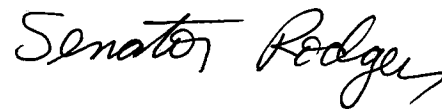


TO THE HONORABLE SENATE

The Committee on Natural Resources and Energy to which was referred House Bill No. H. 610, entitled "An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs"

respectfully reports that it has considered the same and recommends that the Senate propose to the House to amend the bill in Sec. 38, Report on Loans to Private Entities for Water Pollution Abatement and Control Facilities and Public Water Supply Systems, in subsection (a), by striking out "Committee on Institutions" and inserting in lieu thereof Committees on Institutions and on Natural Resources and Energy.

(Committee vote: 4-0-1)



Senator Rodgers
FOR THE COMMITTEE

H.610

An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. chapter 55 is redesignated to read:

CHAPTER 55. AID TO MUNICIPALITIES FOR WATER SUPPLY;
AND WATER POLLUTION ABATEMENT AND
SEWER SEPARATION CONTROL

Sec. 2. 10 V.S.A. § 1251 is amended to read:

§ 1251. DEFINITIONS

Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

* * *

(18) “Pollution abatement facilities” means municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State.

Sec. 3. 10 V.S.A. § 1259(j) is amended to read:

(j) No person shall discharge waste from hydraulic fracturing, as that term is defined in 29 V.S.A. § 503, into or from a pollution abatement facility, as that term is defined in section ~~1571~~ 1251 of this title.

Sec. 4. 10 V.S.A. § 1278 is amended to read:

§ 1278. OPERATION, MANAGEMENT, AND EMERGENCY RESPONSE
PLANS FOR POLLUTION ABATEMENT FACILITIES

(a) Findings. The ~~general assembly~~ General Assembly finds that the ~~state~~ State shall protect Vermont's lakes, rivers, and streams from pollution by implementing programs to prevent sewage spills to Vermont waters and by requiring emergency planning to limit the damage from spills which do occur. In addition, the ~~general assembly~~ General Assembly finds it to be cost-effective and generally beneficial to the environment to continue ~~state~~ State efforts to ensure energy efficiency in the operation of treatment facilities.

(b) Planning requirement. Effective July 1, 2007, the ~~secretary of natural resources~~ Secretary of Natural Resources shall as part of a permit issued under section 1263 of this title, require a pollution abatement facility, as that term is defined in section ~~1574~~ 1251 of this title, to prepare and implement an operation, management, and emergency response plan for those portions of each pollution abatement facility that include the treatment facility, the sewage pumping stations, and the sewer line stream crossing.

(c) Collection system planning. As of July 1, 2010, the ~~secretary of natural resources~~ Secretary of Natural Resources, as part of a permit issued under section 1263 of this title, shall require a pollution abatement facility, as that term is defined in section ~~1574~~ 1251 of this title, to prepare and implement an

operation, management, and emergency response plan for that portion of each pollution abatement facility that includes the sewage collection systems. The requirement to develop a plan under this subsection shall be included in a permit issued under section 1263 of this title, and a plan developed under this subsection shall be subject to public review and inspection.

* * *

Sec. 5. 10 V.S.A. § 1571 is amended to read:

§ 1571. DEFINITIONS

As used in this chapter:

(1) “Agency” means Agency of Natural Resources.

(2) “Board” means the Natural Resources Board.

(3) ~~“Combined sewer separation facilities” means sewers, pipe lines, pumps, structures and attendant facilities necessary to convey liquid wastes in such a manner that industrial wastes, domestic sewage, or both, are conveyed separately from storm water, and may include storm water treatment facilities.~~

[Repealed.]

(4) “Department” means the Department of Environmental Conservation.

(5) “Municipality” means a municipality as defined in 1 V.S.A. § 126.

(6) ~~“Pollution~~ Water pollution abatement and control facilities” means ~~municipal sewage treatment plants, pumping stations, interceptor and outfall~~

~~sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State such equipment, conveyances, and structural or nonstructural facilities owned or operated by a municipality that are needed for and appurtenant to the prevention, management, treatment, storage, or disposal of stormwater, sewage, or waste, including a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.~~

~~(7) “Potable water supply facilities” means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps and attendant facilities necessary to develop a source of water, and to treat and convey it in proper quantity and quality for public use within a municipality.~~
[Repealed.]

* * *

~~(9) “Disadvantaged municipality” means a municipality or the served area of a municipality which:~~

~~(A) Has a median household income below the State average median household income as determined by the Secretary, and which after construction of the proposed water supply improvements will have an annual household user cost greater than one percent of the median household income as determined by the Secretary; or~~

~~(B) Has a median household income equal to or greater than the State average median household income as determined by the Secretary, and which after construction of the proposed water supply improvements will have an annual household user cost greater than 2.5 percent of the median household income as determined by the Secretary. [Repealed.]~~

* * *

(11) “Sewage” shall have the same meaning as used in 24 V.S.A. § 3501.

(12) “Stormwater” shall have the same meaning as stormwater runoff in section 1264 of this title.

(13) “Waste” shall have the same meaning as used in section 1251 of this title.

Sec. 6. 10 V.S.A. § 1572 is amended to read:

§ 1572. ~~COORDINATED PLAN REVIEW~~

~~The department is designated the principal agency of the state to review and approve potable water supply projects funded under this chapter. The department of health and any other state agency with a statutory responsibility to review such projects shall within 30 days of receipt of documents for review, advise the department of their comments, which the department shall resolve into a single state position to be transmitted to the applicant. Reviews~~

~~of projects pursuant to chapter 151 of this title shall be exempt from the coordinated plan of review required by this section. [Repealed.]~~

Sec. 7. 10 V.S.A. § 1591 is amended to read:

§ 1591. **PLANNING**

~~(a) Planning advance. A municipality or a combination of two or more municipalities desiring an advance of funds for the development of engineering plans for potable water supply facilities or improvements, or for water pollution abatement facilities or improvements, or for combined sewer separation facilities, as the case may be, may apply to the department for an advance under this chapter. Engineering plans may include source exploration, surveys, reports, designs, plans, specifications or other engineering services necessary in preparation for construction of the types of facilities referred to in this section.~~

~~(b) The department, with the approval of the secretary, may use up to ten percent of the funds provided under this chapter to undertake regional engineering planning and process research. Funds approved for regional engineering planning may be awarded directly to a lead municipality and administered in accordance with this chapter. [Repealed.]~~

Sec. 8. 10 V.S.A. § 1592 is amended to read:

§ 1592. **APPLICATION**

~~The application shall be supported by data covering:~~

- ~~(1) A description of the project;~~
- ~~(2) A description of the engineering service to be performed;~~
- ~~(3) An explanation of the need for the project;~~
- ~~(4) An estimate of the cost of the project;~~
- ~~(5) The amount of advance requested;~~
- ~~(6) A schedule for project implementation;~~
- ~~(7) Such other information and assurances as the department may~~

~~require.~~ [Repealed.]

Sec. 9. 10 V.S.A. § 1593 is amended to read:

§ 1593. AWARD OF ADVANCE

~~(a) The department may award an advance in an amount determined by the department to be suitable for the engineering planning under standards established by the department:~~

~~(1) For planning of potable water supply facilities, when it finds the same to be necessary in order to preserve or enhance the quality of water provided to the inhabitants of the municipality, or to alleviate an adverse public health condition, or to allow for orderly development and growth of the municipality, except that no funds may be awarded until the department determines that the applicant has complied with the provisions of section 1676a of this title, unless such funds are solely for the purpose of determining the effect of the proposed project on agriculture;~~

~~(2) For planning of pollution abatement facilities, in order to enable a municipality to comply with water quality standards established under chapter 47 of this title;~~

~~(3) For the planning of combined sewer separation facilities, when it finds the same to be necessary to allow improvement of the quality of the receiving water in order that increased legitimate water uses and recreational potential in the best interest of the public can be realized.~~

~~(b) The department shall award an advance for planning under this section only when it finds:~~

~~(1) That the cost of the project is reasonable for its intended purpose; and~~

~~(2) That local funds are not readily available for the planning, and funds are not readily available through other established planning and design programs. [Repealed.]~~

Sec. 10. 10 V.S.A. § 1594 is amended to read:

§ 1594. PAYMENT OF AWARDS

~~On receipt of the engineering planning documents and their approval by the department, the department shall certify the award to the commissioner of finance and management who shall issue his or her warrant for payment thereof from the construction grant funds available to the department. The department may direct the commissioner of finance and management to issue~~

~~his or her warrant for partial payments of the award upon receipt and approval of portions of the total engineering work to be performed under the advance, together with recipient's certification that costs for which reimbursement has been requested have been incurred and paid by the recipient municipality. The recipient shall provide supporting evidence of payment upon the request of the department. Partial payments shall be made not more frequently than monthly. Interest costs incurred in local short term borrowing of the planning advance shall be reimbursed as part of the planning advance. [Repealed.]~~

Sec. 11. 10 V.S.A. § 1595 is amended to read:

§ 1595. ~~REPAYMENT OF ADVANCES~~

~~Advances under this subchapter shall be repaid when construction of the facilities or any portion thereof is undertaken. Where a construction grant is made by the department for the project, the amount of the outstanding advances shall be retained from the first payment of the grant funds. In other instances, if repayment is not made within 60 days upon demand by the department, the sum shall bear interest at the rate of 12 percent per annum from the date payment is demanded by the department to the date of payment by the municipality. The department may approve proportional repayment when construction is initiated on a small portion of the planned project.~~

~~[Repealed.]~~

Sec. 12. 10 V.S.A. chapter 55, subchapter 3 is redesignated to read:

Subchapter 3. Construction Grants ~~in Aid~~

Sec. 13. 10 V.S.A. § 1621 is amended to read:

§ 1621. FINANCIAL ASSISTANCE

A municipality ~~which~~ that desires ~~state~~ State financial assistance for construction, improvement, or expansion of ~~potable water supply facilities,~~ water pollution abatement and control facilities, ~~or combined sewer separation facilities,~~ may make application to the ~~department~~ Department in accordance with this subchapter.

Sec. 14. 10 V.S.A. § 1622 is amended to read:

§ 1622. ELIGIBLE PROJECTS

~~For purposes of~~ As used in this subchapter, eligible project costs for water pollution abatement and control facilities projects shall include:

~~(1) In the case of potable water supply projects receiving grants under subsection 1624(a) of this title, the costs of development of water sources, treatment facilities, pumping and storage facilities, the main transmission system to the center of the population area, and attendant facilities determined necessary by the department, an approved grant allowance to defray all or a portion of the engineering costs, and up to a \$3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative~~

~~costs incident thereto. For a potable water supply project receiving a loan under subsection 1624(b) of this title, the total project cost as determined by the secretary consistent with federal law equipment, conveyances, and structural or nonstructural facilities needed for and appurtenant to the prevention, management, treatment, storage, or disposal of sewage, waste, or stormwater, and the associated costs necessary to construct the improvements, including costs to acquire land for the project.~~

~~(2)(A) In the case of water pollution abatement projects, the cost of sewage treatment plants, outfall sewers, interceptor sewers, pumping or lift stations, overflow control structures and attendant facilities determined necessary by the department and such other sewers necessary for federal aid requirements, an approved grant allowance to defray all or a portion of the engineering costs, and up to a \$3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto which are not eligible for federal assistance~~

~~(B) In the case of water pollution abatement projects utilizing innovative or alternative processes or techniques and determined eligible for federal grants under section 201(g)(5) of P.L. 92-500, and its subsequent amendment, the cost of building, acquisition, alteration, remodeling, improvement or extension of treatment works, an approved grant allowance to~~

~~defray all or a portion of the engineering costs, and up to a \$3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto which are not eligible for federal assistance.~~

~~(C) In the case of water pollution abatement projects utilizing privately owned treatment works serving one or more residences or small commercial establishments, and determined eligible for federal grant assistance under section 201(h) of P.L. 92-500, and its subsequent amendment, the cost of building, acquisition, and alteration of facilities, an approved grant allowance to defray all or a portion of the engineering costs, and up to a \$3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto which are not eligible for federal assistance.~~

~~(3) In the case of combined sewer separation projects, the cost of combined sewer separation facilities, storm water treatment facilities, and attendant facilities determined necessary by the department, an approved grant allowance to defray all or a portion of the engineering costs, and up to a \$3,000.00 grant allowance for administrative and legal costs relating to the~~

~~project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto.~~

~~(4) All water pollution abatement projects shall be in conformance with the provisions of chapter 151 of this title.~~

Sec. 15. 10 V.S.A. § 1623 is amended to read:

§ 1623. APPLICATION

A municipality ~~which~~ that has voted funds in a specific amount to construct a water pollution abatement and control facility as described in section 1622 of this title, at a meeting duly warned for that purpose, which desires to avail itself of ~~state~~ State aid funds under this subchapter, shall apply for such funds in writing to the ~~department~~ Department in a manner prescribed by the ~~department~~ Department. ~~Municipalities whose water pollution abatement facilities have been previously constructed and which meet the permit requirements established under chapter 47 of this title may make application for state aid funds without further vote of the municipality:~~

~~(1) if the local share of the project costs are formally authorized by the municipal officials from funds available to them, or~~

~~(2) if the project is to construct facilities to remove phosphorus to a level of 1 milligram per liter,~~

~~(3) and provided the project meets all other requirements of the department.~~

Sec. 16. 10 V.S.A. § 1624 is amended to read:

§ 1624. ~~FINANCIAL ASSISTANCE WITH WATER SUPPLY PROJECTS~~

~~(a) Grants. The secretary may award a municipality a state grant for a potable water supply facility of up to 35 percent of its total eligible project cost, when the municipality contributes at least ten percent of the total eligible costs, for which purpose the municipality may use federal funds obtained from other programs, and when the secretary finds that:~~

~~(1) the project is necessary, and the proposed type, size and estimated cost of the project are suitable for its intended purpose;~~

~~(2) at least one-half of the property owners of the new area of the municipality to be served by the project have contracted to connect to the water system and pay for service at rates which the legislative body of the municipality determines to be adequate to cover the anticipated operating and maintenance costs including debt services;~~

~~(3) the proposed rate and fee schedule provide for reasonable contributions by all persons in the municipality benefited by the project; and~~

~~(4) the municipality has voted bonds for the project prior to April 5, 1997 in anticipation of the receipt of a construction grant authorized under this subsection.~~

~~(b) Loans.~~

~~(1) The secretary may certify to the Vermont municipal bond bank established by 24 V.S.A. § 4571 the award of a loan to a municipality to assist with a potable water supply facility project, when the secretary finds that:~~

~~(A) the project is necessary;~~

~~(B) the proposed type, size, and estimated cost of the project are suitable for its intended purpose; and~~

~~(C) the municipality will have the technical, financial, and managerial ability to operate the facility in compliance with federal and state law.~~

~~(2) The certification by the secretary shall specify the interest rate, and indicate which of the following loan conditions concerning construction loans apply:~~

~~(A) The term shall not exceed 20 years, and the annual interest rate, plus administrative fee, shall be no more than three percent or less than zero percent, except that when the applicant municipality is disadvantaged as defined by subdivision 1571(9) of this title, the term shall not exceed 30 years. When the applicant municipality is disadvantaged as defined in subdivision 1571(9)(A) of this title, the annual interest rate, plus administrative fee, shall be no less than minus three percent.~~

~~(B) In no instance shall the annual interest rate, plus administrative fee, be less than necessary to achieve an annual household user cost equal to one percent of the median household income of the applicant municipality or served area, taking into account:~~

~~(i) debt retirement of the project, including any monies a municipality may borrow to match federal funds available to the drinking water state revolving fund pursuant to subsection (d) of this section;~~

~~(ii) prior drinking water projects; and~~

~~(iii) estimated annual operation and maintenance costs as determined by the secretary.~~

~~(3) A municipal legislative body may execute a loan agreement under this subsection, provided the loan is authorized by municipal voters and secured by the full faith and credit of the municipality.~~

~~(4) A loan shall be issued and administered pursuant to chapter 120 of Title 24.~~

~~(5) Loans shall be available to the extent funds are available and according to priorities established by the secretary.~~

~~(6) For purposes of this subsection, the secretary shall determine the median household income of a municipality from the most recent federal census data available when the priority list used for funding the project was approved, or at the option of an applicant municipality, based on the~~

~~recommendation of an independent contractor hired by the municipality and approved by the secretary. The determination of the secretary shall be final. The cost of an independent contractor may be included in the total cost of a project. When using federal census data to determine the median household income of a municipality, the census data shall be adjusted for inflation beginning in the second year of availability by increasing it four percent per year.~~

~~(7) Loans awarded for the purpose of refinancing old debt shall be for a term of no more than 20 years and at an interest rate set by the state treasurer at no less than zero percent and no more than 80 percent of the average rate on marketable obligations of the state, except that municipalities or private water system owners which qualify for loan awards under 24 V.S.A. § 4770 and which incurred debt and initiated construction after April 5, 1997 may receive loans at interest rates and terms pursuant to subdivision (b)(2)(A) of this section.~~

~~(8) Loans awarded for the purpose of conducting feasibility studies and preparation of engineering plans and designs shall be for a term of no more than five years at an interest rate of zero percent.~~

~~(9) Loans awarded for the purpose of purchasing land or conservation easements to protect public water sources shall be for a term of no more than 20 years at an annual interest rate of three percent.~~

~~(10) The secretary may forgive up to \$25,000.00 of a loan from the Vermont environmental protection agency (EPA) drinking water state revolving fund to municipalities for improvements to public school water systems following substantial completion of the project. The secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual state intended use plan (IUP) with public review and comment prior to finalization and submission to the EPA.~~

~~(11) Subject to the interest rate and administrative fee limitations of subdivision (b)(2) of this section, the secretary may designate projects as United States Department of Agriculture Rural Development Vermont EPA drinking water state revolving fund jointly funded projects, and reduce the Vermont EPA revolving fund interest rate, plus administrative fee, in order to make the total loan cost of the joint loan to the municipality equivalent to the total loan cost of a separately funded Vermont EPA revolving loan for the same project.~~

~~(c)(1) Zebra mussel control. The department may award supplemental financial aid for the construction of zebra mussel control measures, upon finding that the proposed project is necessary. The supplemental aid shall be awarded in such a manner that the total financial burden of a water system, including zebra mussel controls, shall not exceed, in the first year after receiving the supplemental aid, an annual cost to a typical household of~~

~~1.5 percent of median household income for the project area as determined by the department. The estimate of such cost shall include all awards of aid under subsections (a) and (b) of this section, all other aid available to the applicant, and the estimated new and existing capital debt retirement and annual operating costs of the system. Awards of supplemental aid may, in accordance with the eligibility limitations of subdivision 1622(1) of this title, consist of:~~

~~(A) a loan under chapter 120 of Title 24 with an interest rate sufficient to assure that annual user costs do not exceed 1.5 percent of the median household income; or~~

~~(B) a grant for up to, but not exceeding, the total capital cost of the proposed project, in order to assure as closely as possible that annual household user costs do not exceed 1.5 percent of the median household income for the project area.~~

~~(2) In awarding financial assistance under this section, the department shall determine the existing and proposed annual user cost in accordance with procedures or rules adopted under chapter 25 of Title 3.~~

~~(d) Municipal match of federal revolving funds.~~

~~(1) A municipality may choose to provide the state money necessary to match federal monies available to the drinking water state revolving fund established by 24 V.S.A. § 4753(a)(3), and thereby become eligible to receive a loan from the revolving fund in the amount of the total cost of a water facility~~

~~project approved under this section. Such a loan from the revolving fund, for up to the total project cost, shall be approved by municipal voters and secured by the full faith and credit of the municipality or anticipated revenues from municipal water charges.~~

~~(2) The amount of such a municipal match of federal funds shall be equal to one sixth of the total project cost, which shall constitute a sum in addition to the amount of a loan for the total project cost to be received by the municipality from the revolving fund. A municipality is authorized to borrow monies needed for the match amount, from sources other than the revolving fund, which shall be approved by municipal voters and secured by the full faith and credit of the municipality or anticipated revenues from municipal water charges, or a municipality may use other funds or tax revenues available to it for this purpose.~~

~~(e) Upon request of the owner of a privately owned public water system, a municipality shall apply for and support an application for a community development block grant to receive use of state and federal funds provided:~~

~~(1) the private water system owner agrees to pay all administrative and legal costs incurred by the municipality in pursuit of the grant;~~

~~(2) the municipality finds that the project to be supported by the grant is consistent with applicable local and regional plans, and local ordinances or other local enactments;~~

~~(3) the private water system owner, to the extent practicable, undertakes the administration of logistical and legal work necessary to prepare the application materials; and~~

~~(4) the private water system owner agrees to hold the municipality harmless from any claims of liability arising from the grant application or project.~~

~~(f) The secretary may use federal funds to award grants to municipalities to complete studies, or for start-up costs associated with the physical and operational consolidation of public water systems or the interconnection of public water systems. The secretary shall establish amounts, eligibility, priorities, policies, and procedures in the annual state intended use plan (IUP).~~

[Repealed.]

Sec. 17. 10 V.S.A. § 1624a is amended to read:

§ 1624a. ~~AWARDS FOR POLLUTION ABATEMENT PROJECTS FOR
COMBINED SEWER OVERFLOWS~~

~~(a) When the Department finds that a proposed water pollution abatement project not covered under section 1625 of this title is necessary, that the proposed type, kind, quality, size, and estimated cost of the project, including operation cost and sewage disposal charges, are suitable for abatement of pollution, and that the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the Secretary~~

~~or by statute under chapter 47 of this title, the Department may award State financial assistance to the project. These projects may include ancillary work determined by the Secretary to be necessary to attain the water quality goals.~~

~~(b) The assistance shall consist of:~~

~~(1) A grant of 25 percent of the eligible project cost.~~

~~(2) A loan from the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund or the Vermont Pollution Control Revolving Fund of 50 percent of the eligible project cost. No interest shall be charged. In a certificate to the Vermont Municipal Bond Bank, the Secretary shall recommend the term, repayment schedule, and other terms and conditions of the loan.~~

~~(c) Notwithstanding the percentages of assistance provided for in subsection (b) of this section, when a municipality is certified by the Secretary of Commerce and Community Development to be within a designated job development zone, the grant to the municipality shall be 50 percent of eligible project costs and the loan shall be 25 percent of eligible project costs.~~

~~(d) Grants and loans under this section may be made from State and federal sources, as determined by the Secretary.~~

~~(e) A loan agreement may be entered into by action of the legislative body of the municipality, using procedures specified by applicable general or special enabling authority, following:~~

~~(1) authorization by the electorate of issuance of bonds in the amount of 25 percent of project costs, unless the municipality has determined to use some other method of financing its share of project cost; and~~

~~(2) authorization by the electorate of indebtedness in the amount of the loan under this section.~~

~~(f) A loan agreement may include provisions for deferred repayment if the electorate has authorized the future issuance of bonds to make a final repayment of the loan, and the authorization specifies whether the bond agreements will pledge the full faith and credit of the municipality or sufficient revenues from municipal sewage disposal charges.~~

~~(1) Except as provided in subdivision (2) of this subsection, loan repayments shall be according to the following schedule:~~

~~(A) 0.50 percent in the first year and increasing thereafter at 0.50 percent per year through the ninth year; and~~

~~(B) 5.0 percent in the 10th year through the 19th year; and~~

~~(C) the remainder in the 20th year.~~

~~(2) Notwithstanding subdivision (1) of this subsection, a municipality shall be entitled to loan repayment under this subdivision if repayment would produce municipal sewer rates in the municipality which exceed 150 percent of the current State average rate for a family of four. For purposes of this calculation, the municipality's sewer rates shall be deemed to include operating~~

~~costs, payments on the municipality's water pollution control debt, and repayment of five percent of the principal of the loan under this section. The following shall be minimum repayments under this subdivision:~~

~~(A) 0.25 percent per year in the first through the tenth year, dating from the issuance of the certification of completion of the project;~~

~~(B) 0.50 percent in the 11th year and increasing thereafter at 0.50 percent per year through the 19th year; and~~

~~(C) the remainder in the 20th year.~~

~~(3) When a loan is issued with deferred repayment provisions pursuant to authorization of the electorate under this section for the future issuance of bonds, upon maturity of the loan, if other sources of revenue are available, the legislative body of the municipality may elect not to issue bonds to make the final payment on the loan. The term of these bonds, if issued, shall not exceed 20 years. As authorized in the initial vote, these bonds may be secured by a pledge of the full faith and credit of the municipality or by sufficient revenues from municipal sewage disposal charges.~~

~~(g) State financial assistance under this section shall be made to the extent that funds are available and according to a system of priorities established by the Secretary. In establishing this system, priority shall be given to pollution abatement and not to the support of demand growth, and to projects discharging into or near lakes on January 1, 1988.~~

~~(h) Notwithstanding subsection (b) of this section, a loan awarded from the Vermont Environmental Protection Agency Pollution Control Revolving Loan Fund for a combined sewer overflow abatement project may be for up to 100 percent of the eligible project cost if:~~

~~(1) the project is included on a priority list; and~~

~~(2) the project is capitalized, at least in part, with a Federal Clean Water State Revolving Fund grant that includes loan forgiveness provisions.~~

[Repealed.]

Sec. 18. 10 V.S.A. § 1625 is amended to read:

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

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

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

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

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

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

~~(d) The Department may award a State assistance grant of up to 50 percent of the eligible costs of an approved pollution abatement project or a portion~~

~~thereof not eligible for federal financial assistance in a municipality that is certified by the Secretary of Commerce and Community Development to be within the designated job development zone. To achieve the objectives of chapter 29, subchapter 2 of this title, the eligibility and priority provisions of this chapter do not apply to municipalities within a designated job development zone.~~

~~(e) [Repealed.] [Repealed.]~~

Sec. 19. 10 V.S.A. § 1626a is amended to read:

§ 1626a. ~~AWARDS FOR WASTEWATER TREATMENT PLANTS WITH~~

~~A CAPACITY OF 250,000 GALLONS OR MORE PER DAY~~

~~(a) Definitions. For the purpose of this section:~~

~~(1) “Septage” means the product of an individual or a group septic tank, which is removed from the tank for further processing and disposal.~~

~~(2) “Sludge” means the intermediate product of a municipal wastewater treatment plant which receives further processing by the same plant in a manner similar to the processing of septage by the plant.~~

~~(3) The project or plant “cost” means the cost of the enlargement or new construction of a wastewater treatment plant which the commissioner of environmental conservation finds is eligible for financial assistance under this section.~~

~~(b) Loan eligibility. The proposed enlargement or new construction of a wastewater treatment plant with a total design hydraulic capacity of 250,000 or more gallons per day shall be eligible for a loan for 100 percent of the total project cost, as provided by chapter 120 of Title 24, if the commissioner of environmental conservation finds that:~~

~~(1) the proposed plant capacity is necessary to accommodate anticipated municipal growth; and that~~

~~(2) the proposed plant capacity will be sufficient to receive, treat and dispose of septage in a quantity equivalent to the ratio of 2,000 gallons or more of such septage per day for each 1,000,000 gallons per day of plant design hydraulic capacity. However, this condition shall not be required if the commissioner finds that such septage treatment capacity by the plant is not needed within the region of the state in which the plant is or will be located.~~

~~(c) Additional state assistance eligibility.~~

~~(1) Grants. A proposed wastewater treatment plant which is eligible for a loan under subsection (b) of this section, and a wastewater treatment plant with a design hydraulic capacity of 250,000 or more gallons per day which is being refurbished, shall in addition be eligible for a grant of up to 50 percent of the cost of that portion of the plant to be used to treat septage, or septage and sludge in combination, if the commissioner of environmental conservation finds that the proposed plant capacity will be sufficient to receive, treat and~~

~~dispose of septage alone in a quantity equivalent to the ratio of 4,000 gallons or more of such septage per day for each 1,000,000 gallons per day of plant design hydraulic capacity. The portion of the plant used for processing septage, or septage and sludge in combination, shall include facilities for receiving septage and for the storage, treatment, transfer, and disposal of both septage and sludge.~~

~~(2) Loans. A proposed wastewater treatment plant which is eligible for a grant under this subsection may receive an interest free loan for the remaining amount of the total project cost, from revolving funds established by chapter 120 of Title 24.~~

~~(d) Conditions of additional state assistance. The additional state assistance provided by subsection (c) of this section shall be awarded under the following conditions:~~

~~(1) To be eligible for additional assistance, a proposed plant shall be consistent with any solid waste implementation plan adopted pursuant to 24 V.S.A. § 2202a, or chapter 117 of Title 24, which is approved by the secretary of natural resources and which addresses septage and sludge management. However, the commissioner of environmental conservation shall not withhold additional assistance because of an absence of an adopted or approved solid waste implementation plan.~~

~~(2) Plants eligible for additional assistance shall receive increased funding priority in accordance with rules adopted by the secretary.~~

~~(3) A plant receiving additional assistance shall, for the useful life of the facility, maintain its additional processing capacity for use only in receiving and processing septage. Such septage shall be accepted from any Vermont municipality, and shall not be restricted to specific municipalities. The rate or rates charged for acceptance by the plant of septage from sources other than the users for whom the plant is designed primarily to serve, shall be equal to the rate or rates charged the primary users, and shall not subsidize the primary users. The agency shall include these requirements in any permit issued for the construction and operation of the plant, and the requirements shall be enforceable in the manner prescribed for that permit.~~

~~(4) Project costs eligible for additional assistance shall include the cost of: land used for the direct disposal of septage and sludge; facilities to receive, store, treat, transfer and dispose of septage and sludge; and facilities to compost or pelletize or otherwise process septage and sludge.~~

~~(5) When other state or federal assistance is awarded to a plant eligible for additional assistance under this section, such other assistance shall reduce, first, the loan amount awarded under this section, and secondly, the grant amount awarded under this section. [Repealed.]~~

Sec. 20. 10 V.S.A. § 1626b is added to read:

§ 1626b. MUNICIPAL WATER POLLUTION CONTROL GRANTS

(a) Projects. The Secretary may award State assistance grants to municipalities for water pollution abatement and control facilities.

(b) Application. The Secretary shall prescribe the form of application to apply for a grant under this section. The application shall include:

(1) a description of the project;

(2) a schedule for project implementation;

(3) an estimate of the project cost;

(4) the information necessary for the Secretary to determine the grant amount using the criteria described in section 1628 of this title;

(5) whether the project requires a permit under chapter 151 of this title; and

(6) any other information that the Secretary deems necessary to implement this section.

(c) Grant award. The Secretary shall make grant awards pursuant to the project priority system adopted under section 1628 of this title in an amount not to exceed 35 percent of eligible project costs. The Secretary shall not award a grant under this section until the applicant provides a permit or jurisdictional opinion that a permit is not required, issued pursuant to chapter 151 of this title.

(d) Payment of awards. Payment of awards shall be made pursuant to section 1627 of this title.

Sec. 21. 10 V.S.A. § 1628 is amended to read:

§ 1628. PRIORITIES

The Department shall make grant awards under this chapter to eligible municipal water pollution abatement and control projects on the basis of ~~urgency~~ of need as determined according to a system of priorities adopted by rule by the Department and to the extent appropriate funds are available. The system of priorities shall ~~include increased priority to eligible municipal projects in designated centers. The Department shall assure that projects sponsored by a town school district, or incorporated school district shall be given increased priority for purposes of the receipt of engineering planning advances awarded under section 1593 of this chapter. The total amount of the engineering planning advances made and still outstanding during a period for this purpose shall not exceed 30 percent of the bond issue or appropriation voted for construction grant funds by the General Assembly for the period in which the award is made~~ require consideration of criteria, including:

(1) whether a project is grant or loan eligible;

(2) the condition of the waters affected by the project and whether the waters are:

- (A) not in compliance with the Vermont Water Quality Standards; or
- (B) have a total maximum daily load (TMDL);
- (3) whether the project will address water quality issues identified in a basin plan;
- (4) whether the project will abate or control pollution that is causing or may cause a threat to public health;
- (5) whether the project will address an emergency situation affecting or constituting a threat to the environment or the public health, safety, or welfare;
- (6) if the project repairs or replaces existing infrastructure, the condition and integrity of such infrastructure;
- (7) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency, which reduce the environmental impacts of the project or a water pollution abatement and control facility;
- (8) the fiscal integrity and sustainability of the project, including whether the project is a cost-effective alternative, when compared to other alternatives;
- (9) whether the project serves a designated center;
- (10) affordability factors for the municipality or municipalities in which the project is located, including;

(A) median household income;

(B) unemployment rate; and

(C) population trends; and

(11) if the project removes a pollutant for which the water or waters affected by the project are impaired, the cost-effectiveness of the project at removing that pollutant.

Sec. 22. 10 V.S.A. § 1630 is amended to read:

§ 1630. ~~REGULATIONS~~ RULES

The ~~department~~ Department with the approval of the ~~secretary~~ Secretary shall adopt ~~regulations~~ rules consistent with this subchapter as it finds necessary for proper administration of the subchapter.

Sec. 23. 10 V.S.A. § 1632 is amended to read:

§ 1632. STATE ADMINISTRATIVE DEPARTMENTS

For the purpose of constructing or substantially improving a water pollution abatement and control or potable water supply facility ~~facility~~ any ~~state~~ State administrative department as authorized in Title 3 shall be deemed a municipality under section 1623 of this title; and subject to the terms and conditions applicable to municipalities; provided, however, that a State administrative department deemed a municipality shall only receive State assistance under this chapter if the Department has a surplus of funds at the

end of each fiscal year after all municipal grant applicants have received committed funds.

Sec. 24. 24 V.S.A. § 4751 is amended to read:

§ 4751. DECLARATION OF POLICY

It is hereby declared to be in the public interest to foster and promote timely expenditures by municipalities for water ~~supply systems~~, water pollution abatement and control facilities, and solid waste management, each of which is declared to be an essential governmental function when undertaken and implemented by a municipality. It is also declared to be in the public interest to promote expenditures for certain existing privately owned public water systems and certain privately owned wastewater and public and potable water supply systems to bring those systems into compliance with federal and ~~state~~ State standards and to protect public health and the environment.

Sec. 25. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(3) "Municipality" means any city, town, village, town school district, incorporated school district, union school district, or other school district, fire district, consolidated sewer district, consolidated water district, solid waste

district, or statewide or regional water quality utility, or mechanism organized under laws of the State.

* * *

(6) “Noncommunity water system” ~~means a noncommunity water system as that term is defined~~ shall have the same meaning as in 10 V.S.A. § 1671.

(7) “Privately owned water system” means any water system ~~which that~~ is not owned or operated by a municipality.

(8) “Community water system” ~~means a public community water system as that term is defined~~ shall have the same meaning as in 10 V.S.A. § 1671.

(9) “Public water ~~system~~ supply systems” means a public water system as that term is defined in 10 V.S.A. § 1671, except for bottled water facilities and for-profit noncommunity systems, which includes water systems, water treatment plants, structures, pipe lines, storage facilities, pumps, and attendant facilities necessary to develop a source of water, and to treat and convey it in proper quantity and quality.

(10) “Privately owned wastewater system” means a privately owned wastewater ~~conveyance, treatment, and disposal system or elements thereof~~ which is privately owned and system, which handles receives primarily domestic type wastes.

(11) “Water pollution abatement and control facilities” means such equipment, conveyances, and structural or nonstructural facilities owned or operated by a municipality that are needed for and appurtenant to the prevention, management, treatment, storage, or disposal of stormwater, sewage, or waste, including a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.

(12) “Disadvantaged municipality” means a municipality or the served area of a municipality which:

(A) has a median household income below the State average median household income as determined by the Secretary and which, after construction of the proposed water supply improvements, will have an annual household user cost greater than one percent of the median household income as determined by the Secretary; or

(B) has a median household income equal to or greater than the State average median household income as determined by the Secretary and which, after construction of the proposed water supply improvements, will have an annual household user cost greater than 2.5 percent of the median household income as determined by the Secretary.

(13) "Potable water supply facilities" means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps and attendant facilities necessary to develop a source of water and to treat and convey it in proper quantity and quality for public use within a municipality.

(14) "Sewage" shall have the same meaning as used in section 3501 of this chapter.

(15) "Stormwater" shall have the same meaning as stormwater runoff in section 1264 of this title.

(16) "Waste" shall have the same meaning as used in 10 V.S.A. § 1251.

Sec. 26. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans to municipalities; and State agencies, ~~and the Vermont Housing Finance Agency for planning sewage systems and sewage treatment or disposal plants as defined in subdivisions 3501(6) and 3601(3) of this title, for constructing publicly owned sewage systems and sewage treatment or disposal plants as defined in subdivisions 3501(6) and 3601(3) of this title, for planning or construction of certain privately owned wastewater systems, and~~ construction of water pollution abatement and control facilities, including

acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

(2) The Vermont Pollution Control Revolving Fund, which shall be used to provide loans to municipalities, and State agencies, ~~and the Vermont Housing Finance Agency~~ for planning and construction of water pollution abatement and control facilities, ~~for constructing publicly owned pollution control facilities,~~ ~~and for constructing certain privately owned wastewater systems and potable water supply systems~~ including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way.

(3) The Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, which shall be used to provide loans to municipalities and certain privately owned water systems for:

(A) planning, designing, constructing, repairing, or improving a public water ~~system~~ supply systems, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, in order to comply with State and federal standards and protect public health and the environment; and

(B) implementing related management programs.

(4) The Vermont Solid Waste Revolving Fund, which shall be used to provide loans to municipalities (including union municipal districts formed under ~~subchapter 3~~ of chapter 121, subchapter 3 of this title) for planning solid waste handling and disposal facilities as enumerated in section 2203a of this title, and for constructing publicly owned solid waste handling and disposal facilities as enumerated in section 2203a of this title.

(5) The Vermont Drinking Water Planning Loan Fund, which shall be used to provide loans to municipalities and privately owned, nonprofit community water systems, with populations of less than 10,000, for conducting feasibility studies and for the preparation of preliminary engineering planning studies and final engineering plans and specifications for improvements to public water supply systems in order to comply with State and federal standards and to protect public health. The Secretary may forgive up to \$50,000.00 of the unpaid balance of a loan made from the Vermont Drinking Water Planning Loan Fund to municipalities after project construction is substantially completed or upon approval of a plan. The Secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual State ~~Intended Use Plan~~ intended use plan (IUP), as required by the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., with public review and comment prior to finalization and submission to the U.S. Environmental Protection Agency.

(6) The Vermont Drinking Water Source Protection Fund, which shall be used to provide loans to municipalities for purchasing land or conservation easements in order to protect public water sources and ensure compliance with State and federal drinking water regulations.

(7) The Vermont Drinking Water Emergency Use Fund, which shall be within the control of the Secretary. Disbursements from the Fund may be made by the Secretary for costs required to undertake the following emergency actions that the Secretary considers necessary to protect public health:

(A) collecting and analyzing samples of drinking water;

(B) hiring contractors to perform or cause to be performed infrastructure repairs of a public water ~~system~~ supply systems;

(C) hiring certified operators to perform operational activities at a public water ~~system~~ supply systems; and

(D) providing or causing to be provided bottled or bulk water for a public water ~~system~~ supply systems due to problems with quality or quantity, or both.

(8) [Repealed.]

(9) The Vermont Drinking Water Revolving Loan Fund, which shall be used to provide loans to a municipality for the design, land acquisition, if necessary, and construction of a potable water supply when a household in the

municipality has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees.

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972. The amount of \$275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited on an annual basis into this Fund.

(b) Each of such funds shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this chapter with the exception of transferring funds from the Vermont Drinking Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the Secretary. These funds shall be administered by the Bond Bank on behalf of the State, except that: the Vermont EPA Drinking Water State Revolving Fund shall be administered by VEDA concerning loans to privately

owned water systems under ~~subdivision~~ subdivisions (a)(3) and (5) of this section; and the Vermont Wastewater and Potable Water Revolving Loan Fund may be administered by a community development financial institution, as that term is defined in 12 U.S.C. § 4702, that is contracted with by the State for the purpose of providing loans to individuals for failed wastewater systems and potable water supplies under subdivision (a)(10) of this section. The funds shall be invested in the same manner as permitted for investment of funds belonging to the State or held in the Treasury. The funds shall consist of the following:

(1) such sums as may be appropriated or transferred thereto from time to time by the General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times as the General Assembly is not in session;

(2) principal and interest received from the repayment of loans made from each of such funds;

(3) capitalization grants and awards made to the State by the United States of America for any of the purposes for which such funds have been established;

(4) interest earned from the investment of fund balances;

(5) private gifts, bequests, and donations made to the State for any of the purposes for which such funds have been established; and

(6) other funds from any public or private source intended for use for any of the purposes for which such funds have been established.

(c) In addition to the purposes established in subsection (a) of this section, the various loan funds created herein may be used for one or more of the purposes established in section 4757 of this title.

~~(d) Funds from the Vermont Environmental Protection Agency Pollution Control Fund and the Vermont Pollution Control Revolving Fund, established by subdivisions (a)(1) and (2) of this section, may be awarded for:~~

~~(1) the refurbishment or construction of a new or an enlarged wastewater treatment plant with a resulting total capacity of 250,000 gallons or more per day in accordance with the provisions of this chapter and 10 V.S.A. § 1626a; or~~

~~(2) the construction of stormwater management facilities as specifically or generally described in Vermont's Nonpoint Source Management Plan, and which are necessary to remedy or prevent pollution of waters of the State, provided, in any year in which the federal grant for the Fund established in subdivision (a)(1) of this section does not exceed the amount available to the State in the 2002 federal appropriation, no more than 30 percent of that year's federal and State appropriations to that Fund shall be used for the purpose outlined in this subdivision. [Repealed.]~~

(e) The Secretary may bring an action under this subsection or other available State and federal laws against the owner or permittee of the public water ~~system~~ supply systems to seek reimbursement to the Vermont Drinking Water Emergency Use Fund for all disbursements from the Fund made pursuant to subdivision (a)(7) of this section. To the extent compatible with the urgency of the situation, the Secretary shall provide an opportunity for the responsible water system owner or permittee to undertake the necessary actions under the direction of the Secretary prior to making disbursements.

Sec. 27. 24 V.S.A. § 4753a is amended to read:

§ 4753a. AWARDS FROM REVOLVING LOAN FUNDS

(a) Pollution control. The General Assembly shall approve all categories of awards made from the special funds established by section 4753 of this title for water pollution abatement and facility construction, in order to assure that such awards conform with State policy on water quality and pollution abatement, and with the State policy that municipal entities shall receive first priority in the award of public monies for such construction, including monies returned to the revolving funds from previous awards. To facilitate this legislative oversight, the Secretary of Natural Resources shall annually ~~no later than~~ on or before January 15 report to the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the House and Senate Committees on Natural Resources and Energy on all awards made from the

relevant special funds during the prior and current fiscal years, and shall report on and seek legislative approval of all the types of projects for which awards are proposed to be made from the relevant special funds during the current or any subsequent fiscal year. Where feasible, the specific projects shall be listed. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

~~(b) Water supply. The Secretary of Natural Resources shall no later than January 15, 2000 recommend to the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the House and Senate Committees on Natural Resources and Energy a procedure for reporting to and seeking the concurrence of the Legislature with regard to the special funds established by section 4753 of this title for water supply facility construction.~~

[Repealed.]

(c) [Repealed.]

(d) Loan forgiveness; pollution control. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Environmental Protection Agency Pollution Control Revolving Fund (CWSRF), the Secretary of Natural Resources, in a manner that is consistent with federal grant provisions, may forgive up to 50 percent of a loan if the award is made for a project on a priority list and the project is capitalized, at least in part, from funds derived from a federal CWSRF capitalization grant

~~that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match~~ provide loan forgiveness.

(e) Loan forgiveness; drinking water.

(1) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Environmental Protection Agency Drinking Water State Revolving Fund (DWSRF), the Secretary of Natural Resources, in a manner that is consistent with federal grant provisions, may ~~forgive up to 100 percent of a loan if the award is made for a project on the priority list and the project is capitalized, at least in part, from funds derived from a federal DWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match~~ provide loan forgiveness.

(2) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Drinking Water State Revolving Loan Fund, the Secretary of Natural Resources may provide loan forgiveness for preliminary engineering and final design costs when a municipality undertakes such engineering on behalf of a household that has

been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees, provided it is not the same municipality that is disconnecting the household.

(f) Loan forgiveness standard. The Secretary shall establish standards, policies, and procedures as necessary for implementing subsections (d) and (e) of this section for allocating the funds among projects and for revising standard priority lists in order to comply with requirements associated with federal capitalization grant agreements.

Sec. 28. 24 V.S.A. § 4754 is amended to read:

§ 4754. LOAN APPLICATION

A municipality may apply for a loan, the proceeds of which shall be used to acquire, design, plan, construct, enlarge, repair or improve a ~~publicly owned sewage system, sewage treatment or disposal plant, publicly owned water pollution abatement and pollution control facility, water supply, water system~~ public water supply systems as defined in subdivision 4752(9) of this title, or a solid waste handling and disposal facility, or certain ~~privately owned~~ privately owned wastewater systems as described in section 4763 of this title, or to implement a related management program. In addition, the loan proceeds shall be used to pay the outstanding balance of any engineering planning advances made to the municipal applicant under this chapter ~~55 of Title 10~~ and determined by the ~~secretary of the agency of natural resources~~ Secretary to be

due and payable following construction of the improvements to be financed by the proceeds of the loan. The ~~bond bank~~ Bond Bank may prescribe any form of application or procedure required of a municipality for a loan hereunder. Such application shall include such information as the ~~bond bank~~ Bond Bank shall deem necessary for the purpose of implementing this chapter.

Sec. 29. 24 V.S.A. § 4755 is amended to read:

§ 4755. LOAN; LOAN AGREEMENTS; GENERAL PROVISIONS

(a) Except as provided by subsection (c) of this section, the Bond Bank may make loans to a municipality on behalf of the State for one or more of the purposes set forth in section 4754 of this chapter. Each of such loans shall be made subject to the following conditions and limitations:

(1) ~~no~~ No loan shall be made for any purpose permitted under this chapter other than from the revolving fund in which the same purpose is included;

(2) ~~the~~ The total amount of loan out of a particular revolving fund shall not exceed the balance of that fund;

(3) ~~the~~ The loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed 30 years or the projected useful life of the project, ~~which ever~~ whichever is less, except:

(A) there shall be no deferral of payment, ~~unless authorized by~~
~~10 V.S.A. § 1624a;~~

(B) the term of the loan shall not exceed 20 years when required by ~~10 V.S.A. § 1624(b)~~ section 4763c of this title; and

(C) the loan may be evidenced by any other permitted debt instrument payable as permitted by chapter 53 of this title;

(4) ~~notwithstanding~~ Notwithstanding any other provisions of law, municipal legislative bodies may execute notes and incur debt on behalf of municipalities;

(A) with voter approval at a duly warned meeting, for amounts less than \$75,000.00; or

(B) ~~increase by~~ increasing previously approved bond authorizations by up to \$75,000.00 to cover unanticipated project costs; ~~and~~.

(5) ~~the~~ The rate of interest charged for the loans made to municipalities under this chapter, or the manner of determining the same, shall be established from time to time by the State Treasurer after consultation with the Secretary ~~of the Agency~~ taking into consideration the current average rate on outstanding marketable obligations of the State as of the last day of the preceding month. The rate of interest shall be no less than zero percent ~~nor more than 80 percent~~ of the average rate on marketable obligations of the State and no more than the market interest rate, as determined by the Bond Bank, except as provided in section 4763c of this title. ~~Effective July 1, 1999, an~~ An administrative fee of no more than two percent shall be charged for the loans made to municipalities

under this chapter from the Clean Water State Revolving Fund. ~~Effective July 1, 2001, an administrative fee of no more than two percent may be charged for loans made to municipalities under this chapter from~~ and the Vermont Environmental Protection Agency Drinking Water State Revolving Fund. The Secretary shall establish the method used to determine such administrative fee. Fee proceeds shall be deposited into a nonlapsing account and be held separately from the funds established pursuant to section 4753 of this title. ~~Moneys~~ Monies from such account shall be used to pay the costs of administering each of the funds established by subsection 4753(a) of this title, and any excess shall be transferred to the appropriate account established by subsection 4753(a) of this title. ~~Notwithstanding all other requirements of this subdivision, the interest rate charged for municipal water supply projects shall be established by the Secretary pursuant to 10 V.S.A. § 1624.~~

(b) Loans made to a municipality by the Bond Bank on behalf of the State under this chapter shall be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be executed by the Bond Bank on behalf of the State and the municipality. The loan agreement shall specify the terms and conditions of loan repayment by the municipality, as well as the terms, conditions, and estimated schedule of disbursement of loan proceeds. Disbursement of loan proceeds shall be based upon certification of the loan recipient showing that costs for which reimbursement is requested

have been incurred and paid by the recipient. The recipient shall provide supporting evidence of payment upon the request of the ~~department~~ Department. Partial payments of loan proceeds shall be made not more frequently than monthly. Interest costs incurred in local short-term borrowing of the loan amount shall be reimbursed as part of the loan. The loan agreement shall state the term and interest rate of the loan, the scheduling of loan repayments, and such other terms and conditions as shall be deemed necessary by the Bond Bank.

(c) The Vermont Economic Development Authority shall make loans on behalf of the ~~state~~ State when the loan recipient is a privately owned public water system. Such loans shall be issued and administered pursuant to subchapter 3 of this chapter.

~~(d) The Secretary of Natural Resources shall by January 15, 2003 submit a comprehensive report to the House Committees on Corrections and Institutions and on Natural Resources and Senate Committees on Institutions and on Natural Resources and Energy on the use by the state and by municipalities of the two percent administrative fee authorized by subdivision (a)(4) of this section. [Repealed.]~~

(e) For the purposes of this chapter, a State administrative department as authorized in Title 3 shall be deemed a municipality and subject to the terms and conditions applicable to municipalities; provided, however, that a State

administrative department deemed a municipality shall only receive State assistance under this chapter if the Department has a surplus of funds at the end of each fiscal year after all municipal loan applicants have received committed funds.

Sec. 30. 24 V.S.A. § 4758 is amended to read:

§ 4758. LOAN PRIORITIES

(a) Periodically, and at least annually, the ~~secretary~~ Secretary shall prepare and certify to the ~~bond bank~~ Bond Bank a project priority list of those municipalities whose publicly owned projects, or privately owned wastewater systems, are eligible for financing or assistance under this chapter. In determining financing availability for ~~wastewater projects~~ water pollution abatement and control facilities under this chapter, the ~~secretary of the agency having jurisdiction~~ Secretary shall apply the following criteria:

(1) ~~the probable public benefit to be gained or preserved by the project to be financed;~~

(2) ~~the long term costs and the resulting benefits to be derived from the project. In determining benefits, induced growth from a project that is not consistent with a town, city, or village plan, duly adopted under chapter 117 of this title, will not be considered;~~

(3) ~~the cost of comparable credit or financing alternatives available to the municipality;~~

~~(4) the existence of immediate public health, safety and welfare factors, and compliance therewith;~~

~~(5) the existence of an emergency constituting a threat to public health, safety and welfare; and~~

~~(6) the current area and population to be served by the proposed project adopted pursuant to 10 V.S.A. § 1628.~~

~~(b) In determining financing availability for stormwater projects under this chapter, the secretary of the agency having jurisdiction shall apply the following criteria:~~

~~(1) that the project is specifically or generally described in Vermont's nonpoint source management plan;~~

~~(2) that the project will remedy or prevent the impairment of waters, and the severity of that existing or prevented impairment; and~~

~~(3) that the project is consistent with the applicable basin plan for the waters affected by the project. [Repealed.]~~

Sec. 31. 24 V.S.A. § 4763c is added to read:

§ 4763c. LOANS FOR PUBLIC WATER SUPPLY SYSTEMS

(a) The Secretary may certify to the Vermont Municipal Bond Bank established by section 4571 of this title the award of a loan to a municipality to assist with a public water supply system project, when the Secretary finds that:

(1) the project is necessary;

(2) the proposed type, size, and estimated cost of the project are suitable for its intended purpose; and

(3) the municipality will have the technical, financial, and managerial ability to operate the facility in compliance with federal and State law.

(b) The certification by the Secretary shall specify the interest rate, and indicate which of the following loan conditions concerning construction loans apply:

(1) The term shall not exceed 20 years, and the annual interest rate, plus the administrative fee, shall be no more than three percent or less than zero percent, except that when the applicant municipality is disadvantaged as defined by subdivision 4752(12) of this title, the term shall not exceed 30 years. When the applicant municipality is disadvantaged as defined in subdivision 4752(12), the annual interest rate, plus the administrative fee, shall be no less than minus three percent.

(2) In no instance shall the annual interest rate, plus the administrative fee, be less than necessary to achieve an annual household user cost equal to one percent of the median household income of the applicant municipality or served area, taking into account:

(A) debt retirement of the project, including any monies a municipality may borrow to match federal funds available to the Vermont EPA Drinking Water State Revolving Fund pursuant to section 4763d of this title;

(B) prior drinking water projects; and

(C) estimated annual operation and maintenance costs as determined by the Secretary.

(c) A municipal legislative body may execute a loan agreement under this subsection provided the loan is authorized by municipal voters and secured by the full faith and credit of the municipality.

(d) A loan shall be issued and administered pursuant to this chapter.

(e) Loans shall be available to the extent funds are available and according to priorities established by the Secretary.

(f) For purposes of this section, the Secretary shall determine the median household income of a municipality from the most recent federal census data available when the priority list used for funding the project was approved, or at the option of an applicant municipality, based on the recommendation of an independent contractor hired by the municipality and approved by the Secretary. The determination of the Secretary shall be final. The cost of an independent contractor may be included in the total cost of a project.

(g) Loans awarded for the purpose of refinancing old debt shall be for a term of no more than 20 years and at an interest rate set by the State Treasurer at no less than zero percent and no more than the market interest rate, as determined by the Bond Bank, except that municipalities or private water system owners that qualify for loan awards under section 4770 of this title and

that incurred debt and initiated construction after April 5, 1997 may receive loans at interest rates and terms pursuant to subdivision (b)(2)(A) of this section.

(h) Loans awarded for the purpose of conducting feasibility studies and preparation of engineering plans and designs shall be for a term of no more than five years at an interest rate of zero percent.

(i) Loans awarded for the purpose of purchasing land or conservation easements to protect public water sources shall be for a term of no more than 20 years at an annual interest rate of three percent.

(j) The Secretary may forgive up to \$25,000.00 of a loan from the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund to municipalities for improvements to public school water systems following substantial completion of the project. The Secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual State intended use plan (IUP), as required by the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., with public review and comment prior to finalization and submission to the EPA.

(k) Subject to the interest rate and administrative fee limitations of subsection (b) of this section, the Secretary may designate projects as U.S. Department of Agriculture Rural Development-Vermont EPA Drinking Water State Revolving Fund jointly funded projects, and reduce the Vermont EPA

revolving fund interest rate, plus administrative fee, in order to make the total loan cost of the joint loan to the municipality equivalent to the total loan cost of a separately funded Vermont EPA revolving loan for the same project.

Sec. 32. 24 V.S.A. § 4763d is added to read:

§ 4763d. MUNICIPAL MATCH OF FEDERAL REVOLVING FUNDS

(a) A municipality may choose to provide the State money necessary to match federal monies available to the Vermont EPA Drinking Water State Revolving Fund established by subdivision 4753(a)(3) of this title, and thereby become eligible to receive a loan from the Revolving Fund in the amount of the total cost of a water facility project approved under this section. Such a loan from the Revolving Fund, for up to the total project cost, shall be approved by municipal voters and secured by the full faith and credit of the municipality or anticipated revenues from municipal water charges.

(b) The amount of such a municipal match of federal funds shall be equal to one-sixth of the total project cost, which shall constitute a sum in addition to the amount of a loan for the total project cost to be received by the municipality from the Revolving Fund. A municipality is authorized to borrow monies needed for the match amount, from sources other than the Revolving Fund, which shall be approved by municipal voters and secured by the full faith and credit of the municipality or anticipated revenues from municipal

water charges, or a municipality may use other funds or tax revenues available to it for this purpose.

(c) Upon request of the owner of a privately owned public water system, a municipality may apply for and support an application for a community development block grant to receive use of State and federal funds, provided:

(1) the private water system owner agrees to pay all administrative and legal costs incurred by the municipality in pursuit of the grant;

(2) the municipality finds that the project to be supported by the grant is consistent with applicable local and regional plans, and local ordinances or other local enactments;

(3) the private water system owner, to the extent practicable, undertakes the administration of logistical and legal work necessary to prepare the application materials; and

(4) the private water system owner agrees to hold the municipality harmless from any claims of liability arising from the grant application or project.

(d) The Secretary may use federal funds to award grants to municipalities to complete studies, or for start-up costs associated with the physical and operational consolidation of public water systems or the interconnection of public water systems. The Secretary shall establish amounts, eligibility,

priorities, policies, and procedures in the annual State intended use plan (IUP), as required by the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.

Sec. 33. 24 V.S.A. § 4764 is added to read:

§ 4764. PLANNING

(a) Engineering planning advance. A municipality or a combination of two or more municipalities desiring an advance of funds for engineering planning for public water supply systems, as defined in subdivision 4752(9) of this title, or improvements, or for water pollution abatement and control facilities or improvements, may apply to the Department for an advance under this chapter. As used in this subsection, “engineering planning” may include source exploration, surveys, reports, designs, plans, specifications, or other engineering services necessary in preparation for construction of the types of systems or facilities referred to in this section.

(b) Regional engineering planning. The Department, with the approval of the Secretary, may use up to ten percent of the total capital appropriation for construction grants to undertake regional engineering planning and process research. Funds approved for regional engineering planning may be awarded directly to a lead municipality and administered in accordance with this chapter.

(c) Funding. In each fiscal year, the Department may use up to 30 percent of the total capital appropriation for construction grants provided under 10 V.S.A. chapter 55 to award engineering planning advances.

Sec. 34. 24 V.S.A. § 4765 is added to read:

§ 4765. APPLICATION

The application shall be supported by data covering:

- (1) a description of the project;
- (2) a description of the engineering service to be performed;
- (3) an explanation of the need for the project;
- (4) an estimate of the cost of the project;
- (5) the amount of advance requested;
- (6) a schedule for project implementation;
- (7) such other information and assurances as the Department may

require.

Sec. 35. 24 V.S.A. § 4766 is added to read:

§ 4766. AWARD OF ADVANCE

(a) The Department may award an engineering planning advance, as defined in section 4764 of this title, in an amount determined by standards established by the Department, and pursuant to the following:

- (1) for public water supply systems, as defined in subdivision 4752(9) of this title, when it finds the same to be necessary in order to preserve or enhance

the quality of water provided to the inhabitants of the municipality, or to alleviate an adverse public health condition, or to allow for orderly development and growth of the municipality, except that no funds may be awarded until the Department determines that the applicant has complied with the provisions of 10 V.S.A. § 1676a, unless such funds are solely for the purpose of determining the effect of the proposed project on agriculture; or

(2) for planning of water pollution abatement and control facilities, in order to enable a municipality to comply with water quality standards established under 10 V.S.A. chapter 47.

(b) The Department shall award an advance for engineering planning under this section only when it finds:

- (1) that the cost of the project is reasonable for its intended purpose; and
- (2) that local funds are not readily available.

Sec. 36. 24 V.S.A. § 4767 is added to read:

§ 4767. PAYMENT OF AWARDS

On receipt of the engineering planning documents and their approval by the Department, the Department shall certify the award to the Commissioner of Finance and Management who shall issue his or her warrant for payment of the award from the construction grant funds available to the Department. The Department may direct the Commissioner of Finance and Management to issue his or her warrant for partial payments of the award upon receipt and approval

of portions of the total engineering work to be performed under the advance, together with the recipient's certification that costs for which reimbursement has been requested have been incurred and paid by the recipient municipality. The recipient shall provide supporting evidence of payment upon the request of the Department. Partial payments shall be made not more frequently than monthly. Interest costs incurred in local short-term borrowing of the engineering planning advance shall be reimbursed as part of the advance.

Sec. 37. 24 V.S.A. § 4768 is added to read:

§ 4768. REPAYMENT OF ADVANCES

Advances under this subchapter shall be repaid when construction of the facilities or any portion thereof is undertaken. Where a construction grant or loan is authorized by the Department for the project, the amount of the outstanding advances shall be retained from the initial payments of the grant or loan funds. In other instances, if repayment is not made within 60 days upon demand by the Department, the sum shall bear interest at the rate of 12 percent per annum from the date payment is demanded by the Department to the date of payment by the municipality. The Department may approve proportional repayment when construction is initiated on a small portion of the planned project.

Sec. 38. REPORT ON LOANS TO PRIVATE ENTITIES FOR WATER
POLLUTION ABATEMENT AND CONTROL FACILITIES AND
PUBLIC WATER SUPPLY SYSTEMS

(a) On or before December 15, 2016, the Secretary of Natural Resources shall submit to the House Committees on Corrections and Institutions, on Fish, Wildlife and Water Resources, and on Commerce and Economic Development and the Senate Committee on Institutions a report regarding whether and how to provide loans under 24 V.S.A. chapter 120 to private entities for water pollution abatement and control facilities, and public water supply systems.

(b) The report shall include:

(1) an assessment of the total funds available from the State for grants and loans to municipalities and the total funds available from the State for loans to private entities to improve water quality;

(2) an estimate of the costs to municipalities over the next 10 years of complying with State and federal water quality and water supply requirements, including any necessary improvements to water pollution abatement and control facilities or public water supply systems;

(3) an estimate of the likely demand by municipalities in the next 10 years for grants and loans for municipal compliance with State and federal water quality and water supply requirements;

(4) a recommendation of whether to authorize loans under 24 V.S.A. chapter 120 to private entities for water pollution abatement and control facilities or public water supply systems;

(A) if the Secretary recommends that private entities should not receive loans under 24 V.S.A. chapter 120 for water pollution abatement and control facilities or public water supply systems, the basis for the recommendation;

(B) if the Secretary recommends that private entities should be authorized to receive loans under 24 V.S.A. chapter 120 for water pollution abatement and control facilities or public water supply systems;

(i) the basis for the recommendation;

(ii) how loans to municipal projects would retain priority over private entities in eligibility;

(iii) whether loans to private entities should be limited to certain types of water pollution abatement and control facilities or public water supply systems projects, including whether:

(I) loans for correcting sewage problems should only be authorized to private residences or development with failed systems, as that term is defined in 10 V.S.A. § 1972; and

(II) loans to private entities for stormwater management should be limited to situations when stormwater runoff contributes to combined sewer

overflow issues in a municipality and the State or the municipality lacks regulatory authority to require the private entity to implement stormwater controls;

(iv) which financial institution or institutions should administer the loans; and

(v) recommendations on loan eligibility requirements, conditions of loan agreements, and other provisions necessary to administer loans to private entities.

Sec. 39. TRANSITION; WATER POLLUTION ABATEMENT CONTROL FACILITIES

(a) Notwithstanding any conflict with this act, the Department is authorized to continue to award assistance under the Municipal Pollution Control Priority System Rule, adopted August 1, 2014, until new rules are adopted to implement this act pursuant to 10 V.S.A. § 1628. Until such new rules are adopted, the Department shall award grants pursuant to subsection (b) of this section.

(b) When the Department finds that a proposed water pollution abatement and control facility is necessary to maintain or achieve compliance with the Vermont Water Quality Standards; that the proposed type, kind, quality, size, and estimated cost of the project, including operation cost and sewage disposal charges, are suitable for abatement of pollution; and that the project or the

prescribed project phases are necessary to meet the intent of the water quality classifications established by the Secretary or by statute under 10 V.S.A. chapter 47, the Department may award State financial assistance to the project as follows:

(1) Combined sewer separation facilities and combined sewer overflow abatement projects shall be eligible for a grant of 25 percent of the eligible project costs.

(2) Projects to abate dry weather sewage flows shall be eligible for a grant of up to 25 percent of the eligible project costs, except that any municipality having proceeded with construction of facilities with a State grant of 25 percent since July 1, 1984 shall be eligible for an increase in the State grant to a total of 35 percent of the eligible project costs.

(3) A project to construct, enlarge, or refurbish a wastewater treatment plant with a design hydraulic capacity of 250,000 or more gallons per day shall be eligible for a grant of up to 50 percent of the cost of that portion of the plant used to treat septage, or septage and sludge in combination, if the Commissioner of Environmental Conservation finds that the proposed plant capacity will be sufficient to receive, treat, and dispose of septage alone in a quantity equivalent to the ratio of 4,000 gallons or more of such septage per day for each 1,000,000 gallons per day of plant design hydraulic capacity. The portion of the plant used for processing septage, or septage and sludge in

combination, shall include facilities for receiving septage and for the storage,
treatment, transfer, and disposal of both septage and sludge.

Sec. 40. EFFECTIVE DATE

This act shall take effect on passage.