

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred  
3 House Bill No. 552 entitled “An act relating to threatened and endangered  
4 species” respectfully reports that it has considered the same and recommends  
5 that the Senate propose to the House that the bill be amended as follows:

6 First: In Sec. 3, 10 V.S.A. § 5402a, in subsection (b), in the second  
7 sentence, after “Secretary of Transportation,” and before “, and the  
8 Commissioner of Forests, Parks and Recreation” by inserting the Agency of  
9 Commerce and Community Development  
10 and in subsection (c), after “In determining whether to” and before “critical  
11 habitat” by striking out “designated” and inserting in lieu thereof designate and  
12 by striking out subdivision (2) in its entirety and inserting in lieu thereof the  
13 following:

14 (2) notify and consult with appropriate officials in Canada, appropriate  
15 State and federal agencies, other states having a common interest in the  
16 species, affected landowners, any municipality where the proposed designation  
17 is located, and any interested persons at least 60 days prior to commencement  
18 of rulemaking; and

19 and by striking out subsection (d) in its entirety and inserting in lieu thereof the  
20 following:

1        (d) Prior to initiating rulemaking under this section to designate critical  
2        habitat, the Secretary shall notify the owner of record of any land on which  
3        critical habitat is proposed for designation. The Secretary shall make all  
4        reasonable efforts to work cooperatively with affected landowners.

5        (e) Where appropriate, the Secretary shall include well-established  
6        mitigation strategies and best management practice references in the critical  
7        habitat designation rule.

8        (f) The Secretary shall not designate critical habitat in designated  
9        downtowns and village centers, designated under 24 V.S.A. chapter 76A.

10       Second: In Sec. 9, 10 V.S.A. § 5408, in subsection (i), as amended, in  
11       subdivision (2)(B), after the semicolon by striking out “or”  
12       and in subdivision (2)(C) after “any payment is commensurate” by striking out  
13       “to the taking or adverse impact proposed.” and inserting with the taking or  
14       adverse impact proposed; or  
15       and by adding a subdivision (2)(D) to read:

16        (D) Prior to requiring mitigation for adverse impacts under an  
17        incidental take permit, the Secretary shall consider the economic impact of  
18        avoidance, minimization, and compensation of the affected landowner,  
19        developer, or applicant, and whether the benefits of a proposed action  
20        outweigh the value of the habitat and the recovery of the threatened or  
21        endangered species.

1 and in subsection (k), in the first sentence, after “Prior to issuing a permit for  
2 an” and before “issuance of an amendment” by striking out “authorized or  
3 incidental taking and prior to the” and inserting in lieu thereof incidental taking  
4 and prior to the initial

5 and in subsection (l), in subdivision (6), after “Prior to issuing” and before  
6 “general permit under this subsection” by striking out “a” and inserting in lieu  
7 thereof any initial or amended

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10 (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_  
FOR THE COMMITTEE