

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish, and Wildlife to which was
3 referred **Senate Bill No. 260** entitled “An act relating to funding the cleanup of
4 State waters” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 * * * Clean Water Working Group * * *

9 Sec. 1. FINDINGS

10 The General Assembly finds that for the purposes of this section and Secs.
11 2–4 of this act:

12 (1) Within Vermont there are 7,100 miles of rivers and streams and
13 812 lakes and ponds of at least five acres in size.

14 (2) Currently, over 350 waters or water segments in the State do not
15 meet water quality standards, are at risk of not meeting water quality standards,
16 or are altered due to the presence of aquatic nuisances.

17 (3) In 2015, the General Assembly enacted 2015 Acts and Resolves
18 No. 64, an act relating to improving the quality of State waters (Act 64), for the
19 purpose, among others, of providing mechanisms, staffing, and financing
20 necessary for the State to achieve and maintain compliance with the Vermont
21 Water Quality Standards for all State waters.

1 (4) Act 64 directed the State Treasurer to recommend to the General
2 Assembly a long-term mechanism for financing water quality improvement in
3 the State, including proposed revenue sources for water quality improvement
4 programs.

5 (5) The State Treasurer submitted a Clean Water Report in January 2017
6 that included:

7 (A) an estimate that over 20 years it would cost \$2.3 billion to
8 achieve compliance with water quality requirements;

9 (B) a projection that revenue available for water quality over the 20-
10 year period would be approximately \$1.06 billion, leaving a 20-year total
11 funding gap of \$1.3 billion;

12 (C) an estimate of annual compliance costs of \$115.6 million, which,
13 after accounting for projected revenue, would leave a funding gap of
14 \$48.5 million to pay for the costs of compliance with the first tier of federal
15 and State water quality requirements; and

16 (D) a financing plan to provide more than \$25 million annually in
17 additional State funds for water quality programs.

18 (6) After determining that a method to achieve equitable and effective
19 long-term funding methods to support clean water efforts in Vermont was
20 necessary, the General Assembly established in 2017 Acts and Resolves

1 No. 73, Sec. 26 the Working Group on Water Quality Funding to develop draft
2 legislation to accomplish this purpose.

3 (7) The Act 73 Working Group did not recommend a long-term funding
4 method to support clean water efforts in Vermont and instead recommended
5 that the General Assembly maintain a Capital Bill clean water investment of
6 \$15 million a year through fiscal years 2020 and 2021.

7 (8) In the years beyond fiscal year 2021, the Act 73 Working Group
8 acknowledged that capital funds would need to be reduced to \$10 to \$12
9 million a year and that additional revenues would need to be raised.

10 (9) The U.S. Environmental Protection Agency (EPA) in a letter to the
11 General Assembly stated that it is important for the State of Vermont to
12 establish a long-term revenue source to support water quality improvement in
13 order to comply with the accountability framework of the Lake Champlain
14 Total Maximum Daily Load plan.

15 (10) To ensure that the State has sufficient funds to clean and protect the
16 State's waters so that they will continue to provide their integral and inherent
17 environmental and economic benefits, the State should require a Clean Water
18 Working Group to recommend to the General Assembly draft legislation to
19 establish equitable and effective long-term funding methods to support clean
20 water efforts in Vermont.

1 (11) If the General Assembly does not enact a recommendation of the
2 Clean Water Working Group, the State shall implement a water quality
3 revenue occupancy surcharge to support water quality improvement.

4 Sec. 2. CLEAN WATER WORKING GROUP

5 (a) Creation. There is created the Clean Water Working Group to
6 recommend to the General Assembly how to establish an equitable and
7 effective long-term funding method to:

8 (1) fund the necessary water quality programs and projects that will
9 remediate, improve, and protect the quality of the waters of the State;

10 (2) coordinate water quality funding in the State;

11 (3) plan for the water quality funding needs of the State; and

12 (4) ensure accountability of the State's efforts to clean up impaired
13 waters, maintain or achieve the Vermont Water Quality Standards in all waters,
14 and prevent the future degradation of waters.

15 (b) Membership. The Clean Water Working Group shall be composed of
16 the following ten members:

17 (1) the Secretary of Natural Resources or designee;

18 (2) the Secretary of Agriculture, Food and Markets or designee;

19 (3) the Commissioner of Taxes or designee;

1 (4) one representative of a municipality in the State that has a
2 stormwater utility or other water quality funding mechanism, to be appointed
3 by the Speaker of the House;

4 (5) one representatives of a municipality in the State that does not have a
5 stormwater utility or other water quality funding mechanism, to be appointed
6 by the Committee on Committees;

7 (6) one representative of a business interest located in the State, to be
8 appointed by the Governor;

9 (7) a representative of the hospitality or tourism industry in the State, to
10 be appointed by the Speaker of the House;

11 (8) a representative of a regional planning commission, natural resource
12 conservation district, or regional or statewide watershed organization, to be
13 appointed by the Committee on Committees;

14 (9) a person with expertise in financial lending or investment, to be
15 appointed by the Governor; and

16 (10) a farmer, to be appointed by the Speaker of the House.

17 (c) Powers and duties. The Clean Water Working Group shall recommend
18 to the General Assembly:

19 (1) whether the State should establish an independent authority or
20 implement other alternatives to coordinate and fund water quality programs
21 and projects across State government;

1 (2) a description of the structure, powers, duties, and feasibility of the
2 independent authority or alternative mechanism recommended under
3 subdivision (1) of this subsection;

4 (3) a funding plan for water quality programs and projects in the State
5 that includes priorities for funding water quality programs in the State and that
6 will sufficiently fund the following State obligations:

7 (A) federally required or State-required cleanup plans for individual
8 waters or water segments, such as total maximum daily load plans;

9 (B) the requirements of 2015 Acts and Resolves No. 64; and

10 (C) the Agency of Natural Resources' Combined Sewer
11 Overflow Rule;

12 (4) one or more funding alternatives that are sufficient to implement the
13 financing plan for water quality recommended under subdivision (3) of this
14 subsection, including how each recommended funding alternative revenue
15 source shall be implemented, assessed, and collected; and

16 (5) whether the State Treasurer's estimate of State funding needs in the
17 Clean Water Report in January 2017 should be revised or updated due to
18 economic conditions or due to the need to reflect the most effective measures
19 to improve water quality.

20 (d) Assistance. The Clean Water Working Group shall have the
21 administrative, technical, and legal assistance of the Agency of Natural

1 Resources and the Agency of Agriculture, Food and Markets and the fiscal
2 assistance of the Department of Taxes. The Working Group shall also be
3 entitled to seek financial, technical, and scientific input or services from the
4 Office of the State Treasurer, the Agency of Transportation, the Vermont
5 Center for Geographic Information Services, and the Agency of Commerce and
6 Community Development. The Working Group may seek the input or
7 assistance of regional planning commissions, natural resources conservation
8 districts, and statewide and regional watershed organizations.

9 (e) Report. On or before January 15, 2019, the Clean Water Working
10 Group shall submit to the General Assembly draft legislation that addresses the
11 issues set forth under subsection (c) of this section.

12 (f) Meetings.

13 (1) The Secretary of Natural Resources shall call the first meeting of the
14 Clean Water Working Group to occur on or before August 1, 2018.

15 (2) The Clean Water Working Group shall select a chair or co-chairs
16 from among its members at its first meeting.

17 (3) A majority of the membership of the Clean Water Working Group
18 shall constitute a quorum.

19 (4) The Clean Water Working Group shall cease to exist on June 1,
20 2019.

1 (g) Compensation. Members of the Clean Water Working Group who are
2 not employees of the State of Vermont and who are not otherwise compensated
3 or reimbursed for their attendance shall be entitled to per diem compensation
4 and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be paid from
5 the budget of the Agency of Administration.

6 * * * Water Quality Occupancy Surcharge * * *

7 Sec. 3. 32 V.S.A. § 9241a is added to read:

8 § 9241a. WATER QUALITY OCCUPANCY SURCHARGE

9 (a) In addition to the tax on the rent of each occupancy imposed in section
10 9241 of this title, an operator shall collect a water quality occupancy surcharge
11 of \$2.00 per room for each night of occupancy. The surcharge shall be in
12 addition to any tax assessed under section 9241 of this title.

13 (b) The Commissioner shall deposit the surcharge collected under this
14 section in the Clean Water Fund under 10 V.S.A. § 1388.

15 (c) The provisions of this chapter relating to the imposition, collection,
16 remission, and enforcement of the meals and rooms tax imposed in section
17 9241 of this title shall apply to the water quality occupancy surcharge imposed
18 in this section.

1 * * * Clean Water Fund * * *

2 Sec. 4. 10 V.S.A. § 1388 is amended to read:

3 § 1388. CLEAN WATER FUND

4 (a) There is created a special fund to be known as the “Clean Water Fund”
5 to be administered by the Secretary of Administration. The Fund shall
6 consist of:

7 (1) ~~revenues dedicated for deposit into the Fund by the General~~
8 ~~Assembly, including from~~ the Property Transfer Tax surcharge established
9 under 32 V.S.A. § 9602a; ~~and~~

10 (2) other gifts, donations, and impact fees received from any source,
11 public or private, dedicated for deposit into the Fund and approved by the
12 Secretary of Administration;

13 (3) revenues from the Water Quality Occupancy Surcharge established
14 under 32 V.S.A. § 9241a; and

15 (4) other revenues dedicated for deposit into the Fund by the General
16 Assembly.

17 (b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7,
18 subchapter 5, unexpended balances and any earnings shall remain in the Fund
19 from year to year.

1 * * * Clean Water Fund Board * * *

2 Sec. 5. 10 V.S.A. § 1389 is amended to read:

3 § 1389. CLEAN WATER FUND BOARD

4 (a) Creation.

5 (1) There is created the Clean Water Fund Board ~~which~~ that shall
6 recommend to the Secretary of Administration ~~expenditures;~~

7 (A) appropriations from the Clean Water Fund; and

8 (B) clean water projects to be funded by capital appropriations.

9 (2) The Clean Water Fund Board shall be attached to the Agency of
10 Administration for administrative purposes.

11 (b) Organization of the Board. The Clean Water Fund Board shall be
12 composed of:

13 (1) the Secretary of Administration or designee;

14 (2) the Secretary of Natural Resources or designee;

15 (3) the Secretary of Agriculture, Food and Markets or designee;

16 (4) the Secretary of Commerce and Community Development or
17 designee;

18 (5) the Secretary of Transportation or designee; and

19 (6) two members of the public who are not legislators, one of whom
20 shall represent a municipality subject to the municipal separate storm sewer

1 system (MS4) permit and one of whom shall represent a municipality that is
2 not subject to the MS4 permit, appointed as follows:

3 (A) the Speaker of the House shall appoint the member from an MS4
4 municipality; and

5 (B) the Committee on Committees shall appoint the member who is
6 not from an MS4 municipality.

7 (c) Officers; committees; rules.

8 (1) The Clean Water Fund Board shall annually elect a chair from its
9 members Secretary of Administration shall serve as the Chair of the Board.

10 The Clean Water Fund Board may elect additional officers from its members,
11 establish committees or subcommittees, and adopt procedural rules as
12 necessary and appropriate to perform its work.

13 (2) Members of the Board who are not employees of the State of
14 Vermont and who are not otherwise compensated or reimbursed for their
15 attendance shall be entitled to per diem compensation and reimbursement of
16 expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of
17 Administration for attendance of meetings of the Board.

18 (d) Powers and duties of the Clean Water Fund Board. The Clean Water
19 Fund Board shall have the following powers and authority:

20 (1) The Clean Water Fund Board shall recommend to the Secretary of
21 Administration the appropriate allocation of funds from the Clean Water Fund

1 for the purposes of developing the State budget required to be submitted to the
2 General Assembly under 32 V.S.A. § 306. All recommendations from the
3 Board should be intended to achieve the greatest water quality gain for the
4 investment. The recommendations of the Clean Water Fund Board shall be
5 open to inspection and copying under the Public Records Act, and the Clean
6 Water Fund Board shall submit to the Senate Committees on Appropriations,
7 on Finance, on Agriculture, and on Natural Resources and Energy and the
8 House Committees on Appropriations, on Ways and Means, on Agriculture
9 and Forestry, and on Natural Resources, Fish, and Wildlife a copy of any
10 recommendations provided to the Governor.

11 (2) The Clean Water Fund Board may pursue and accept grants, gifts,
12 donations, or other funding from any public or private source and may
13 administer such grants, gifts, donations, or funding consistent with the terms of
14 the grant, gift, or donation.

15 (3) The Clean Water Fund Board shall:

16 (A) establish a process by which watershed organizations, State
17 agencies, and other interested parties may propose water quality projects or
18 programs for financing from the Clean Water Fund;

19 (B) develop an annual revenue estimate and proposed budget for the
20 Clean Water Fund;

1 (C) establish measures for determining progress and effectiveness of
2 expenditures for clean water restoration efforts;

3 (D) issue the annual Clean Water Investment Report required under
4 section 1389a of this title; ~~and~~

5 (E) solicit, consult with, and accept public comment from
6 organizations interested in improving water quality in Vermont regarding
7 recommendations under this subsection (d) for the allocation of funds from the
8 Clean Water Fund; and

9 (F) establish a process under which a watershed organization, State
10 agency, or other interested party may propose that a water quality project or
11 program identified in a watershed basin plan receive funding from the Clean
12 Water Fund.

13 (e) Priorities.

14 (1) In making recommendations under subsection (d) of this section
15 regarding the appropriate allocation of funds from the Clean Water Fund, the
16 Board shall prioritize:

17 (A) funding to programs and projects that address sources of water
18 pollution in waters listed as impaired on the list of waters established by
19 33 U.S.C. § 1313(d);

- 1 (B) funding to projects that address sources of water pollution
2 identified as a significant contributor of water quality pollution, including
3 financial assistance to grant recipients at the initiation of a funded project;
- 4 (C) funding to programs or projects that address or repair riparian
5 conditions that increase the risk of flooding or pose a threat to life or property;
- 6 (D) assistance required for State and municipal compliance with
7 stormwater requirements for highways and roads;
- 8 (E) funding for education and outreach regarding the implementation
9 of water quality requirements, including funding for education, outreach,
10 demonstration, and access to tools for the implementation of the Acceptable
11 Management Practices for Maintaining Water Quality on Logging Jobs in
12 Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;
- 13 (F) funding for innovative or alternative technologies or practices
14 designed to improve water quality or reduce sources of pollution to surface
15 waters, including funding for innovative nutrient removal technologies and
16 community-based methane digesters that utilize manure, wastewater, and food
17 residuals to produce energy;
- 18 (G) funding to purchase agricultural land in order to take that land
19 out of practice when the State water quality requirements cannot be remediated
20 through agricultural Best Management Practices; **and**

1 (H) funding to municipalities for the establishment and operation of
2 stormwater utilities; and

3 (I) investment in watershed basin planning, water quality project
4 identification screening, water quality project evaluation, and conceptual plan
5 development of water quality projects.

6 (2) In developing its recommendations under subsection (d) of this
7 section regarding the appropriate allocation of funds from the Clean Water
8 Fund, the Clean Water Fund Board shall, during the first three years of its
9 existence and within the priorities established under subdivision (1) of this
10 subsection (e), prioritize awards or assistance to municipalities for municipal
11 compliance with water quality requirements; and to municipalities for the
12 establishment and operation of stormwater utilities.

13 (3) In developing its recommendations under subsection (d) of this
14 section regarding the appropriate allocation of funds from the Clean Water
15 Fund, the Board shall, after satisfaction of the priorities established under
16 subdivision (1) of this subsection (e), attempt to provide ~~for equitable~~
17 ~~apportionment of awards from the Fund to all regions of the State and for~~
18 ~~control of all sources of point and non-point sources of pollution in the State~~
19 investment in all watersheds of the State based on the needs identified in the
20 watershed basin plan.

1 (f) Assistance. The Clean Water Fund Board shall have the administrative,
2 technical, and legal assistance of the Agency of Administration, the Agency of
3 Natural Resources, the Agency of Agriculture, Food and Markets, the Agency
4 of Transportation, and the Agency of Commerce and Community
5 Development for those issues or services within the jurisdiction of the
6 respective agency. The cost of the services provided by agency staff shall be
7 paid from the budget of the agency providing the staff services.

8 (g) Terms; appointed members. Members who are appointed to the Clean
9 Water Fund Board shall be appointed for terms of four years, except initial
10 appointments shall be made such that the member appointed by the Speaker
11 shall be appointed for a term of two years. Vacancies on the Board shall be
12 filled for the remaining period of the term in the same manner as initial
13 appointments.

14 * * * Coordinated Water Quality Grants; Performance Grants * * *

15 Sec. 6. COORDINATED WATER QUALITY GRANTS

16 The Secretary of Natural Resources, the Secretary of Agriculture, Food and
17 Markets, and the Secretary of Transportation shall coordinate prior to awarding
18 water quality grants or funding in order to maximize the water quality benefit
19 or impact of funded projects in a watershed planning basin. When grants are
20 issued, the Secretary of Natural Resources, the Secretary of Agriculture, Food
21 and Markets, and the Secretary of Transportation shall, when allowed by law,

1 authorize funds or identify other funding opportunities that may be used to
2 support capacity to implement projects in the watershed basin.

3 Sec. 7. 10 V.S.A. § 1253(d) is amended to read:

4 (d)(1) Through the process of basin planning, the Secretary shall determine
5 what degree of water quality and classification should be obtained and
6 maintained for those waters not classified by the Board before 1981 following
7 the procedures in sections 1254 and 1258 of this title. Those waters shall be
8 classified in the public interest. The Secretary shall prepare and maintain an
9 overall surface water management plan to assure that the State water quality
10 standards are met in all State waters. The surface water management plan shall
11 include a schedule for updating the basin plans. The Secretary, in consultation
12 with regional planning commissions and the Natural Resources Conservation
13 Council, shall revise all 15 basin plans and update the basin plans on a five-
14 year rotating basis. On or before January 15 of each year, the Secretary shall
15 report to the House Committees on Agriculture and Forestry, on Natural
16 Resources and Energy, and on Fish, Wildlife and Water Resources, Fish, and
17 Wildlife, and to the Senate Committees on Agriculture and on Natural
18 Resources and Energy regarding the progress made and difficulties
19 encountered in revising basin plans. The report shall include a summary of
20 basin planning activities in the previous calendar year, a schedule for the
21 production of basin plans in the subsequent calendar year, and a summary of

1 actions to be taken over the subsequent three years. The provisions of
2 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to
3 be made under this subsection.

4 (2) In developing a basin plan under this subsection, the Secretary shall:

5 (A) identify waters that should be reclassified outstanding resource
6 waters or that should have one or more uses reclassified under section 1252 of
7 this title;

8 (B) identify wetlands that should be reclassified as Class I wetlands;

9 (C) identify projects or activities within a basin that will result in the
10 protection and enhancement of water quality;

11 (D) assure that municipal officials, citizens, watershed groups, and
12 other interested groups and individuals are involved in the basin planning
13 process;

14 (E) assure regional and local input in State water quality policy
15 development and planning processes;

16 (F) provide education to municipal officials and citizens regarding
17 the basin planning process;

18 (G) develop, in consultation with the regional planning commission,
19 an analysis and formal recommendation on conformance with the goals and
20 objectives of applicable regional plans;

21 (H) provide for public notice of a draft basin plan; and

1 (I) provide for the opportunity of public comment on a draft
2 basin plan.

3 (3) The Secretary shall, contingent upon the availability of funding,
4 ~~contract with a regional planning commission or~~ negotiate and issue
5 performance grants to the Vermont Association of Planning and Development
6 Agencies or its designee and the Natural Resources Conservation Council or its
7 designee to assist in or to produce a basin plan under the schedule set forth in
8 subdivision (1) of this subsection in a manner consistent with the authority of
9 regional planning commissions under 24 V.S.A. chapter 117 and the authority
10 of the natural resources conservation districts under chapter 31 of this title.

11 ~~When contracting negotiating a scope of work with a regional planning~~
12 ~~commission or~~ the Vermont Association of Planning and Development
13 Agencies or its designee and the Natural Resources Conservation Council or its
14 designee to assist in or produce a basin plan, the Secretary may require the
15 ~~regional planning commission~~ Vermont Association of Planning and
16 Development Agencies or the Natural Resources Conservation Council to:

17 (A) conduct any of the activities required under subdivision (2) of
18 this subsection (d);

19 (B) provide technical assistance and data collection activities to
20 inform municipal officials and the State in making water quality investment
21 decisions;

1 (C) coordinate municipal planning and adoption or implementation of
2 municipal development regulations to better to meet State water quality
3 policies and investment priorities; or

4 (D) assist the Secretary in implementing a project evaluation process
5 to prioritize water quality improvement projects within the region to assure
6 ~~cost effective~~ cost-effective use of State and federal funds.

7 * * * Lakes in Crisis * * *

8 Sec. 8. 10 V.S.A. chapter 47, subchapter 2A is added to read:

9 Subchapter 2A. Lake in Crisis

10 § 1310. DESIGNATION OF LAKE IN CRISIS

11 (a) The Secretary of Natural Resources (Secretary) shall review whether a
12 lake in the State should be designated as a lake in crisis upon the Secretary's
13 own motion or upon petition of 15 or more persons or a selectboard of a
14 municipality in which the lake or a portion of the lake is located.

15 (b) The Secretary shall designate a lake as a lake in crisis if, after review
16 under subsection (a) of this section, the Secretary determines that:

17 (1) the lake or segments of the lake have been listed as impaired;

18 (2) the condition of the lake will cause:

19 (A) a potential harm to the public health; and

20 (B) a risk of damage to the environment or natural resources; and

1 (3) a municipality in which the lake or a portion of the lake is located
2 has reduced the valuation of real property due to the condition of the lake.

3 § 1311. STATE RESPONSE TO A LAKE IN CRISIS

4 (a) Adoption of crisis response plan. When a lake is declared in crisis, the
5 Secretary shall within 90 days after the designation of the lake in crisis issue a
6 comprehensive crisis response plan for the management of the lake in crisis in
7 order to improve water quality in the lake or to mitigate or eliminate the
8 potential harm to public health or the risk of damages to the environment or
9 natural resources. The Secretary shall coordinate with the Secretary of
10 Agriculture, Food and Markets and the Secretary of Transportation in the
11 development of the crisis response plan. The crisis response plan may require
12 implementation of one or both of the following in the watershed of the lake in
13 crisis:

14 (1) water quality requirements necessary to address specific harms to
15 public health or risks to the environment or natural resources; or

16 (2) implementation of or compliance with existing water quality
17 requirements under one or more of the following:

18 (A) water quality requirements under chapter 47 of this title,
19 including requiring a property owner to obtain a permit or implement best
20 management practices for the discharge of stormwater runoff from any size of
21 impervious surfaces if the Secretary determines that the treatment of the

1 discharge of stormwater runoff is necessary to reduce the adverse impacts to
2 water quality of the discharge or stormwater on the lake in crisis;

3 (B) agricultural water quality requirements under 6 V.S.A.
4 chapter 215, including best management practices under 6 V.S.A. § 4810 to
5 reduce runoff from the farm; or

6 (C) water quality requirements adopted under section 1264 of this
7 section for stormwater runoff from municipal or State roads.

8 (b) Public hearing. The Secretary shall hold at least one public hearing in
9 the watershed of the lake in crisis and shall provide an opportunity for public
10 notice and comment for a proposed lake in crisis response plan.

11 (c) Term of designation. A lake shall remain designated as in crisis under
12 this section until the Secretary determines that the lake no longer satisfies the
13 criteria for designation under subsection (b) of this section.

14 (d) Agency cooperation and services. All other State agencies shall
15 cooperate with the Secretary in responding to the lake in crisis, and the
16 Secretary shall be entitled to seek technical and scientific input or services
17 from the Agency of Agriculture, Food and Markets, the Agency of
18 Transportation, or other necessary State agencies.

1 § 1312. LAKE IN CRISIS ORDER

2 The Secretary, after consultation with the Secretary of Agriculture, Food
3 and Markets, may issue a lake in crisis order as an administrative order under
4 chapter 201 of this title to require a person to:

5 (1) take an action identified in the lake in crisis response plan;

6 (2) cease or remediate any acts, discharges, site conditions, or processes
7 contributing to the impairment of the lake in crisis;

8 (3) mitigate a significant contributor of a pollutant to the lake in
9 crisis; or

10 (4) conduct testing, sampling, monitoring, surveying, or other analytical
11 operations required to determine the nature, extent, duration, or severity of the
12 potential harm to the public health or a risk of damage to the environment or
13 natural resources.

14 § 1313. ASSISTANCE

15 (a) A person subject to a lake in crisis order shall be eligible for technical
16 and financial assistance from the Secretary to be paid from the Lake in Crisis
17 Response Program Fund. The Secretary shall adopt by procedure the process
18 for application for assistance under this section.

19 (b) State financial assistance awarded under this section shall be in the
20 form of a grant. An applicant for a State grant shall pay at least 35 percent of
21 the total eligible project cost. The dollar amount of a State grant shall be equal

1 to the total eligible project cost, less 35 percent of the total as paid by the
2 applicant, and less the amount of any federal assistance awarded.

3 (c) A grant awarded under this section shall comply with all terms and
4 conditions for the issuance of State grants.

5 § 1314. FUNDING OF STATE RESPONSE TO A LAKE IN CRISIS

6 (a) Initial response. Upon designation of a lake in crisis, the Secretary
7 may, for the purposes of the initial response to the lake in crisis, expend up to
8 \$50,000.00 appropriated to the Agency of Natural Resources from the Clean
9 Water Fund for authorized contingency spending.

10 (b) Long-term funding. In the subsequent budget submitted to the General
11 Assembly under 32 V.S.A. § 701, the Secretary of Administration shall
12 propose appropriations to the Lake in Crisis Response Program Fund to
13 implement fully the crisis response plan for the lake in crisis, including
14 recommended appropriations from one or more of the following:

15 (1) the Clean Water Fund established under section 1389 of this title;

16 (2) the Vermont Housing and Conservation Trust Fund established
17 under section 312 of this title;

18 (3) capital funds and other monies available from the Secretary of
19 Agriculture, Food and Markets for water quality programs or projects;

20 (4) capital funds and other monies available from the Secretary of
21 Natural Resources for water quality programs or projects; and

1 (5) General Fund appropriations.

2 § 1315. LAKE IN CRISIS RESPONSE PROGRAM FUND

3 (a) There is created a special fund known as the Lake in Crisis Response
4 Program Fund to be administered by the Secretary of Natural Resources. The
5 Fund shall consist of:

6 (1) funds that may be appropriated by the General Assembly; and

7 (2) other gifts, donations, or funds received from any source, public or
8 private, dedicated for deposit into the Fund.

9 (b) The Secretary shall use monies deposited in the Fund for the
10 Secretary's implementation of a crisis response plan for a lake in crisis and for
11 financial assistance under section 1313 of this title to persons subject to a lake
12 in crisis order.

13 (c) Notwithstanding the requirements of 32 V.S.A. § 588(3) and (4),
14 interest earned by the Fund and the balance of the Fund at the end of the fiscal
15 year shall be carried forward in the Fund and shall not revert to the General
16 Fund.

17 Sec. 9. LAKE CARMI; LAKE IN CRISIS

18 The General Assembly declares Lake Carmi as a lake in crisis under
19 10 V.S.A. chapter 47, subchapter 2A. The crisis response plan for Lake Carmi
20 shall include implementation of runoff controls.

1 Sec. 10. 10 V.S.A. § 8003(a) is amended to read:

2 (a) The Secretary may take action under this chapter to enforce the
3 following statutes and rules, permits, assurances, or orders implementing the
4 following statutes, and the Board may take such action with respect to
5 subdivision (10) of this subsection:

6 (1) 10 V.S.A. chapter 23, relating to air quality;

7 (2) 10 V.S.A. chapter 32, relating to flood hazard areas;

8 (3) 10 V.S.A. chapters 47 and 56, relating to water pollution control,
9 water quality standards, ~~and~~ public water supply, and lakes in crisis;

10 * * *

11 Sec. 11. 10 V.S.A. § 8503(a) is amended to read:

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

16 (1) The following provisions of this title:

17 (A) chapter 23 (air pollution control);

18 (B) chapter 50 (aquatic nuisance control);

19 (C) chapter 41 (regulation of stream flow);

20 (D) chapter 43 (dams);

21 (E) chapter 47 (water pollution control; lakes in crisis);

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* * * ANR Report on Future Farming Practices * * *

Sec. 12. AGENCY OF AGRICULTURE, FOOD AND MARKETS
REPORT ON FARMING PRACTICES IN VERMONT

(a) The Nutrient Management Commission convened by the Secretary of Agriculture, Food and Markets as a requirement of the U.S. Environmental Protection Agency’s approved implementation plan for the Lake Champlain total maximum daily load plan shall review whether and how to revise farming practices in Vermont in a manner that mitigates existing environmental impacts while maintaining economic viability. In conducting its review, the Commission shall consider whether and how to:

(1) revise farming practice to improve or build healthy soils;

(2) reduce agriculturally based pollution in areas of high pollution, stressed, or impaired waters;

(3) establish a carrying capacity or maximum number of livestock that the land used for nutrient application on a farm can support without contribution of nutrients to a water;

(4) provide financial and technical support to facilitate the transition by farms to less-polluting practices through one or more of the following:

(A) cover cropping;

(B) reduced tillage or no tillage;

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3 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE