic and efficient
15 public utilities and services;

16 (G) supports a diversity of viable businesses in downtowns and
17 villages;

18 (H) provides for housing that meets the needs of a diversity of social
19 and income groups in each community; and

20 (I) reflects a settlement pattern that, at full build-out, is not
21 characterized by:

1 (i) scattered development located outside compact urban and
2 village centers that is excessively land consumptive and inefficient;

3 (ii) development that limits transportation options, especially for
4 pedestrians, bicyclists, transit users, and people with disabilities;

5 (iii) the fragmentation of farmland and forestland;

6 (iv) development that makes inefficient use of land, energy, roads,
7 utilities, and other supporting infrastructure or that requires the extension of
8 infrastructure across undeveloped lands outside compact, villages, downtowns,
9 or urban centers; and

10 (v) development that contributes to a pattern of strip linear
11 development along well-traveled roads and highways that lacks depth, as
12 measured from the highway.

13 (11) “Sprawl repair” means the redevelopment of lands developed with
14 buildings, traffic and circulation, parking, or other land coverage in pattern that
15 is consistent with smart growth principles and is served by a complete street
16 connecting to a proximate Center and served by water and sewer infrastructure.

17 (12) “State Board” means the Vermont Community Investment Board
18 established in section 5802 of this title.

19 (13) “State Designated Downtown and Village Center” or “Center”
20 means a contiguous downtown or village area approved as part of the ERB
21 review of regional plan future land use maps, which may include an approved

1 preexisting designated village center, designated downtown, or designated new
2 town center established prior to the approval of the regional plan future land
3 use maps. It shall encompass an area that extends access to benefits that
4 sustain and revitalize existing buildings and maintain the basis of the
5 program’s original focus on revitalizing historic downtowns and villages by
6 promoting development patterns and historic preservation practices vital to
7 Vermont’s economy, cultural landscape, equity of opportunity, and climate
8 resilience.

9 (14) “State-designated neighborhood” or “neighborhood” means a
10 contiguous geographic area approved as part of the Environmental Review
11 Board review of regional plan future land use maps that is adjacent and
12 contiguous to a center, which may include an approved and preexisting
13 designated neighborhood development area or growth center established prior
14 to approval of the regional plan future land use maps. It means an area that is
15 compact, principally walkable to a center, principally served by complete
16 streets, primarily including historic areas, and may include areas transitioning
17 to complete streets and smart growth through municipal capital planning,
18 programming, and budgeting in complete streets in accordance with section
19 4430 of this title.

20 (15) “Vermont Downtown Program” means a program within the
21 Department that coordinates with Main Street America that helps support

1 community revitalization and economic vitality while preserving the historic
2 character of Vermont’s downtown cores. The Vermont Downtown Program
3 provides downtowns with financial incentives, training, and technical
4 assistance supporting local efforts to restore historic buildings, improve
5 housing, design walkable communities, and encourage economic development
6 by incentivizing public and private investments.

7 (16) “Village area” means an area on the regional plan future land use
8 maps pursuant to section 4348a of this title, which may encompass a village
9 center on the regional future land use map.

10 § 5802. VERMONT COMMUNITY INVESTMENT BOARD

11 (a) A Vermont Community Investment Board, also referred to as the “State
12 Board,” is created to administer the provisions of this chapter. The State Board
13 shall be composed of the following members or their designees:

14 (1) the Secretary of Commerce and Community Development;

15 (2) the Secretary of Transportation;

16 (3) the Secretary of Natural Resources;

17 (4) the Commissioner of Public Safety;

18 (5) the State Historic Preservation Officer;

19 (6) a member of **the** community-designated Director of Racial Equity;

1 (7) a person, appointed by the Governor from a list of three names
2 submitted by the Vermont Natural Resources Council and the Preservation
3 Trust of Vermont;

4 (8) a person, appointed by the Governor from a list of three names
5 submitted by the Association of Chamber Executives;

6 (9) three public members representative of local government, one of
7 whom shall be designated by the Vermont League of Cities and Towns and
8 two of whom shall be appointed by the Governor;

9 (10) the Executive Director of the Vermont Bond Bank;

10 (11) the State Treasurer;

11 (12) a member of the Vermont Planners Association designated by the
12 Association;

13 (13) a representative of a regional development corporation designated
14 by the regional development corporations; and

15 (14) a representative of a regional planning commission designated by
16 the Vermont Association of Planning and Development Agencies.

17 (b) The State Board shall elect a chair and vice chair from among its
18 membership.

19 (c) The Department shall provide legal, staff, and administrative support to
20 the State Board; shall produce guidelines to direct municipalities seeking to
21 obtain designation under this chapter and for other purposes established by this

1 chapter; and shall pay per diem compensation for board members pursuant to
2 32 V.S.A. § 1010(b).

3 (d) The State Board shall meet at least quarterly.

4 (e) The State Board shall have authority to adopt rules of procedure to use
5 for appeal of its decisions and rules on handling conflicts of interest.

6 (f) In addition to any other duties confirmed by law, the State Board shall
7 have the following duties:

8 (1) to serve as the funding and benefits coordination body for the State
9 Community Investment Program;

10 (2) to review and comment on proposed regional plan future land use
11 maps prepared by the regional planning commission and presented to the ERB
12 for designated center and designated neighborhood recognition under
13 10 V.S.A. § 6033;

14 (4) to award tax credits under the 32 V.S.A. § 5930aa et seq.;

15 (5) to manage the Downtown Transportation and Related Capital
16 Improvement Fund Program established by section 5808 of this title; and

17 (6) to review and comment on ERB guidelines, rules, or procedures for
18 the status process and regional plan future land use maps as they relate to the
19 designations under this chapter.

20 § 5803. DESIGNATION OF DOWNTOWN AND VILLAGE CENTERS

1 (a) Designation established. A regional planning commission may apply to
2 the ERB for approval and designation of all centers by submitting the regional
3 plan future land use map adopted by the regional planning commission. The
4 regional plan future land use map shall identify downtown centers and village
5 centers as the downtown and village areas eligible for designation as centers.

6 The Department and State Board shall provide comments to the Environmental
7 Review on areas eligible for center designation as provided under this chapter.

8 (b) Inclusions. The areas mapped by the regional planning commissions as
9 a center shall allow for the designation of preexisting, approved village centers,
10 downtown centers, and new town centers in existence on or before December
11 31, 2025.

12 (c) Approval. The ERB shall conduct its review pursuant to 10 V.S.A.
13 § 6033

14 (d) Transition. All designated village centers, new town centers, or
15 downtowns existing as of December 31, 2025 will retain current benefits until
16 June 30, 2026 or until approval of the regional future land use maps by the
17 ERB, whichever comes first. All existing designations in effect December 31,
18 2025 will expire June 30, 2026 if the regional planning commission does not
19 receive State Board approval of the regional plan future land use maps under
20 this chapter. All benefits for preexisting designated village centers,
21 downtowns, and new town centers that are removed under this chapter shall

1 remain with the prior designations existing as of December 31, 2025 until July
2 1, 2032. Prior to June 30, 2026, no renewal shall be required for the
3 preexisting designations. New applications may be approved by the State
4 Board prior to the approval of a regional future land use map under former
5 chapter 76A of this title by the State Board until December 31, 2025. The last
6 day to submit an application for designation prior to December 31, 2025 will
7 be October 1, 2025.

8 (e) Benefits Steps. A center may receive the benefits associated with the
9 steps in this section by meeting the established requirements. The Department
10 shall review applications from municipalities to advance from Step One to
11 Two and from Step Two to Three and issue written decisions. The Department
12 shall issue a written administrative decision within 30 days following the
13 regional plan future land use map approval. If a municipal application is
14 rejected by the Department, the municipality may appeal the administrative
15 decision to the State Board. To maintain an established Step Three Center
16 after the initial approval of regional plan future land use map by the ERB, the
17 municipality shall apply for renewal and meet the program requirements **upon**
18 **application for approval of a regional plan future land use map.** Step
19 Three designations that are not approved for renewal revert to Step Two. The
20 municipality may appeal the administrative decision of the Department to the
21 State Board. Appeals of administrative decisions shall be heard by the State

1 Board at the next meeting following a timely filing stating the reasons for the
2 appeal. The State Board’s decision is final. The Department may issue
3 guidelines to administer these steps.

4 (1) Step One.

5 (A) Requirements. Step One is established to create an accessible
6 and low-barrier entry point for all villages throughout the State to access site-
7 based improvement supports and conduct initial planning. All downtown and
8 village centers shall automatically reach Step One upon approval of the
9 regional plan future land use map by the Environmental Review Board.
10 Regional plan future land use maps supersede preexisting designated areas that
11 may already meet the Step One requirement.

12 (B) Benefits. A center that reaches Step One is eligible for the
13 following benefits:

14 (i) funding and technical assistance for site-based projects,
15 including the Better Places Grant Program, access to the Downtown and
16 Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.,
17 and other programs identified in the Department’s guidelines; and

18 (ii) funding for developing or amending the municipal plan,
19 visioning, and assessments.

20 (2) Step Two.

1 (A) Requirements. Step Two is established to create a mid-level
2 entry point for emerging villages throughout the State to build planning and
3 implementation capacity for community-scale projects. A center reaches Step
4 Two if it:

5 (i) meets the requirements of Step One or if it has a designated
6 village center or new town center under chapter 76A of this title upon initial
7 approval of the regional plan future land use map and prior to December 31,
8 2026;

9 (ii) has a confirmed municipal planning process; and

10 (iii) has a municipal plan with goals for investment in the center.

11 (B) Benefits. In addition to the benefits of Step One, a center that
12 reaches Step Two is eligible for the following benefits:

13 (i) general grant priority for bylaws and special-purpose plans,
14 capital plans, and area improvement or reinvestment plans, including priority
15 consideration for the Better Connections Program and other applicable
16 programs identified by Department guidance;

17 (ii) funding priority for infrastructure project scoping, design,
18 engineering, and construction by the State Program;

19 (iii) the authority to create a special taxing district pursuant to
20 chapter 87 of this title for the purpose of financing both capital and operating
21 costs of a project within the boundaries of a center;

1 (iv) priority consideration for State and federal affordable housing
2 funding;

3 (v) authority for the municipal legislative body to lower speed
4 limits to less than 25 mph within the center under 23 V.S.A. § 1007(g);

5 (vi) State wastewater permit fees capped at \$50.00 for residential
6 development under 3 V.S.A. § 2822;

7 (vii) exemption from the land gains tax under 32 V.S.A.
8 § 10002(p); and

9 (viii) assistance and guidance from the Department for establishing
10 local historic preservation regulations.

11 (3) Step Three.

12 (A) Requirements. Step Three is established to create the higher-
13 level entry point for downtowns throughout the State to create vibrant mixed-
14 use centers. A center reaches Step Three and maintains Step Three as a
15 downtown if the Department finds that it meets the following requirements:

16 (i) Meets the requirements of Step Two, or if it has an existing
17 downtown designated under chapter 76A of this title in effect upon initial
18 approval of the regional future land use map and prior to December 31, 2026.

19 (ii) Is listed or eligible for listing in the National Register of
20 Historic Places.

21 (iii) Has a downtown improvement plan.

1 (iv) Has a downtown investment agreement.

2 (v) Has a capital plan adopted under section 4430 of this title that
3 implements the downtown improvement plan.

4 (vi) Has a local downtown organization with an organizational
5 structure necessary to sustain a comprehensive long-term downtown
6 revitalization effort, including a local downtown organization that will
7 collaborate with municipal departments, local businesses, and local nonprofit
8 organizations. The local downtown organization shall work to:

9 (I) enhance the physical appearance and livability of the
10 downtown district by implementing local policies that promote the use and
11 rehabilitation of historic and existing buildings, by developing pedestrian-
12 oriented design requirements, by encouraging new development and infill that
13 satisfy such design requirements, and by supporting long-term planning that is
14 consistent with the goals set forth in section 4302 of this title;

15 (II) build consensus and cooperation among the many groups
16 and individuals who have a role in the planning, development, and
17 revitalization process;

18 (III) market the assets of the downtown district to customers,
19 potential investors, new businesses, local citizens, and visitors;

20 (IV) strengthen, diversify, and increase the economic activity
21 within the downtown; and

1 (V) measure annually progress and achievements of the
2 revitalization efforts as required by Department guidelines.

3 (vii) Has available public water and wastewater service and
4 capacity.

5 (viii) Has permanent zoning and subdivision bylaws.

6 (ix) Has adopted historic preservation regulations for the district
7 with a demonstrated commitment to protect and enhance the historic character
8 of the downtown through the adoption of bylaws that adequately meet the
9 historic preservation requirements in subdivisions 4414(1)(E) and (F) of this
10 title, unless recognized by the program as a preexisting designated new town
11 center.

12 (x) Has adopted design or form-based regulations that adequately
13 regulate the physical form and scale of development.

14 (B) Benefits. In addition to the benefits of Steps One and Two, a
15 municipality that reaches Step Three is eligible for the following benefits:

16 (i) Funding for the local downtown organization and technical
17 assistance from the Vermont Downtown Program for the center.

18 (ii) Tax increment financing district location pursuant to 32
19 V.S.A. § 5404a.

20 (iii) A reallocation of receipts related to the tax imposed on sales
21 of construction materials as provided in 32 V.S.A. § 9819.

1 (iv) Eligibility to receive National Main Street Accreditation from
2 Main Street America through the Vermont Downtown Program.

3 (v) Signage options pursuant to 10 V.S.A. § 494(13) and (17).

4 (vi) Certain housing appeal limitations pursuant to chapter 117 of
5 this title.

6 (vii) Highest priority for locating proposed State functions by the
7 Commissioner of Buildings and General Services or other State officials, in
8 consultation with the municipality, Department, State Board, the General
9 Assembly committees of jurisdiction for the Capital Budget, and the regional
10 planning commission. When a downtown location is not suitable, the
11 Commissioner shall issue written findings to the consulted parties
12 demonstrating how the suitability of the State function to a downtown location
13 is not feasible.

14 (viii) Funding for infrastructure project scoping, design, and
15 engineering, including participation in the Downtown Transportation and
16 Related Capital Improvement Fund Program established by section 5808 of
17 this title.

18 § 5804. DESIGNATED NEIGHBORHOOD

19 (a) Designation established.

20 (1) A regional planning commission may request approval from the
21 Environmental Review Board for designation of areas on the regional plan

1 future land use maps as a designated neighborhood under 10 V.S.A. § 6033.
2 Areas eligible for designation include planned growth areas and village areas
3 identified on the regional plan future land use map. This designation
4 recognizes that the vitality of downtowns and villages and their adjacent
5 neighborhoods and the benefits structure must ensure that any subsidy for
6 sprawl repair or infill development locations within a neighborhood is
7 secondary to a primary commitment to maintain the livability and maximize
8 the climate resilience and flood-safe infill potential of these areas.

9 (2) Approval of planned growth areas and village areas as designated
10 neighborhoods shall follow the same process as approval for designated
11 centers provided for in 10 V.S.A. § 6033 and consistent with sections 4348 and
12 4348a of this title.

13 (b) Transition. Any municipality with an existing designated growth center
14 or neighborhood development area will retain current benefits until July 1,
15 2029 or upon approval of the regional plan future land use maps, whichever
16 comes first. All existing neighborhood development area and growth center
17 designations in effect on July 1, 2024 will expire on July 1, 2029 if the regional
18 plan future land use map does not gain approval. All benefits that are removed
19 for neighborhood development areas and growth centers under this chapter
20 shall remain active with prior designations existing as of July 1, 2024 until July
21 1, 2032. During the period of transition, no renewal shall be required for the

1 existing designations. Prior to the approval of a regional plan future land use
2 map by the ERB, new neighborhood development area designations may be
3 approved by the State Board.

4 (c) Requirements. A designated neighborhood shall meet the requirements
5 for planned growth area or village area as described in section 4348a of this
6 title.

7 (d) Benefits. A designated neighborhood is eligible for the following
8 benefits:

9 (1) general grant priority for bylaws and special-purpose plans, capital
10 plans, and area improvement or reinvestment plans, including the Better
11 Connections Program and other programs identified in Department guidance;

12 (2) funding priority for infrastructure project scoping, design,
13 engineering, and construction by State programs;

14 (3) access to the Downtown and Village Center Tax Credit Program
15 described in 32 V.S.A. § 5930aa et seq.;

16 (4) priority consideration for State and federal affordable housing
17 funding;

18 (5) certain housing appeal limitations under chapter 117 of this title;

19 (6) authority for the municipal legislative body to lower speed limits to
20 less than 25 mph within the neighborhood;

1 (7) State wastewater application fee capped at \$50.00 for residential
2 development under 3 V.S.A. § 2822(j)(4)(D); and

3 (8) exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).

4 § 5805. TRANSITION

5 On or before June 30, 2026, the regional planning commissions shall update
6 the regional plan future land use maps to delineate downtown or village
7 centers, planned growth areas, which may encompass a downtown center and
8 village center; and village areas. Notwithstanding other provisions in this
9 chapter, new applications for designation under the prior chapter 76A
10 framework shall end upon approval of a regional plan future land use map by
11 the ERB.

12 § 5806. DESIGNATION DATA CENTER

13 The Department shall maintain an online municipal planning data center
14 publishing approved regional plan future land use maps and indicating the
15 status of each approved designation within the region, and associated steps for
16 centers.

17 § 5807. MUNICIPAL TECHNICAL ASSISTANCE

18 (a) The Commissioner of Housing and Community Development shall
19 develop a procedure for providing interagency technical assistance to
20 municipalities participating in the programs under this chapter.

1 (b) The procedure shall include interagency assistance and address the
2 following:
3 (1) general project advising and scoping services;
4 (2) physical improvement design services;
5 (3) regulatory and policy-making project services;
6 (4) programmatic and project management services; and
7 (5) legislative recommendations to the General Assembly to better align
8 designation benefits with strategic priorities on or before December 15, 2026.

9 (c) Procedures and recommendations shall address statutory State agency
10 plans with a focus on the following strategic priorities for municipal and
11 community development assistance:

12 (1) housing development growth and equity;
13 (2) climate resilience;
14 (3) coordinated infrastructure investment;
15 (4) local administrative capacity;
16 (5) equity, diversity, and access;
17 (6) livability and social service; and
18 (7) historic preservation.

19 § 5808. DOWNTOWN TRANSPORTATION AND RELATED CAPITAL
20 IMPROVEMENT FUND

1 (a) There is created the Downtown Transportation and Related Capital
2 Improvement Fund, which shall be a special fund created under 32 V.S.A.
3 chapter 7, subchapter 5, to be administered by the State Board in accordance
4 with this chapter to aid municipalities with designated centers in financing
5 capital transportation and related improvement projects to support economic
6 development. This shall be the same Fund that was created under the prior
7 section 2796 of this title.

8 (b) The Fund shall be composed of the following:

9 (1) State or federal funds as may be appropriated by the General
10 Assembly;

11 (2) any gifts, grants, or other contributions to the Fund; and

12 (3) proceeds from the issuance of general obligation bonds.

13 (c) Any municipality with a designated center may apply to the Board for
14 financial assistance from the Fund for capital transportation and related
15 improvement projects within or serving the district. The Board may award to
16 any municipality grants in amounts not to exceed \$250,000.00 annually, loans,
17 or loan guarantees for financing capital transportation projects, including
18 construction or alteration of roads and highways, parking facilities, and rail or
19 bus facilities or equipment, or for the underground relocation of electric utility,
20 cable, and telecommunications lines, but shall not include assistance for
21 operating costs. Grants awarded by the Board shall not exceed 80 percent of

1 the overall cost of the project. The approval of the Board may be conditioned
2 upon the repayment to the Fund of some or all of the amount of a loan or other
3 financial benefits and such repayment may be from local taxes, fees, or other
4 local revenues sources. The Board shall consider geographical distribution in
5 awarding the resources of the Fund.

6 (d) The Fund shall be available to the Department of Housing and
7 Community Development for the reasonable and necessary costs of
8 administering the Fund. The amount projected to be spent on administration
9 shall be included in the Department’s fiscal year budget presentations to the
10 General Assembly.

11 § 5809. PROPERTY ASSESSMENT FUND; BROWNFIELDS AND
12 REDEVELOPMENT; COMPETITIVE PROGRAM

13 (a) There is created the Property Assessment Fund pursuant to 32 V.S.A.
14 chapter 7, subchapter 5 to be administered by the Department of Housing and
15 Community Development for the purpose of providing financing, on a
16 competitive basis, to municipalities that demonstrate a financial need in order
17 to determine and evaluate a full assessment of the extent and the cost of
18 remediation of property or, in the case of an existing building, an assessment
19 that supports a clear plan, including the associated costs of renovation to bring
20 the building into compliance with State and local building codes. This shall be
21 the same Fund that was created under the prior section 2797 of this title.

1 (b) The Fund shall be composed of the following:

2 (1) State or federal funds that may be appropriated by the General
3 Assembly;

4 (2) any gifts, grants, or other contributions to the funds; and

5 (3) proceeds from the issuance of general obligation bonds.

6 (c) A municipality deemed financially eligible may apply to the Fund for
7 the assessment of property and existing buildings proposed for redevelopment,
8 provided the Department finds that the property or building:

9 (1) is not likely to be renovated or improved without the preliminary
10 assessment; and

11 (2) when renovated or redeveloped, will integrate and be compatible
12 with any applicable and approved regional development, capital, and municipal
13 plans; is expected to create new property tax if developed by a taxable entity;
14 and is expected to reduce pressure for development on open or undeveloped
15 land in the local community or in the regional planning commission.

16 (d) The Department shall distribute funds under this section in a manner
17 that provides funding for assessment projects of various sizes in as many
18 geographical areas of the State as possible and may require matching funds
19 from the municipality in which an assessment project is conducted.

20 § 5810. BETTER PLACES PROGRAM; CROWD GRANTING

1 (a)(1) There is created the Better Places Program within the Department of
2 Housing and Community Development, and the Better Places Fund, which the
3 Department shall manage pursuant to 32 V.S.A. chapter 7, subchapter 5. This
4 shall be the same Fund created under the prior section 2799 of this title.

5 (2) The purpose of the Program is to utilize crowdfunding to spark
6 community revitalization through collaborative grantmaking for projects that
7 create, activate, or revitalize public spaces.

8 (3) The Department may administer the Program in coordination with
9 and support from other State agencies and nonprofit and philanthropic partners.

10 (b) The Fund is composed of the following:

11 (1) State or federal funds appropriated by the General Assembly;

12 (2) gifts, grants, or other contributions to the Fund; and

13 (3) any interest earned by the Fund.

14 (c) As used in this section, “public space” means an area or place that is
15 open and accessible to all persons with no charge for admission and includes
16 village greens, squares, parks, community centers, town halls, libraries, and
17 other publicly accessible buildings and connecting spaces such as sidewalks,
18 streets, alleys, and trails.

19 (d)(1) The Department of Housing and Community Development shall
20 establish an application process, eligibility criteria, and criteria for prioritizing
21 assistance for awarding grants through the Program.

1 (2) The Department may award a grant to a municipality, a nonprofit
2 organization, or a community group with a fiscal sponsor for a project that is
3 located in or serves an area designated under this chapter that will create a new
4 public space or revitalize or activate an existing public space.

5 (3) The Department may award a grant to not more than three projects
6 per calendar year within a municipality.

7 (4) The minimum amount of a grant award is \$5,000.00, and the
8 maximum amount of a grant award is \$40,000.00.

9 (5) The Department shall develop matching grant eligibility
10 requirements to ensure a broad base of community and financial support for
11 the project, subject to the following:

12 (A) A project shall include in-kind support and matching funds raised
13 through a crowdfunding approach that includes multiple donors.

14 (B) An applicant may not donate to its own crowdfunding campaign.

15 (C) A donor may not contribute more than \$10,000.00 or 35 percent
16 of the campaign goal, whichever is less.

17 (D) An applicant shall provide matching funds raised through
18 crowdfunding of not less than 33 percent of the grant award. The Department
19 may require a higher percent of matching funds for certain project areas to
20 ensure equitable distribution of resources across Vermont.

1 (A) to install or improve platform lifts suitable for transporting
2 personal mobility devices, limited use or limited application elevators,
3 elevators, sprinkler systems, and capital improvements in a qualified building,
4 and the installations or improvements are required to bring the building into
5 compliance with the statutory requirements and rules regarding fire prevention,
6 life safety, and electrical, plumbing, and accessibility codes as determined by
7 the Department of Public Safety;

8 (B) to abate lead paint conditions or other substances hazardous to
9 human health or safety in a qualified building; or

10 (C) to redevelop a contaminated property in a designated ~~downtown,~~
11 ~~village center, or neighborhood development area~~ center or neighborhood
12 under a plan approved by the Secretary of Natural Resources pursuant to
13 10 V.S.A. § 6615a.

14 * * *

15 (5) “Qualified façade improvement project” means the rehabilitation of
16 the façade of a qualified building that contributes to the integrity of the
17 designated ~~downtown, designated village center, or neighborhood development~~
18 ~~area~~ center or neighborhood. Façade improvements to qualified buildings
19 listed, or eligible for listing, in the State or National Register of Historic Places
20 must be consistent with the Secretary of the Interior Standards, as determined
21 by the Vermont Division for Historic Preservation.

1 § 5930bb. ELIGIBILITY AND ADMINISTRATION

2 (a) Qualified applicants may apply to the State Board to obtain the tax
3 credits provided by this subchapter for a qualified project at any time before
4 the completion of the qualified project.

5 (b) To qualify for any of the tax credits under this subchapter, expenditures
6 for the qualified project must exceed \$5,000.00.

7 (c) Application shall be made in accordance with the guidelines set by the
8 State Board.

9 ~~(d) Notwithstanding any other provision of this subchapter, qualified~~
10 ~~applicants may apply to the State Board at any time prior to June 30, 2013, to~~
11 ~~obtain a tax credit not otherwise available under subsections 5930cc(a)–(c) of~~
12 ~~this title of 10 percent of qualified expenditures resulting from damage caused~~
13 ~~by a federally declared disaster in Vermont in 2011. The credit shall only be~~
14 ~~claimed against the taxpayer’s State individual income tax under section 5822~~
15 ~~of this title. To the extent that any allocated tax credit exceeds the taxpayer’s~~
16 ~~tax liability for the first tax year in which the qualified project is completed,~~
17 ~~the taxpayer shall receive a refund equal to the unused portion of the tax credit.~~
18 ~~If within two years after the date of the credit allocation no claim for a tax~~
19 ~~credit or refund has been filed, the tax credit allocation shall be rescinded and~~
20 ~~recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of~~
21 ~~tax credits available under this subsection shall not be more than \$500,000.00~~

1 ~~and shall not be subject to the limitations contained in subdivision 5930cc(2)~~
2 ~~of this subchapter.~~

3 (e) Beginning on July 1, 2025, under this subchapter no new tax credit may
4 be allocated by the State Board to a qualified building located in a
5 ~~neighborhood development area~~ Designated Neighborhood unless specific
6 funds have been appropriated for that purpose.

7 Sec. 49. 32 V.S.A. § 5930cc is amended to read:

8 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

9 CREDITS

10 * * *

11 (c) Code improvement tax credit. The qualified applicant of a qualified
12 code improvement project shall be entitled, upon the approval of the State
13 Board, to claim against the taxpayer's State individual income tax, State
14 corporate income tax, or bank franchise or insurance premiums tax liability a
15 credit of 50 percent of qualified expenditures up to a maximum tax credit of
16 \$12,000.00 for installation or improvement of a platform lift, a maximum
17 credit of \$60,000.00 for the installation or improvement of a limited use or
18 limited application elevator, a maximum tax credit of \$75,000.00 for
19 installation or improvement of an elevator, a maximum tax credit of
20 \$50,000.00 for installation or improvement of a sprinkler system, and a

1 maximum tax credit of ~~\$50,000.00~~ \$100,000.00 for the combined costs of all
2 other qualified code improvements.

3 (d) Flood Mitigation Tax Credit. The qualified applicant of a qualified
4 flood mitigation project shall be entitled, upon the approval of the State Board,
5 to claim against the taxpayer's State individual income tax, State corporate
6 income tax, or bank franchise or insurance premiums tax liability a credit of
7 50 percent of qualified expenditures up to a maximum tax credit of ~~\$75,000.00~~
8 \$100,000.00.

9 Sec. 50. 32 V.S.A. § 5930ee is amended to read:

10 § 5930ee. LIMITATIONS

11 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
12 credits to all qualified applicants under this subchapter, provided that:

13 (1) the total amount of tax credits awarded annually, together with sales
14 tax reallocated under section 9819 of this title, does not exceed ~~\$3,000,000.00~~
15 \$5,000,000.00;

16 * * *

17 **Sec. 51. REGIONAL PLANNING COMMISSION STUDY**

18 (a) The Vermont Association of Planning and Development Agencies shall
19 hire an independent contractor to study the strategic opportunities for regional
20 planning commissions to better serve municipalities and the State. This study
21 shall seek to ensure that the regional planning commissions are statutorily

1 enabled and strategically positioned to meet ongoing and emerging State and
2 municipal needs and shall review the following: governance, funding,
3 programs, service delivery, equity, accountability, and staffing.

4 (b) The study shall identify the gaps in statutory enabling language,
5 structure, and local engagement and make recommendations on how to
6 improve and ensure consistent and equitable statewide programming and local
7 input and engagement **including methods to improve municipal participation;**
8 **the amount of regional planning grant funding provided to each regional**
9 **planning commission relative to statutory responsibilities, the number of**
10 **municipalities and other demands; and how to make it easier for municipalities**
11 **to work together.**

12 (c) The Vermont Association of Planning and Development Agencies shall
13 share information with the **study committee [placeholder for the**
14 **county/regional governance bill if it passes].**

15 (d) On or before December 31, 2024, the study report shall be submitted to
16 the House Committees on Environment and Energy, on Commerce and
17 Economic Development, and on Government Operations and Military Affairs
18 and the Senate Committees on Economic Development, Housing and General
19 Affairs, on Natural Resources and Energy, and on Government Operations.

20 Sec.5 2. REVISION AUTHORITY

