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1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Fish, Wildlife and Water Resources to which was
3 referred House Bill No. 586 entitled “An act relating to improving the quality
4 of State waters” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking all after the enacting clause
6 and inserting in lieu thereof the following:

7 * * * Agricultural Water Quality;

8 Small Farm Certification and Inspection * * *

9 Sec. 1. 6 V.S.A. § 4858a is added to read:

10 § 4858a. SMALL FARM CERTIFICATION

11 (a) Rulemaking: small farm certification. On or before January 1, 2016,
12 the Secretary of Agriculture, Food and Markets shall adopt by rule a
13 requirement that all small farms in the State submit to the Secretary a
14 certification of compliance with the accepted agricultural practices. The rules
15 required by this subsection may be adopted as part of the accepted agricultural
16 practices or in a separate rulemaking.

17 (b) Content of rules. The rules for small farm certification shall:

18 (1) Define what constitutes a small farm for the purposes of
19 certification.

20 (2) Require a small farm to be certified in order to operate in the State.

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1 (3) Require the owner or operator of a small farm to certify to the
2 Secretary of Agriculture, Food and Markets at least every five years that the
3 owner or operator complies with the accepted agricultural practices adopted
4 under section 4810 of this title. The certification shall identify the farm subject
5 to the certification and the person or persons who own or operate the farm.

6 The owner or operator of the farm shall certify that:

7 (A) The farm does not directly discharge wastes into the surface
8 waters from a discrete conveyance such as a pipe, ditch, or conduit without a
9 permit under 10 V.S.A. § 1258.

10 (B) Manure stacking sites, fertilizer storage, and other nutrient source
11 storage on the farm are not located within 100 feet of private wells.

12 (C) Manure is not stacked or stored on lands subject to annual
13 overflow from adjacent waters.

14 (D) Manure is not field stacked on unimproved sites within 100 feet
15 of a surface water.

16 (E) Barnyards, waste management systems, animal holding areas,
17 and production areas shall be constructed, managed, and maintained to prevent
18 runoff of waste to surface water, to groundwater, or across property
19 boundaries.

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1 (F) Nutrient application on the farm is based on soil testing by field
2 and is consistent with university recommendations, standard agricultural
3 practices, or a Secretary-approved nutrient management plan for the farm.

4 (G) Manure on the farm is not applied within 25 feet of an adjoining
5 surface water, is not applied within 10 feet of a ditch, or is applied in such a
6 manner as to enter surface water.

7 (H) Fertigation and chemigation equipment is operated only with an
8 adequate anti-siphon device between the system and the water source.

9 (I) Cropland on the farm is cultivated in a manner that results in an
10 average soil loss of less than or equal to the soil loss tolerance for the prevalent
11 soil, known as 1T, as calculated through application of the Revised Universal
12 Soil Loss Equation, or through the application of similarly accepted models.

13 (J) A vegetative buffer zone of perennial vegetation is maintained
14 between annual croplands and the top of the bank of adjoining surface waters
15 in a manner that complies with requirements of the accepted agricultural
16 practices.

17 (K) Manure, fertilizer, pesticide storage structures, and farm
18 structures are not located within a floodway area as presented on National
19 Flood Insurance Maps on file with town clerks or within a Fluvial Erosion
20 Hazard Zone as designated by municipal bylaw or ordinance.

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1 (4) Require the Secretary to visit small farms in the State for purposes of
2 assessing compliance with the accepted agricultural practices and for
3 consistency with a certification issued under this section. The Secretary may
4 prioritize visits to small farms in the State based on the potential water quality
5 issue posed by a farm.

6 (c)(1) Identification; ranking of water quality needs. During a visit to a
7 small farm required under subsection (b) of this section, the Secretary shall
8 identify areas where the farm could benefit from capital, structural, or technical
9 assistance that could reduce the risk of discharge or runoff to surface waters of
10 the State.

11 (2) Annually, the Secretary shall establish a priority ranking system for
12 small farms according to the risk of potential discharge or runoff to a water of
13 the State if the identified capital, structural, or technical needs on the farm are
14 not addressed.

15 (3) Notwithstanding the requirements of section 4823 of this title, a farm
16 identified under subdivision (2) of this subsection as a high risk of discharge or
17 runoff to a water of the State shall be given first priority for State financial
18 assistance under subchapter 3 of this chapter, provided that the Secretary may
19 give first priority for financial assistance under subchapter 3 of this chapter to
20 any farm other than one identified under subdivision (2) of this subsection

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1 when the Secretary determines that the farm poses a severe risk to water
2 quality or a risk of discharge exists which requires immediate abatement.

3 Sec. 2. 6 V.S.A. § 4860 is amended to read:

4 § 4860. REVOCATION; ENFORCEMENT

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

19 (b) Any person who violates any provision of this subchapter or who fails
20 to comply with any order or the terms of any permit or certification issued in
21 accordance with this subchapter shall be fined not more than \$10,000.00 for

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1 each violation. Each violation may be a separate offense and, in the case of a
2 continuing violation, each day's continuance may be deemed a separate
3 offense.

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

14 Sec. 3. 6 V.S.A. § 4810 is amended to read:

15 § 4810. AUTHORITY; COOPERATION; COORDINATION

16 (a) Agricultural land use practices. In accordance with 10 V.S.A.
17 § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A.
18 ~~chapter 25 of Title 3~~, and shall implement and enforce agricultural land use
19 practices in order to reduce the amount of agricultural pollutants entering the
20 waters of the ~~state~~ State. These agricultural land use practices shall be created
21 in two categories, pursuant to subdivisions (1) and (2) of this subsection.

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1 (1) “Accepted Agricultural Practices” (AAPs) shall be standards to be
2 followed in conducting agricultural activities in this ~~state~~ State. These
3 standards shall address activities which have a potential for causing pollutants
4 to enter the groundwater and waters of the ~~state~~ State, including dairy and
5 other livestock operations plus all forms of crop and nursery operations and
6 on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902,
7 livestock and poultry slaughter and processing activities. The AAPs shall
8 include, as well as promote and encourage, practices for farmers in preventing
9 pollutants from entering the groundwater and waters of the ~~state~~ State when
10 engaged in, ~~but not limited to~~, animal waste management and disposal, soil
11 amendment applications, plant fertilization, and pest and weed control.
12 Persons engaged in farming, as defined in 10 V.S.A. § 6001, who follow these
13 practices shall be presumed to be in compliance with water quality standards.
14 AAPs shall be practical and cost effective to implement. The AAPs for
15 groundwater shall include a process under which the ~~agency~~ Agency shall
16 receive, investigate, and respond to a complaint that a farm has contaminated
17 the drinking water or groundwater of a property owner.

18 (2) “Best Management Practices” (BMPs) may be required by the
19 ~~secretary~~ Secretary on a ~~case-by-case~~ case-by-case basis. Before requiring
20 BMPs, the ~~secretary~~ Secretary shall determine that sufficient financial

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1 assistance is available to assist farmers in achieving compliance with
2 applicable BMPs. BMPs shall be practical and cost effective to implement.

3 (b) Cooperation and coordination. The ~~secretary of agriculture, food and~~
4 ~~markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the
5 ~~secretary of natural resources~~ Secretary of Natural Resources in implementing
6 and enforcing programs, plans, and practices developed for reducing and
7 eliminating agricultural non-point source pollutants and discharges from
8 concentrated animal feeding operations. The ~~secretary of agriculture, food and~~
9 ~~markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of~~
10 ~~natural resources~~ Secretary of Natural Resources shall develop a memorandum
11 of understanding for the non-point program describing program administration,
12 grant negotiation, grant sharing, and how they will coordinate watershed
13 planning activities to comply with Public Law 92-500. The ~~secretary of~~
14 ~~agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and
15 the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources
16 shall also develop a memorandum of understanding according to the public
17 notice and comment process of 10 V.S.A. § 1259(i) regarding the
18 implementation of the federal concentrated animal feeding operation program
19 and the relationship between the requirements of the federal program and the
20 ~~state~~ State agricultural water quality requirements for large, medium, and small
21 farms under chapter 215 of this title. The memorandum of understanding shall

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1 describe program administration, permit issuance, an appellate process, and
2 enforcement authority and implementation. The memorandum of
3 understanding shall be consistent with the federal National Pollutant Discharge
4 Elimination System permit regulations for discharges from concentrated
5 animal feeding operations. The allocation of duties under this chapter between
6 ~~the secretary of agriculture, food and markets~~ Secretary of Agriculture, Food
7 and Markets and the ~~secretary of natural resources~~ Secretary of Natural
8 Resources shall be consistent with the ~~secretary's~~ Secretary's duties,
9 established under the provisions of 10 V.S.A. § 1258(b), to comply with Public
10 Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural
11 Resources shall be the ~~state~~ State lead person in applying for federal funds
12 under Public Law 92-500, but shall consult with the ~~secretary of agriculture,~~
13 ~~food and markets~~ Secretary of Agriculture, Food and Markets during the
14 process. The agricultural non-point source program may compete with other
15 programs for competitive watershed projects funded from federal funds. The
16 ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and
17 Markets shall be represented in reviewing these projects for funding. Actions
18 by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture,
19 Food and Markets under this chapter concerning agricultural non-point source
20 pollution shall be consistent with the water quality standards and water
21 pollution control requirements of 10 V.S.A. chapter 47 ~~of Title 10~~ and the

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1 federal Clean Water Act as amended. In addition, the ~~secretary of agriculture,~~
2 ~~food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate
3 with the ~~secretary of natural resources~~ Secretary of Natural Resources in
4 implementing and enforcing programs, plans, and practices developed for the
5 proper management of composting facilities when those facilities are located
6 on a farm.

7 (c) On or before January 1, 2016, the Secretary of Agriculture, Food and
8 Markets shall amend by rule the accepted agricultural practices required under
9 this section to include requirements for the certification of small farms. The
10 rules adopted under this section shall be at least as stringent as the
11 requirements of section 4858a of this title.

12 Sec. 4. REPEAL

13 6 V.S.A. § 4858a (small farm certification) shall be repealed on January 1,
14 2016.

15 * * * Agricultural Water Quality; Corrective Actions * * *

16 Sec. 5. 6 V.S.A. § 4812 is amended to read:

17 § 4812. CORRECTIVE ACTIONS

18 (a) When the ~~secretary of agriculture, food and markets~~ Secretary of
19 Agriculture, Food and Markets determines that a person engaged in farming is
20 managing a farm using practices which are inconsistent with the ~~practices~~
21 ~~defined by~~ requirements of this chapter or rules adopted under this subchapter,

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1 the ~~secretary~~ Secretary may issue a written warning which shall be served in
2 person or by certified mail, return receipt requested. ~~The warning shall include~~
3 ~~a brief description of the alleged violation, identification of this statute and~~
4 ~~applicable rules, a recommendation for corrective actions that may be taken by~~
5 ~~the person, along with a summary of federal and state assistance programs~~
6 ~~which may be utilized by the person to remedy the violation and a request for~~
7 ~~an abatement schedule from the person according to which the practice shall be~~
8 ~~altered.~~ The person shall have 30 days to respond to the written warning and
9 shall provide an abatement schedule for curing the violation and a description
10 of the corrective action to be taken to cure the violation. If the person fails to
11 respond to the written warning within this period or to take corrective action to
12 change the practices ~~in order to protect water quality~~, the ~~secretary~~ Secretary
13 may act pursuant to subsection (b) of this section in order to protect water
14 quality.

15 (b) ~~After an opportunity for a hearing, the secretary~~ The Secretary may:

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

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

20 (c) Whenever the ~~secretary~~ Secretary believes that any person engaged in
21 farming is in violation of this subchapter or rules adopted thereunder, an action

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1 may be brought in the name of the ~~agency~~ Agency in a court of competent
2 jurisdiction to restrain by temporary or permanent injunction the continuation
3 or repetition of the violation. The court may issue temporary or permanent
4 injunctions, and other relief as may be necessary and appropriate to curtail any
5 violations.

6 (d) ~~The secretary may assess administrative penalties in accordance with~~
7 ~~sections 15, 16, and 17 of this title against any farmer who violates a cease and~~
8 ~~desist order or other order issued under subsection (b) of this section.~~

9 [Repealed.]

10 (e) Any person subject to an enforcement order or an administrative
11 penalty who is aggrieved by the final decision of the ~~secretary~~ Secretary may
12 appeal to the ~~superior court~~ Superior Court within 30 days of the decision. The
13 administrative judge may specially assign an ~~environmental~~ Environmental
14 judge to ~~superior court~~ Superior Court for the purpose of hearing an appeal.

15 * * * Agricultural Water Quality; Livestock Exclusion * * *

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

17 Subchapter 8. Livestock Exclusion

18 § 4971. DEFINITIONS

19 As used in this subchapter:

20 (1) “Livestock” means cattle, sheep, goats, equines, fallow deer, red
21 deer, American bison, swine, water buffalo, poultry, pheasant, Chukar

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1 partridge, Coturnix quail, camelids, ratites, and, as necessary, other animals
2 designated by the Secretary by rule.

3 (2) “Waters” shall have the same meaning as in 10 V.S.A. § 1251(13).

4 § 4972. PURPOSE

5 The purpose of this subchapter is to authorize the Secretary of Agriculture,
6 Food and Markets to require exclusion of livestock from a water of the State
7 where continued access to the water by livestock poses a high risk of
8 negatively impacting water quality in the State.

9 § 4973. LIVESTOCK EXCLUSION; PERMIT CONDITION

10 As a condition of a small farm certification, an animal waste permit, or a
11 large farm permit issued under this chapter, the Secretary of Agriculture, Food
12 and Markets may require exclusion of livestock from a water of the State
13 where continued access to the water by livestock poses a high risk of
14 negatively impacting water quality in the State.

15 * * * Seasonal Exemption for Manure Application * * *

16 Sec. 7. 6 V.S.A. § 4816 is added to read:

17 § 4816. SEASONAL EXEMPTION FOR MANURE APPLICATION

18 (a) The Secretary of Agriculture, Food and Market may authorize an
19 exemption to the prohibition on the application of manure to land in the State
20 between December 15 and April 1 of any calendar year. An exemption issued
21 under this section may authorize land application of manure on a weekly,

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1 monthly, or seasonal basis or in authorized regions, areas, or fields in the State
2 provided that the requirements of subsection (b) of this section are complied
3 with.

4 (b) Any exemption issued under this section shall:

5 (1) prohibit application of manure:

6 (A) in areas with established channels of concentrated stormwater
7 runoff to a surface water, including ditches and ravines;

8 (B) in nonharvested permanent vegetative buffers;

9 (C) in a nonfarmed wetland, as that term is defined in 10 V.S.A.
10 § 902(5);

11 (D) within 50 feet of a potable water supply, as that term is defined in
12 10 V.S.A. § 1972(6);

13 (E) to fields exceeding tolerable soil loss; and

14 (F) to saturated soils;

15 (2) establish requirements for the application of manure when frozen or
16 snow-covered soils prevent effective incorporation at the time of application;

17 (3) require manure to be applied according to a nutrient management
18 plan; and

19 (4) establish the maximum tons of manure that may be applied per acre
20 during any one application.

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1 (c) A person shall not apply manure to land in the State between
2 December 15 and April 1 of any calendar year unless authorized by the
3 procedure adopted by the Secretary of Agriculture, Food and Markets under
4 subsection (a) of this section.

5 * * * Agricultural Water Quality; Training * * *

6 Sec. 8. 6 V.S.A. chapter 215, subchapter 9 is added to read:

7 Subchapter 9. Agricultural Water Quality Certification Training

8 § 4981. AGRICULTURAL WATER QUALITY CERTIFICATION

9 TRAINING; RULEMAKING

10 (a) On or before July 1, 2016, the Secretary of Agriculture, Food and
11 Markets shall adopt by rule requirements for training classes or programs for
12 owners or operators of small farms, medium farms, or large farms certified or
13 permitted under this chapter regarding:

14 (1) the prevention of discharges, as that term is defined in 10 V.S.A.
15 § 1251(3); and

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

18 (b) Any training required by rules under this section shall:

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

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

4 * * * Agricultural Water Quality;
5 Certification of Custom Applicators * * *

6 Sec. 9. 6 V.S.A. chapter 215, subchapter 10 is added to read:

7 Subchapter 10. Certification of Custom Manure Applicators

8 § 4987. DEFINITIONS

9 As used in this subchapter:

10 (1) “Custom manure applicator” means a person who applies manure,
11 nutrients, or sludge to land and who charges for the service.

12 (2) “Manure” means livestock waste that may also contain bedding,
13 spilled feed, water, or soil.

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

18 § 4988. CERTIFICATION OF CUSTOM MANURE APPLICATOR

19 (a) On or before January 1, 2015, the Secretary of Agriculture, Food and
20 Markets shall adopt by procedure a process by which a custom applicator shall
21 be certified to operate within the State. The certification process shall require

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1 a custom applicator to complete 16 hours of training over each five-year period
2 regarding:

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

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

7 (b) Beginning January 1, 2016, a custom applicator shall not apply manure,
8 nutrients, or sludge unless certified by the Secretary of Agriculture, Food and
9 Markets.

10 *** Agricultural Stream Alteration ***

11 Sec. 10. 6 V.S.A. § 4810a is added to read:

12 § 4810a. AGRICULTURAL ACTIVITIES; STREAMS

13 (a) As used in this section:

14 (1) “Berm” means a linear fill of earthen material on or adjacent to the
15 bank of a watercourse that constrains waters from entering a flood hazard area
16 or river corridor, as those terms are defined in 10 V.S.A. §§ 752(3) and (11).

17 (2) “Instream material” means:

18 (A) all gradations of sediment from silt to boulders;

19 (B) ledge rock; or

20 (C) large woody debris in the bed of a watercourse or within the
21 banks of a watercourse.

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1 (3) “Intermittent stream” means any stream or stream segment of
2 significant length that is not a perennial stream.

3 (4) “Large woody debris” means any piece of wood within a
4 watercourse with a diameter of 10 or more inches and a length of 10 or more
5 feet that is detached from the soil where it grew.

6 (5) “Perennial stream” means a watercourse or portion, segment, or
7 reach of a watercourse, generally exceeding 0.5 square miles in watershed size,
8 in which surface flows are not frequently or consistently interrupted during
9 normal seasonal low flow periods. Perennial streams that begin flowing
10 subsurface during low flow periods, due to natural geologic conditions, remain
11 defined as perennial. “Perennial stream” shall not mean standing waters in
12 wetlands, lakes, and ponds.

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

14 (7) “Stream” means a current of water that flows at any time at a rate of
15 less than 1.5 cubic feet per second and exhibits evidence of sediment transport.
16 A stream shall include the full length and width, including the bed and banks
17 of any watercourse, including rivers, streams, creeks, brooks, and branches,
18 which experience perennial flow. “Stream” shall not include swales, roadside
19 ditches, ditches or other constructed channels primarily associated with land
20 drainage or water conveyance through or around private infrastructure.

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1 excepting such ditches or conveyances that are connected directly with a
2 stream or river at either end.

3 (b) On or before July 1, 2015, the Secretary shall amend the accepted
4 agricultural practices to include requirements for agricultural activities that
5 alter or impact streams in the State. The accepted agricultural practices for
6 stream activities shall:

7 (1) prohibit the discharge or deposit of manure, milk house waste,
8 compost, or other discarded substances in a stream or a ditch or ravine that are
9 connected to a stream;

10 (2) require authorization from the Secretary, prior to any change,
11 alteration, or modification of the course, current, or cross section of a perennial
12 stream in this State either by movement, fill, or excavation of 10 cubic yards or
13 more of instream material in any year; and

14 (3) require authorization from the Secretary to establish or construct a
15 berm in a flood hazard area or river corridor, as those terms are defined in
16 10 V.S.A. § 752(3) and (11).

17 (c) Prior to issuing an authorization under subdivisions (b)(2) and (3) of
18 this section, the Secretary shall consult with the Secretary of Natural Resources
19 regarding appropriate management measures to be used in conducting any
20 authorized activity.

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1 and members of the public. The ~~secretary~~ Secretary shall be responsible for
2 implementation of the program. The ~~secretary's~~ Secretary's stormwater
3 management program shall include, at a minimum, provisions that:

4 * * *

5 (12) Encourage municipal governments to utilize existing regulatory and
6 planning authority to implement improved stormwater management by
7 providing technical assistance, training, research and coordination with respect
8 to stormwater management technology, and by preparing and distributing a
9 model local stormwater management ordinance or bylaw. Beginning on
10 July 1, 2014, the Secretary annually shall provide municipalities with outreach
11 and education through published materials or training courses regarding the
12 environmental and municipal benefits of adoption of a local stormwater
13 management ordinance or bylaw. The stream alteration training and education
14 activities required under subsection 1023(d) of this title and any education and
15 outreach conducted under this subdivision (12) shall inform municipalities of
16 model stormwater management ordinances or bylaws that are available in the
17 State.

18 * * *

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1 * * * Water Quality Data Coordination * * *

2 Sec. 12. 10 V.S.A. § 1284 is added to read:

3 § 1284. WATER QUALITY DATA COORDINATION

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

7 (1) light detection and ranging information data (LIDAR) identifying
8 water quality issues;

9 (2) stream gauge data;

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

11 (4) water quality monitoring or sampling data;

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

15 (6) any other data available to the Secretary.

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

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

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

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

6 * * * Shoreland Contractor Certification * * *

7 Sec. 13. 10 V.S.A. § 1429 is added to read:

8 § 1429. SHORELAND CONTRACTOR; CERTIFICATION

9 (a) Definitions. As used in this section:

10 (1) “Impervious surface” shall have the same meaning as in section
11 1264 of this title.

12 (2) “Lake” means a body of standing water, including a pond or a
13 reservoir, which may have natural or artificial water level control. Private
14 ponds shall not be considered lakes.

15 (3) “Mean water level” means the mean water level of a lake as defined
16 in the Mean Water Level Rules of the Agency of Natural Resources adopted
17 under 29 V.S.A. § 410.

18 (4) “Shoreland area” means all land located within 250 feet of the mean
19 water level of a lake that is greater than 10 acres in surface area.

20 (b) Required certification. Beginning January 1, 2015, a person shall not
21 disturb soil, clear vegetation, or construct impervious surface of more than 500

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1 square feet in a shoreland area unless a person certified in erosion control
2 practices by the Secretary is:

3 (1) responsible for management of erosion and sediment control
4 practices at the site; and

5 (2) present at the site each day earth-moving activity, vegetation
6 clearing, or the construction of impervious surface occurs for a duration that is
7 sufficient to ensure that proper erosion and sedimentation control practices are
8 followed.

9 (c) The requirements of this section apply until:

10 (1) erosion control measures that shall permanently stay in place are
11 installed at the site; or

12 (2) if the site is to be revegetated, erosion control measures that shall
13 stay in place until the area is sufficiently covered with vegetation necessary to
14 prevent soil erosion are installed.

15 (d) The requirements of this section shall not apply to the owner or
16 operator of a farm conducting agricultural activities on the farm that comply
17 with the rules adopted by the Secretary of Agriculture, Food and Markets
18 under 6 V.S.A. chapter 215, regarding agricultural water quality, including
19 accepted agricultural practices, best management practices, animal waste
20 permits, and large farm permits. The requirements of this section shall apply
21 to a person, other than an employee of the owner or operator of the farm, who

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1 charges for the service of tillage, harvesting, or other agricultural activity that
2 disturbs soil, clears vegetation, or constructs impervious surface of more than
3 500 square feet in a shoreland area.

4 * * * Award for Pollution Abatement Projects * * *

5 Sec. 13a. 10 V.S.A. § 1625 is amended to read:

6 § 1625. AWARDS FOR POLLUTION ABATEMENT PROJECTS TO
7 ABATE DRY WEATHER SEWAGE FLOWS

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

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

[Highlight language = change from previous version]

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

4 (b) In carrying out the purposes of this subchapter, the Department shall
5 define the purpose and scope of an eligible project, including a determination
6 of the area to be served, type of treatment, effluent limitations, eligible
7 construction costs, cost accounting procedures and methods and other such
8 project construction, operation and fiscal elements necessary to meet federal
9 aid requirements. The Department shall, as a part of the administration of this
10 grant program, encourage municipalities to undertake capital development
11 planning and to establish water and sewer charges along public utility
12 concepts.

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

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

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1 this chapter do not apply to municipalities within a designated job development
2 zone.

3 (e)(1) If the Department finds that a proposed municipal water pollution
4 control project is necessary to reduce effluent phosphorus concentration or
5 mass loading to the level required in section 1266a of this title, the Department
6 shall award to the municipality, subject to the availability of funds, a ~~state~~ State
7 assistance grant. Such grants shall be for ~~100 percent of the eligible project~~
8 ~~cost~~ up to 25 percent of the eligible project cost, provided that in no case shall
9 the total of the State and federal grants exceed 90 percent of the eligible project
10 costs except that:

11 (A) the 90 percent limitation shall not apply when the municipality
12 provides, as its local share, federal funds allocated to it for the purpose of
13 matching other federal grant programs having a matching requirement; and

14 (B) the total of State and federal grants may equal up to 95 percent of
15 the eligible costs for innovative or alternative wastewater treatment processes
16 and techniques.

17 (2) ~~This funding~~ Funding under this subsection shall not be available for
18 phosphorus removal projects where the effluent concentration must be reduced
19 in order to maintain a previously permitted mass loading of phosphorus.

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1 structures projects receiving funds pursuant to this subsection shall be the
2 responsibility of the applicant municipality.

3 (b) Notwithstanding subsection 309a(a) of this title, grants provided to
4 towns under the class 2 town highway roadway program shall be matched by
5 local funds sufficient to cover 30 percent of the project costs, unless the town
6 has adopted road and bridge standards, has completed a network inventory, and
7 has submitted an annual certification of compliance for town road and bridge
8 standards to the ~~secretary~~ Secretary, in which event the local match shall be
9 sufficient to cover ~~20~~ 15 percent of the project costs. The ~~secretary~~ Secretary
10 may adopt rules to implement the class 2 town highway roadway program.
11 Class 2 town highway roadway projects receiving funds pursuant to this
12 subsection shall be the responsibility of the applicant municipality, and a
13 municipality shall not receive a grant in excess of \$175,000.00.

14 * * *

15 * * * Best Management Practices Income Tax Credit * * *

16 Sec. 16. 32 V.S.A. § 5930mm is added to read:

17 § 5930mm. AGRICULTURAL BEST MANAGEMENT PRACTICES TAX

18 CREDIT

19 (a) A taxpayer of this State who is engaged in the business of farming or
20 who is implementing a nutrient management plan approved by the Secretary of
21 Agriculture, Food and Markets may claim a credit against his or her income

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1 taxes imposed by this chapter in an amount equal to 25 percent of the first
2 \$70,000.00 expended by the taxpayer for an agricultural best management
3 practice approved by the Secretary of Agriculture, Food and Markets under
4 6 V.S.A. chapter 215, provided that that the credit shall not exceed the liability
5 of the taxpayer under this chapter for the year in which the credit is claimed.

6 (b) Best management practices eligible for the credit under this section
7 shall include approved activities to:

8 (1) manage the waste from livestock, as that term is defined in 6 V.S.A.
9 § 761;

10 (2) control soil erosion;

11 (3) nutrient and sediment filtration and detention;

12 (4) nutrient management planning; and

13 (5) pest and pesticide handling.

14 (c) After completion of the best management practice, the Secretary shall
15 certify the practice as approved and completed, and eligible for credit. The
16 taxpayer shall forward the certification of completion to the Department of
17 Taxes on forms provided by the Department. The credit shall be allowed only
18 for expenditures made by the taxpayer from his or her own funds.

19 (d) The credit under this section shall be available only for the tax year in
20 which the project was completed, as certified by the Secretary of Agriculture,
21 Food and Markets. Any taxpayer claiming a credit under this section shall not

[Highlight language = change from previous version]

1 claim a credit under any similar State law for costs related to the same eligible
2 practices.

3 (e) The amount of any credit claimed under this section attributable to
4 agricultural best management practices by a pass-through entity such as a
5 partnership, limited liability company, or electing small business corporation
6 (S Corporation) shall be allocated to the individual partners, members, or
7 shareholders in proportion to their ownership or interest in such entity.

8 (f) As used in this section, “engaged in the business of farming” means a
9 taxpayer earns at least one-half of his or her annual gross income from the
10 business of farming, as that term is defined in the Internal Revenue Code,
11 26 C.F.R. § 1.175-3

12 * * * Ecosystem Restoration Fee * * *

13 Sec. 17. 32 V.S.A. chapter 216 is added to read:

14 CHAPTER 216. ECOSYSTEM RESTORATION FEE

15 § 8731. ECOSYSTEM RESTORATION FEE

16 (a) Definitions. As used in this section:

17 (1) “Homestead” shall have the same meaning as set forth subdivision
18 5401(7) of this title.

19 (2) “Nonresidential property” means all property that is not homestead
20 property, including property exempt from taxation under section 3802 of this
21 title, chapter 135 of this title, or by municipal vote.

[Highlight language = change from previous version]

1 (b) Creation of fee. There is assessed a fee, known as the Ecosystem
2 Restoration fee, on all developed property in the State for the support of the
3 Ecosystem Restoration Program Fund and its purposes as set forth under
4 10 V.S.A. § 1287.

5 (c) Amount of fee. The Ecosystem Restoration fee shall be:

6 (1) \$10.00 per parcel for all homestead property;

7 (2) \$20.00 per parcel for all nonresidential property.

8 (d) Applicability of fee. Properties in the following municipalities shall be
9 exempt from the fee assessed under this chapter:

10 (1) a municipality that has established or is a member of a system
11 or utility under 24 V.S.A. chapter 97 for the treatment or disposal
12 of stormwater; or

13 (2) a municipality that has enacted zoning bylaws, a municipal
14 ordinance, or other mechanism that the Secretary of Natural Resources
15 approves as functionally equivalent to a system or utility established under
16 24 V.S.A. chapter 97.

17 (e) Collection of fee. Beginning on July 1, 2016, the Ecosystem
18 Restoration fee shall be assessed and collected as part of the tax bill issued
19 under 32 V.S.A. § 5402(b). The treasurer of each municipality shall remit the
20 collected Ecosystem Restoration fees to the State Treasurer according to the
21 municipality's property tax payment schedule. The State Treasurer shall

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1 deposit the collected fees in the Ecosystem Restoration Program Fund. The
2 Department of Taxes shall specify the form or format for the remission of the
3 collected fees.

4 (f) Lien. If a property owner required to pay and transmit a fee under this
5 chapter neglects or refuses to pay the same after demand, the amount, together
6 with any costs that may accrue in addition thereto, shall be a lien in favor of
7 the State of Vermont upon all property and rights to property, whether real or
8 personal, belonging to such operator. The lien shall arise at the time demand is
9 made by the Commissioner of Taxes and shall continue until the liability for
10 such sum with interest and costs is satisfied or becomes unenforceable. The
11 lien shall have the same force and effect as the lien for taxes withheld under
12 the withholding provisions of the Vermont income tax law, as provided under
13 section 5895 of this title, provided that a lien under this section shall be
14 subordinate to a primary mortgage on the property subject to the fee. Notice of
15 a lien under this section shall be recorded in the land records of the town in
16 which the property is located. Certificates of release of such lien shall also be
17 given by the Commissioner as in the case of the aforesaid tax liens.

[Highlight language = change from previous version]

1 * * * Rooms and Meals Tax; Ecosystem Restoration Program * * *

2 Sec. 18. 32 V.S.A. § 9241 is amended to read:

3 § 9241. IMPOSITION OF TAX

4 (a) An operator shall collect a tax of nine and one-half percent of the rent of
5 each occupancy.

6 (b) An operator shall collect a tax on the sale of each taxable meal at the
7 rate of nine and one-half percent of each full dollar of the total charge and on
8 each sale for less than one dollar and on each part of a dollar in excess of a full
9 dollar in accordance with the following formula:

10	\$0.01-0.11	\$0.01
11	0.12-0.22	0.02
12	0.23-0.33	0.03
13	0.34-0.44	0.04
14	0.45-0.55	0.05
15	0.56-0.66	0.06
16	0.67-0.77	0.07
17	0.78-0.88	0.08
18	0.89-1.00	0.09
19	<u>\$0.01-0.05</u>	<u>\$0.00</u>
20	<u>0.06-0.15</u>	<u>0.01</u>
21	<u>0.16-0.26</u>	<u>0.02</u>

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1	<u>0.27-0.36</u>	<u>0.03</u>
2	<u>0.37-0.47</u>	<u>0.04</u>
3	<u>0.48-0.57</u>	<u>0.05</u>
4	<u>0.58-0.68</u>	<u>0.06</u>
5	<u>0.69-0.78</u>	<u>0.07</u>
6	<u>0.79-0.89</u>	<u>0.08</u>
7	<u>0.90-0.99</u>	<u>0.09</u>

8 * * *

9 Sec. 19. 32 V.S.A. § 9242(c) is amended to read:

10 (c) A tax of nine and one-half percent of the gross receipts from ~~meals and~~
11 occupancies, nine and one-half percent of the gross receipts from meals, and
12 10 percent of the gross receipts from alcoholic beverages, exclusive of taxes
13 collected pursuant to section 9241 of this title, received from occupancy
14 rentals, taxable meals and alcoholic beverages by an operator, is hereby levied
15 and imposed and shall be paid to the State by the operator as herein provided.
16 Every person required to file a return under this chapter shall, at the time of
17 filing the return, pay the Commissioner the taxes imposed by this chapter as
18 well as all other monies collected by him or her under this chapter; provided,
19 however, that every person who collects the taxes on taxable meals and
20 alcoholic beverages according to the tax bracket schedules of section 9241 of
21 this title shall be allowed to retain any amount lawfully collected by the person

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1 in excess of the tax imposed by this chapter as compensation for the keeping of
2 prescribed records and the proper account and remitting of taxes.

3 Sec. 20. 32 V.S.A. § 435 is amended to read:

4 § 435. GENERAL FUND

5 (a) There is established a General Fund which shall be the basic operating
6 fund of the State. The General Fund shall be used to finance all expenditures
7 for which no special revenues have otherwise been provided by law.

8 (b) The General Fund shall be composed of revenues from the following
9 sources:

10 (1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;

11 (2) [Repealed.]

12 (3) Electrical energy tax levied pursuant to chapter 213 of this title;

13 (4) Corporate income and franchise taxes levied pursuant to chapter 151
14 of this title;

15 (5) Individual income taxes levied pursuant to chapter 151 of this title;

16 (6) All corporation taxes levied pursuant to chapter 211 of this title;

17 (7) ~~Meals~~ 95 percent of the meals and rooms taxes levied pursuant to
18 chapter 225 of this title;

19 (8) [Repealed.]

20 (9) Revenues from the Racing Fund consistent with 31 V.S.A. § ~~611~~
21 609;

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1 (10) 33 percent of the revenue from the property transfer taxes levied
2 pursuant to chapter 231 of this title and the revenue from the gains taxes levied
3 each year pursuant to chapter 236 of this title;

4 (11) 65 percent of the revenue from sales and use taxes levied pursuant
5 to chapter 233 of this title;

6 (12) All other revenues accruing to the State not otherwise required by
7 law to be deposited in any other designated fund or used for any other
8 designated purpose.

9 * * * Ecosystem Restoration Program Fund * * *

10 Sec. 21. 10 V.S.A. § 1285 is added to read:

11 § 1285. ECOSYSTEM RESTORATION PROGRAM FUND

12 (a) Creation of Fund. There is created a special fund in the State Treasury
13 to be known as the “Ecosystem Restoration Program Fund” to be administered
14 and expended by the Secretary to fund administration and implementation of
15 the Ecosystem Restoration Program. Within the Fund, there shall be two
16 accounts: the Capital Account and the Administrative Account.

17 (b) Deposits to accounts:

18 (1) Within the Capital Account, there shall be deposited:

19 (A) appropriations by the General Assembly to the Vermont
20 Environmental Protection Agency (EPA) Pollution Control Revolving
21 Fund; and

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1 (B) appropriations by the General Assembly to the Agency of Natural
2 Resources for any other capital construction related to water pollution control.

3 (2) Within the Administrative Account, there shall be deposited:

4 (A) five percent of the meals and rooms tax levied pursuant to
5 chapter 225 of this title;

6 (B) the Ecosystem Restoration fee assessed under 32 V.S.A. chapter
7 216; and

8 (C) such sums as may be appropriated by the General Assembly.

9 (c) Disbursements from the Fund.

10 (1) The Secretary may authorize disbursement or expenditures from the
11 Capital Account according to the requirements of 24 V.S.A. chapter 120 and
12 the rules adopted thereunder or as authorized by the General Assembly.

13 (2) The Secretary may authorize disbursement or expenditures from the
14 Administrative Account for administration of, education and outreach related
15 to, monitoring, and implementation of the activities or projects under the
16 Ecosystem Restoration Program.

17 (d) Interest. Interest earned by the Fund shall be credited and deposited to
18 the Fund. All balances in the Fund at the end of the fiscal year shall be carried
19 forward and remain a part of the Fund.

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1 (e) Awards; priority. Except for grants or loans issues under 24 V.S.A.
2 chapter 120, grants or loans from the Ecosystem Restoration Program shall be
3 awarded in each fiscal year according to the following priorities:

4 (1) First priority shall be given to projects identified by the Secretary as
5 significant contributors to water quality problems or in critical need of water
6 quality remediation or response.

7 (2) Next priority shall be given to proposed projects to address or repair
8 riparian conditions that increase the risk of flooding or pose a threat to life or
9 property.

10 (3) Next priority shall be given to proposed projects or programs to
11 address areas of high risk of pollution or high loading of sediment to a water
12 listed as impaired on the list of waters required by 33 U.S.C. § 1313(d).

13 (4) Next priority shall be given to other projects implementing a total
14 maximum daily load plan in a water listed as impaired on the list of waters
15 required by 33 U.S.C. § 1313(d).

16 (5) Next priority shall be given to projects or programs to address areas
17 of high risk of pollution or high loading of sediment to an unimpaired water.

18 (f) Secretary discretion. The Secretary may award financial assistance
19 under this section for a project or program that otherwise would not receive
20 assistance under the priorities established by this section when the Secretary

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1 determines a severe risk to water quality or risk of discharge exists which
2 requires immediate abatement.

3 (g) Rule. The Secretary may adopt by rule additional priorities for the
4 award of loans or grants in order to ensure equity in the distribution of awards
5 under this section among service sectors or land use categories.

6 Sec. 22. REPORT ON ACCEPTED AGRICULTURAL PRACTICES
7 UNDER USE VALUE APPRAISAL

8 On or before January 15, 2015, the Agency of Agriculture, Food and
9 Markets (AAFM), after consultation with the Department of Forests, Parks and
10 Recreation and the Division of Property Valuation and Review (PVR) at the
11 Department of Taxes, shall submit to the House Committee on Fish, Wildlife
12 and Water Resources, the Senate Committee on Natural Resources and Energy,
13 the House Committee on Ways and Means, the Senate Committee on Finance,
14 the House Committee on Agriculture and Forest Products, and the Senate
15 Committee on Agriculture a report regarding compliance with the accepted
16 agricultural practices (AAPs) issued under 6 V.S.A. chapter 215 as a
17 requirement of eligibility for participation in the use value appraisal program.

18 The report shall include:

19 (1) A proposed plan for implementing a requirement that an owner of
20 agricultural land certify compliance with the AAPs in order to participate or

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1 continue participation in the use value appraisal program. The plan shall

2 include:

3 (A) how the AAFM or PVR would record certifications of AAP

4 compliance;

5 (B) how the AAFM or PVR would enforce compliance with the

6 AAPs as a condition of participation in the use value appraisal program; and

7 (C) an estimate of the number of staff and other resources required by

8 the AAFM or PVR to implement, administer, and enforce the requirement of

9 compliance with AAPs as a condition of participation in the use value

10 appraisal program.

11 (2) An estimate of how certification of compliance with the AAPs

12 would impact the cost of the use value appraisal program to the State of

13 Vermont, including whether fewer parcels would qualify for enrollment in the

14 program.

15 Sec. 23. EFFECTIVE DATES

16 (a) This section and Secs. 1–4 (small farm certification **rules**), 5 (Agency of

17 Agriculture, Food and Markets corrective action), 6 (livestock exclusion),

18 7 (seasonal exemption for application of manure), 9 (custom applicator

19 certification), 10 (agricultural stream alteration), 11 (**stormwater model bylaw**),

20 12 (water quality data coordination), 13 (shoreland contractor certification),

21 13a (awards for pollution abatement projects), 14 (financing; technical

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1 assistance for forestry), 16 (agricultural best management practices tax credit),
2 and 22 (AAP; use value appraisal report) shall take effect on passage.

3 (b) Sec. 8 (agricultural water quality certification) shall take effect on
4 January 1, 2015.

5 (c) Secs. 15 (town road and bridge standards), 17 (Ecosystem Restoration
6 fee), 18–20 (meals and rooms tax) and 21 (Ecosystem Restoration Program
7 Fund) shall take effect on July 1, 2015.

8

9

10 (Committee vote: _____)

11

12

Representative [surname]

13

FOR THE COMMITTEE