

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 559 entitled “An act relating to miscellaneous environmental
4 subjects” respectfully reports that it recommends that the Senate propose to the
5 House that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 * * * Basin Planning * * *

8 Sec. 1. 10 V.S.A. § 1253(d) is amended to read:

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

1 Wildlife, and to the Senate Committees on Agriculture and on Natural
2 Resources and Energy regarding the progress made and difficulties
3 encountered in revising basin plans. The report shall include a summary of
4 basin planning activities in the previous calendar year, a schedule for the
5 production of basin plans in the subsequent calendar year, and a summary of
6 actions to be taken over the subsequent three years. The provisions of
7 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to
8 be made under this subsection.

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

10 (A) identify waters that should be reclassified outstanding resource
11 waters or that should have one or more uses reclassified under section 1252 of
12 this title;

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

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

16 (D) assure that municipal officials, citizens, watershed groups, and
17 other interested groups and individuals are involved in the basin planning
18 process;

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

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

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

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

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

9 (3) The Secretary shall, contingent upon the availability of funding,
10 ~~contract with a regional planning commission or~~ negotiate and issue
11 performance grants to the Vermont Association of Planning and Development
12 Agencies or its designee and the Natural Resources Conservation Council or its
13 designee to assist in or to produce a basin plan under the schedule set forth in
14 subdivision (1) of this subsection in a manner consistent with the authority of
15 regional planning commissions under 24 V.S.A. chapter 117 and the authority
16 of the natural resources conservation districts under chapter 31 of this title.
17 When ~~contracting~~ negotiating a scope of work with a regional planning
18 ~~commission or~~ the Vermont Association of Planning and Development
19 Agencies or its designee and the Natural Resources Conservation Council or its
20 designee to assist in or produce a basin plan, the Secretary may require the

1 ~~regional planning commission~~ Vermont Association of Planning and

2 Development Agencies or the Natural Resources Conservation Council to:

3 (A) conduct any of the activities required under subdivision (2) of
4 this subsection;

5 (B) provide technical assistance and data collection activities to
6 inform municipal officials and the State in making water quality investment
7 decisions;

8 (C) coordinate municipal planning and adoption or implementation of
9 municipal development regulations to better meet State water quality policies
10 and investment priorities; or

11 (D) assist the Secretary in implementing a project evaluation process
12 to prioritize water quality improvement projects within the region to assure
13 cost effective use of State and federal funds.

14 * * * Clean Water Investment Report * * *

15 Sec. 2. 10 V.S.A. § 1389a(a) is amended to read:

16 (a) Beginning on January 15, 2017, and annually thereafter, the Secretary
17 of Administration shall publish the Clean Water Investment Report. The
18 Report shall summarize all investments, including their cost-effectiveness,
19 made by the Clean Water Fund Board and other State agencies for clean water
20 restoration over the prior ~~calendar~~ fiscal year. The Report shall include
21 expenditures from the Clean Water Fund, the General Fund, the Transportation

1 Fund, and any other State expenditures for clean water restoration, regardless
2 of funding source.

3 * * * Petroleum Cleanup Fund * * *

4 Sec. 3. 10 V.S.A. § 1941(b) is amended to read:

5 (b) The Secretary may authorize disbursements from the Fund for the
6 purpose of the cleanup and restoration of contaminated soil and groundwater
7 caused by releases of petroleum from underground storage tanks and
8 aboveground storage tanks, including air emissions for remedial actions, and
9 for compensation of third parties for injury and damage caused by a release.
10 This Fund shall be used for no other governmental purposes, nor shall any
11 portion of the Fund ever be available to borrow from by any branch of
12 government; it being the intent of the General Assembly that this Fund and its
13 increments shall remain intact and inviolate for the purposes set out in this
14 chapter. Disbursements under this section may be made only for uninsured
15 costs incurred after January 1, 1987 and for which a claim is made prior to
16 July 1, ~~2019~~ 2029 and judged to be in conformance with prevailing industry
17 rates. This includes:

18 * * *

1 Sec. 4. 10 V.S.A. § 1942 is amended to read:

2 § 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

3 (a) There is hereby established a licensing fee of one cent per gallon of
4 motor fuel sold by a distributor or dealer or used by a user in this State, ~~which~~
5 that will be assessed against every distributor, dealer, or user as defined in
6 23 V.S.A. chapters 27 and 28, and ~~which~~ that will be deposited into the
7 Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this
8 title. The Secretary, in consultation with the Petroleum Cleanup Fund
9 Advisory Committee established pursuant to subsection 1941(e) of this title,
10 shall annually report to the General Assembly on the balance of the Motor Fuel
11 Account and shall make recommendations, if any, for changes to the program.
12 The Secretary shall also determine the unencumbered balance of the Motor
13 Fuel Account as of May 15 of each year, and if the balance is equal to or
14 greater than \$7,000,000.00, then the licensing fee shall not be assessed in the
15 upcoming fiscal year. The Secretary shall promptly notify all sellers assessing
16 this fee of the status of the fee for the upcoming fiscal year. This fee ~~will~~ shall
17 be paid in the same manner, at the same time, and subject to the same
18 restrictions or limitations as the tax on motor fuels. The fee ~~will~~ shall be
19 collected by the Commissioner of Motor Vehicles and deposited into the
20 Petroleum Cleanup Fund. This fee requirement shall terminate on April 1,
21 ~~2021~~ 2031.

1 (b) There is assessed a licensing fee of one cent per gallon for the bulk
2 retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this State.
3 This fee shall be subject to the collection, administration, and enforcement
4 provisions of 32 V.S.A. chapter 233, and the fees collected under this
5 subsection by the Commissioner of Taxes shall be deposited into the
6 Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this
7 title. The Secretary, in consultation with the Petroleum Cleanup Fund
8 Advisory Committee established pursuant to subsection 1941(e) of this title,
9 shall annually report to the General Assembly on the balance of the Heating
10 Fuel Account and shall make recommendations, if any, for changes to the
11 program. The Secretary shall also determine the unencumbered balance of the
12 Heating Fuel Account as of May 15 of each year, and if the balance is equal to
13 or greater than \$3,000,000.00, then the licensing fee shall not be assessed in
14 the upcoming fiscal year. The Secretary shall promptly notify all sellers
15 assessing this fee of the status of the fee for the upcoming fiscal year. This fee
16 provision shall terminate on April 1, 2021 2031.

17 Sec. 5. 10 V.S.A. § 1943(c) is amended to read:

18 (c) This tank assessment shall terminate on July 1, ~~2019~~ 2029.

19 * * * Mercury-Added Motor Vehicle Components * * *

20 Sec. 6. 10 V.S.A. § 7108 is added to read:

21 § 7108. MERCURY-ADDED MOTOR VEHICLE COMPONENTS

1 (a) Applicability. This section applies to:

2 (1) a motor vehicle recycler or scrap metal recycling facility in the
3 State; and

4 (2) a manufacturer of motor vehicles sold in this State.

5 (b) Mercury-added switch removal requirements. A motor vehicle recycler
6 that accepts end-of-life motor vehicles shall remove mercury-added vehicle
7 switches prior to crushing, shredding, or other scrap metal processing and prior
8 to conveying for crushing, shredding, or other scrap metal processing.

9 (1) Motor vehicle recyclers shall maintain a log sheet of switches
10 removed from end-of-life motor vehicles and shall provide such log to the
11 Agency annually or upon request of the Agency.

12 (2) Switches, including switches encased in light or brake assemblies,
13 shall be collected, stored, transported, and handled in accordance with all
14 applicable State and federal laws.

15 (c) Manufacturer mercury-added switch recovery program. A
16 manufacturer of vehicles sold in this State, individually or as part of a group,
17 shall implement a mercury-added vehicle switch recovery program that
18 includes the following:

19 (1) educational material to assist motor vehicle recyclers in identifying
20 mercury-added vehicle switches and safely removing, properly handling, and
21 storing switches;

1 (2) storage containers provided at no cost to all motor vehicle recyclers
2 identified by the Agency, suitable for the safe storage of switches, including
3 switches encased in light or brake assemblies;

4 (3) collection, packaging, shipping, and recycling of mercury-added
5 switches, including switches encased in light or brake assemblies, provided to
6 all motor vehicle recyclers at no cost and that comply with all applicable State
7 and federal laws; and

8 (4) a report on or before December 1 annually to the Agency that
9 includes the total number of mercury-added switches recovered in the program,
10 the names of the motor vehicle recyclers and the number of switches removed
11 from each, and the total amount of mercury collected during the previous 12-
12 month period.

13 (d) Agency responsibility.

14 (1) The Agency shall provide workshops and other training to motor
15 vehicle recyclers to inform them of the requirements of this section.

16 (2) The Agency may develop, by procedure, exemptions of certain
17 mercury-added vehicle switches and other components from the requirements
18 of this section, including mercury-added switches that are inaccessible due to
19 motor vehicle damage and anti-lock brake switches in certain motor vehicle
20 types that are difficult or labor-intensive to remove.

1 Sec. 7. APPLICATION OF ENACTMENT

2 On December 31, 2017, the former 10 V.S.A. § 7108, requiring establishing
3 mercury-added vehicle component requirements, as established by 2006 Acts
4 and Resolves No. 117, was repealed. Sec. 6 of this act reenacts 10 V.S.A.
5 § 7108 in substantially the same form as the section was enacted by 2006 Acts
6 and Resolves No. 117. Notwithstanding the requirements of 1 V.S.A. § 214,
7 the requirements of 10 V.S.A. § 7108 as enacted by Sec. 6 of this act shall
8 apply retroactively to December 31, 2017 and shall be implemented
9 prospectively from that date.

10 Sec. 8. REPEAL OF MERCURY-ADDED MOTOR VEHICLE

11 COMPONENT REQUIREMENTS

12 10 V.S.A. § 7108 (mercury-added vehicle component requirements) shall
13 be repealed on December 31, 2021.

14 * * * Forgiveness of Municipal Water Supply and
15 Pollution Control Planning Advances * * *

16 Sec. 9. FORGIVENESS OF REPAYMENT OF PLANNING ADVANCES

17 The Secretary of Natural Resources shall not require a municipality to repay
18 engineering planning advances awarded under 24 V.S.A. chapter 120,
19 subchapter 2 if the Secretary determines that:

20 (1) the engineering planning advance was awarded prior to September 1,
21 2011; and

1 (2) due to the effects of Tropical Storm Irene, documentation is no
2 longer available to establish the engineering planning scope and associated
3 construction project for which the engineering planning advance was awarded.

4 * * * Act 250 Corrective Action Plans * * *

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

6 § 6081. PERMITS REQUIRED; EXEMPTIONS

7 * * *

8 (x)(1) No permit or permit amendment is required for the construction of
9 improvements for any one of the actions or abatements authorized in this
10 subdivision:

11 (A) a remedial or removal action for which the Secretary of Natural
12 Resources has authorized disbursement under section 1283 of this title;

13 (B) abating a release or threatened release, as directed by the
14 Secretary of Natural Resources under section 6615 of this title;

15 (C) a remedial or removal action directed by the Secretary of Natural
16 Resources under section 6615 of this title;

17 (D) a corrective action authorized in a corrective action plan
18 approved by the Secretary of Natural Resources under section 6615b of this
19 title;

1 (E) a corrective action authorized in a corrective action plan
2 approved by the Secretary of Natural Resources under chapter 159,
3 subchapter 3 of this title; or

4 (F) the management of “development soils,” as that term is defined in
5 subdivision 6602(39) of this title, under a plan approved by the Secretary of
6 Natural Resources under section 6604c of this title.

7 (2) Any development subsequent to the construction of improvements
8 for any one of the actions or abatements authorized in subdivision (1) of this
9 subsection shall not be exempt from the provisions of this chapter.

10 * * * Environmental Enforcement Report * * *

11 Sec. 11. 10 V.S.A. § 8017 is amended to read:

12 § 8017. ANNUAL REPORT

13 The Secretary and the Attorney General shall report annually to the
14 President Pro Tempore of the Senate, the Speaker of the House, the House
15 Committee on ~~Fish, Wildlife and Water Resources~~ Natural Resources, Fish,
16 and Wildlife, and the Senate ~~and House Committees~~ Committee on Natural
17 Resources and Energy. The report shall be filed ~~no later than January 15~~ on or
18 before February 15, on the enforcement actions taken under this chapter, and
19 on the status of citizen complaints about environmental problems in the State.
20 The report shall describe, at a minimum, the number of violations, the actions
21 taken, the disposition of cases, the amount of penalties collected, and the cost

1 of administering the enforcement program. The provisions of 2 V.S.A. § 20(d)
2 (expiration of required reports) shall not apply to the report to be made under
3 this section.

4 * * * Citizen Right of Action * * *

5 Sec. 12. 10 V.S.A. chapter 205 is added to read:

6 CHAPTER 205. CITIZEN RIGHT OF ACTION

7 § 8055. CITIZEN RIGHT OF ACTION

8 (a) Suit authorized. Except as provided in subsection (c) of this section, a
9 person may commence a civil action for equitable or declaratory relief on the
10 person's own behalf against one or more of the following persons:

11 (1) any person who is alleged to be in violation of any statute, permit,
12 certification, rule, permit condition, prohibition, or order set forth, issued, or
13 required under 6 V.S.A. chapter 215;

14 (2) any person subject to regulation under this chapter who is alleged to
15 be in violation of any statute, permit, certification, rule, permit condition,
16 prohibition, or order set forth, issued, or required under chapter 37 or 47 of this
17 title;

18 (3) the Secretary of Agriculture, Food and Markets when there is an
19 alleged failure of the Agency of Agriculture, Food and Markets to perform any
20 act or duty under 6 V.S.A. chapter 215 that is not discretionary for the

1 Secretary of Agriculture, Food and Markets or the Agency of Agriculture,
2 Food and Markets; and

3 (4) the Secretary of Natural Resources when there is an alleged
4 failure of the Agency of Natural Resources to perform any act or duty under
5 chapter 37 or 47 of this title that is not discretionary for the Secretary of
6 Natural Resources or the Agency of Natural Resources.

7 (b) Prerequisite to commencement of action. A person shall not commence
8 an action under subsection (a) of this section prior to 90 days after the plaintiff
9 has given notice of the violation to:

10 (1) the Secretary of Agriculture, Food and Markets for an action
11 initiated under subdivision (a)(1) or (3) of this section;

12 (2) the Secretary of Natural Resources for an action initiated under
13 subdivision (a)(2) or (4) of this section; and

14 (3) any person who is alleged to be in violation of a statute, permit,
15 certification, rule, permit condition, prohibition, or order set forth, issued, or
16 required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this title.

17 (c) Action prohibited. A person shall not commence an action under
18 subsection (a) of this section under either of the following circumstances:

19 (1) if the Secretary of Agriculture, Food and Markets, the Secretary of
20 Natural Resources, or the Attorney General has commenced and is diligently
21 prosecuting a civil or criminal action to require compliance with a statute,

1 permit, certification, rule, permit condition, prohibition, or order set forth,
2 issued, or required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this
3 title; or

4 (2) if the alleged violator is diligently proceeding with complying with
5 an assurance of discontinuance, corrective action, cease and desist order, or
6 emergency administrative order issued under 6 V.S.A. chapter 215 or under
7 chapter 201 of this title.

8 (d) Venue. A person shall bring an action under subsection (a) of this
9 section in the Environmental Division of the Superior Court.

10 (e) Intervention. In any action under subsection (a) of this section:

11 (1) Any person may intervene as a matter of right when the person
12 seeking intervention claims an interest relating to the subject of the action and
13 he or she is so situated that the disposition of the action may, as a practical
14 matter, impair or impede his or her ability to protect that interest unless:

15 (A) for an action initiated under subdivision (a)(1) or (3) of this
16 section, the Secretary of Agriculture, Food and Markets or the Secretary of
17 Natural Resources demonstrates that the applicant's interest is adequately
18 represented by existing parties; or

19 (B) for an action initiated under subdivision (a)(2) or (4) of this
20 section, the Secretary of Natural Resources demonstrates that the applicant's
21 interest is adequately represented by existing parties.

1 (2) The Secretary of Agriculture, Food and Markets, the Secretary of
2 Natural Resources, or the Attorney General may intervene as a matter of right
3 as a party to represent its interests.

4 (f) Notice of action. A person bringing an action under subsection (a) of
5 this section shall provide the notice required under subsection (b) of this
6 section in writing. The notice shall be served on the alleged violator in person
7 or by certified mail, return receipt requested. The notice to the Secretary shall
8 be served by certified mail, return receipt requested. The notice shall include a
9 brief description of the alleged violation and identification of the statute,
10 permit, certification, rule, permit condition, prohibition, or order that is the
11 subject of the violation.

12 (g) Attorney's fees; costs. The Environmental Division of the Superior
13 Court may award costs, including reasonable attorney's fees and fees for
14 expert witnesses, to a person bringing an action under subsection (a) of this
15 section when the court determines that the award is appropriate. The
16 Environmental Division of the Superior Court may award costs, including
17 reasonable attorney's fees and fees for expert witnesses, to the State or to a
18 person subject to an action under this section if the court determines that the
19 action was frivolous, unreasonable, or without foundation.

20 (h) Rights preserved. Nothing in this section shall be construed to impair
21 or diminish any common law or statutory right or remedy that may be available

1 to any person. Rights and remedies created by this section shall be in addition
2 to any other right or remedy, including the authority of the State to bring an
3 enforcement action separate from an action brought under this section. No
4 determination made by a court in an action maintained under this section, to
5 which the State has not been a party, shall be binding upon the State in any
6 enforcement action.

7 * * * Stormwater Permitting * * *

8 Sec. 13. 27 V.S.A. § 613(b) is amended to read:

9 (b) Beginning on July 1, 2004, and notwithstanding any law to the
10 contrary, no encumbrance on record title to real property or effect on
11 marketability of title shall be created by the failure of the holder of real
12 property from which regulated stormwater runoff discharges to an impaired
13 watershed to obtain, renew, or comply with the terms and conditions of a
14 pretransition stormwater discharge permit for a conveyance or refinancing,
15 provided that such holder:

16 (1) provides a notice of deferral of permit to the Secretary of Natural
17 Resources with a property description, the identity of the impaired watershed,
18 the permit number of any expired pretransition stormwater discharge permit
19 covering the property, and such other information as the Secretary may
20 require; and

1 (2) records in the land records a notice indicating, in an appropriate form
2 to be determined by the Secretary of Natural Resources, that at the time of
3 establishment of a general permit in the impaired watershed where the real
4 property is located, but not later than ~~June 30, 2018~~ 180 days after the date of
5 adoption by the Agency of Natural Resources of the stormwater rule pursuant
6 to 10 V.S.A. § 1264, the mortgagor (in the case of a refinancing) or the grantee
7 (in the case of a conveyance) shall be subject to all applicable requirements of
8 the water quality remediation plan, TMDL, or watershed improvement permit
9 established under 10 V.S.A. chapter 47.

10 Sec. 14. 2012 Acts and Resolves No. 91, Sec. 3, as amended by 2016 Acts and
11 Resolves No. 73, Sec. 1, is further amended to read:

12 Sec. 3. REPEAL

13 27 V.S.A. § 613 (stormwater discharges during transition period;
14 encumbrance on title) shall be repealed ~~on June 30, 2018~~ 180 days after the
15 date the Agency of Natural Resources adopts the stormwater rule pursuant to
16 10 V.S.A. § 1264.

17 * * * Pollinator Friendly Solar * * *

18 Sec. 15. 6 V.S.A. chapter 217 is added to read:

19 CHAPTER 217. POLLINATOR-FRIENDLY SOLAR GENERATION

20 STANDARD

21 § 5101. DEFINITIONS

1 As used in this chapter:

2 (1) “Agency” means the Agency of Agriculture, Food and Markets.

3 (2) “Invasive species” means any species of vegetation that:

4 (A) is designated as a noxious weed on the Agency’s Noxious Weed

5 Rule under chapter 84 of this title;

6 (B) is listed on the Vermont Invasive Exotic Plant Committee Watch

7 List;

8 (C) has been quarantined by the Agency as invasive; or

9 (D) has been determined to be invasive by the Agency of Natural

10 Resources.

11 (3) “Native” refers to perennial vegetation that is native to Vermont.

12 Native perennial vegetation does not include invasive species.

13 (4) “Naturalized” refers to perennial vegetation that is not native to

14 Vermont, but is now considered to be well established and part of Vermont

15 flora. Naturalized perennial vegetation does not include invasive species.

16 (5) “Owner” means a public or private entity that has a controlling

17 interest in the solar site.

18 (6) “Perennial vegetation” means wildflowers, forbs, shrubs, sedges,

19 rushes, and grasses that serve as habitat, forage, and migratory way stations for

20 pollinators.

1 (7) “Pollinator” means bees, birds, bats, and other insects or wildlife that
2 pollinate flowering plants, and includes wild and managed insects.

3 (8) “Solar site” means a ground-mounted solar system for generating
4 electricity and the area surrounding that system under the control of the owner.

5 (9) “Vegetation management plan” means a written document that
6 includes short- and long-term site management practices that will provide and
7 maintain native and naturalized perennial vegetation.

8 § 5102. BENEFICIAL HABITAT STANDARD

9 (a) This section establishes a standard for owners that intend to claim that,
10 through the voluntary planting and management of vegetation, a solar site
11 provides greater benefits to pollinators and shrub-dependent birds than are
12 provided by solar sites not so managed.

13 (b) In order for the solar site to meet the beneficial habitat standard and for
14 the owner of a solar site to claim that the solar site is beneficial to those species
15 or is pollinator-friendly, all the following shall apply:

16 (1) The owner adheres to guidance set forth by the Pollinator-Friendly
17 Scorecard (Scorecard) published by the University of Vermont (UVM)
18 Extension.

19 (2) The owner shall make the solar site’s completed Scorecard available
20 to the public and provide a copy of the completed Scorecard to the UVM
21 Extension.

1 for renewal shall explain how the designation under this section has furthered
2 the goals of the town plan and shall submit an approved town plan map that
3 depicts the boundary of the designated district. If at any time the State Board
4 determines that the downtown development district no longer meets the
5 standards for designation established in subsection (b) of this section, it may
6 take any of the following actions:

7 * * *

8 Sec. 17. 24 V.S.A. § 2793a is amended to read:

9 § 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

10 * * *

11 (d) The State Board shall review a village center designation every ~~five~~
12 eight years and may review compliance with the designation requirements at
13 more frequent intervals. ~~On and after July 1, 2014, any~~ Any community
14 applying for renewal shall explain how the designation under this section has
15 furthered the goals of the town plan and shall submit an approved town plan
16 map that depicts the boundary of the designated district. If at any time the
17 State Board determines that the village center no longer meets the standards for
18 designation established in subsection (a) of this section, it may take any of the
19 following actions:

20 * * *

21 Sec. 18. 24 V.S.A. § 2793b is amended to read:

1 § 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT

2 DISTRICTS

3 * * *

4 (d) A designation issued under this section shall be effective for eight years
5 and may be renewed on application by the municipality. The State Board also
6 shall review a new town center designation ~~every five~~ four years after issuance
7 or renewal and may review compliance with the designation requirements at
8 more frequent intervals. The State Board may adjust the schedule of review
9 under this subsection to coincide with the review of a related growth center. If
10 at any time the State Board determines the new town center no longer meets
11 the standards for designation established in subsection (b) of this section, it
12 may take any of the following actions:

13 * * *

14 Sec. 19. 24 V.S.A. § 4345b is amended to read:

15 § 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

16 (a)(1) Prior to exercising the authority granted under this section, a regional
17 planning commission shall:

18 (A) draft bylaws specifying the process for entering into, method of
19 withdrawal from, and method of terminating service agreements with
20 municipalities; and

1 (B) hold one or more public hearings within the region to hear from
2 interested parties and citizens regarding the draft bylaws.

3 (2) At least 30 days prior to any hearing required under this subsection,
4 notice of the time and place and a copy of the draft bylaws, with a request for
5 comments, shall be delivered to the chair of the legislative body of each
6 municipality within the region, which may be done electronically, provided the
7 sender has proof of receipt. The regional planning commission shall make
8 copies available to any individual or organization requesting a copy.

9 * * *

10 Sec. 20. 24 V.S.A. § 4348 is amended to read:

11 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

12 * * *

13 (c) At least 30 days prior to the first hearing, a copy of the proposed plan or
14 amendment, with a request for general comments and for specific comments
15 with respect to the extent to which the plan or amendment is consistent with
16 the goals established in section 4302 of this title, shall be delivered physically
17 or electronically with proof of receipt, or sent by certified mail, return receipt
18 requested, to each of the following:

19 (1) the chair of the legislative body of each municipality within the
20 region;

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

3 (3) the Department of Housing and Community Development within the
4 Agency of Commerce and Community Development;

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

8 (5) the Agency of Natural Resources and the Agency of Agriculture,
9 Food and Markets.

10 * * *

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

19 * * *

1 Sec. 21. 24 V.S.A. § 4352 is amended to read:

2 § 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE;

3 ENHANCED ENERGY PLANNING

4 * * *

5 (e) Process for issuing determinations of energy compliance. Review of
6 whether to issue a determination of energy compliance under this section shall
7 include a public hearing noticed at least 15 days in advance by direct mail or
8 electronically with proof of receipt to the requesting regional planning
9 commission or municipal legislative body, posting on the website of the entity
10 from which the determination is requested, and publication in a newspaper of
11 general publication in the region or municipality affected. The Commissioner
12 or regional planning commission shall issue the determination in writing
13 within two months ~~of~~ after the receipt of a request for a determination. If the
14 determination is negative, the Commissioner or regional planning commission
15 shall state the reasons for denial in writing and, if appropriate, suggest
16 acceptable modifications. Submissions for a new determination that follow a
17 negative determination shall receive a new determination within 45 days.

18 * * *

1 Sec. 22. 24 V.S.A. § 4384 is amended to read:

2 § 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING

3 COMMISSION

4 * * *

5 (e) At least 30 days prior to the first hearing, a copy of the proposed plan or
6 amendment and the written report shall be delivered physically or
7 electronically with proof of receipt, or mailed by certified mail, return receipt
8 requested to each of the following:

9 (1) the ~~chairperson~~ chair of the planning commission of each abutting
10 municipality, or in the absence of any planning commission in an abutting
11 municipality, to the clerk of that municipality;

12 (2) the executive director of the regional planning commission of the
13 area in which the municipality is located;

14 (3) the ~~department of housing and community affairs~~ Department
15 of Housing and Community Development within the ~~agency of commerce~~
16 ~~and community development~~ Agency of Commerce and Community
17 Development; and

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

21 * * *

1 Sec. 23. 24 V.S.A. § 4385 is amended to read:

2 § 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY
3 LEGISLATIVE BODY

4 * * *

5 (c) A plan of a municipality or an amendment thereof shall be adopted by a
6 majority of the members of its legislative body at a meeting which is held after
7 the final public hearing. If, however, at a regular or special meeting of the
8 voters duly warned and held as provided in 17 V.S.A. chapter 55, a
9 municipality elects to adopt or amend municipal plans by Australian ballot,
10 that procedure shall then apply unless rescinded by the voters at a regular or
11 special meeting similarly warned and held. If the proposed plan or amendment
12 is not adopted so as to take effect within one year ~~of~~ after the date of the final
13 hearing of the planning commission, it shall be considered rejected by the
14 municipality. Plans and amendments shall be effective upon adoption, ~~and~~
15 Copies of newly adopted plans and amendments shall be provided to the
16 regional planning commission and to the ~~commissioner of housing and~~
17 ~~community affairs~~ Commissioner of Housing and Community Development
18 within 30 days ~~of~~ after adoption, which may be done electronically, provided
19 the sender has proof of receipt. If a municipality wishes its plan or plan
20 amendment to be eligible for approval under the provisions of section 4350 of

1 this title, it shall request approval. The request for approval may be before or
2 after adoption of the plan by the municipality, at the option of the municipality.

3 * * *

4 Sec. 24. 24 V.S.A. § 4424 is amended to read:

5 § 4424. SHORELANDS; RIVER CORRIDOR PROTECTION AREAS;

6 FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING

7 BYLAWS

8 (a) Bylaws; flood and other hazard areas; river corridor protection. Any
9 municipality may adopt freestanding bylaws under this chapter to address
10 particular hazard areas in conformance with the municipal plan or, for the
11 purpose of adoption of a flood hazard area bylaw, a local hazard mitigation
12 plan approved under 44 C.F.R. § 201.6. Such freestanding bylaws may include
13 the following, which may also be part of zoning or unified development
14 bylaws:

15 (1) Bylaws to regulate development and use along shorelands.

16 (2) Bylaws to regulate development and use in flood areas, river
17 corridor protection areas, or other hazard areas. The following shall apply if
18 flood or other hazard area bylaws are enacted:

19 * * *

20 (D)(i) Mandatory provisions. Except as provided in subsection (c) of
21 this section, all flood and other hazard area bylaws shall provide that no permit

1 for new construction or substantial improvement shall be granted for a flood or
2 other hazard area until after both the following:

3 (I) A copy of the application is mailed or delivered by the
4 administrative officer or by the appropriate municipal panel to the Agency of
5 Natural Resources or its designee, which may be done electronically, provided
6 the sender has proof of receipt.

7 (II) Either 30 days have elapsed following the mailing or the
8 Agency or its designee delivers comments on the application.

9 (ii) The Agency of Natural Resources may delegate to a qualified
10 representative of a municipality with a flood hazard area bylaw or ordinance or
11 to a qualified representative for a regional planning commission the Agency's
12 authority under this subdivision (a)(2)(D) to review and provide technical
13 comments on a proposed permit for new construction or substantial
14 improvement in a flood hazard area. Comments provided by a representative
15 delegated under this subdivision (a)(2)(D) shall not be binding on a
16 municipality.

17 * * *

18 Sec. 25. 24 V.S.A. § 4441 is amended to read:

19 § 4441. PREPARATION OF BYLAWS AND REGULATORY TOOLS;

20 AMENDMENT OR REPEAL

21 * * *

1 (e) At least 15 days prior to the first hearing, a copy of the proposed bylaw,
2 amendment, or repeal and the written report shall be delivered physically or
3 electronically with proof of receipt, or mailed by certified mail, return receipt
4 requested, to each of the following:

5 (1) The ~~chairperson~~ chair of the planning commission of each abutting
6 municipality, or in the absence of any planning commission in a municipality,
7 the clerk of that abutting municipality.

8 (2) The executive director of the regional planning commission of the
9 area in which the municipality is located.

10 (3) The ~~department of housing and community affairs~~ Department of
11 Housing and Community Development within the ~~agency of commerce and~~
12 ~~community development~~ Agency of Commerce and Community Development.

13 * * *

14 Sec. 26. 24 V.S.A. § 4445 is amended to read:

15 § 4445. AVAILABILITY AND DISTRIBUTION OF DOCUMENTS

16 Current copies of plans, bylaws, and capital budgets and programs shall be
17 available to the public during normal business hours in the office of the clerk
18 of any municipality in which those plans, bylaws, or capital budgets or
19 programs have been adopted. The municipality shall provide all final adopted
20 bylaws, amendments, or repeals to the regional planning commission of the
21 area in which the municipality is located and to the ~~department of housing and~~

1 ~~community affairs~~ Department of Commerce and Community Development,
2 which may be done electronically, provided the sender has proof of receipt.

3 * * * Wastewater System and Potable Water Supplies Lending * * *

4 Sec. 27. 24 V.S.A. § 4752 is amended to read:

5 § 4752. DEFINITIONS

6 As used in this chapter:

7 * * *

8 (13) “Potable water supply ~~facilities~~” ~~means municipal water sources,~~
9 ~~water treatment plants, structures, pipe lines, storage facilities, pumps, and~~
10 ~~attendant facilities necessary to develop a source of water and to treat and~~
11 ~~convey it in proper quantity and quality for public use within a municipality~~
12 has the same meaning as in 10 V.S.A. § 1972.

13 * * *

14 (17) “Designer” means a person authorized to design wastewater
15 systems and potable water supplies as identified in 10 V.S.A. § 1975.

16 Sec. 28. 24 V.S.A. § 4753 is amended to read:

17 § 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

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

19 * * *

20 (10) The Vermont Wastewater and Potable Water Revolving Loan
21 Fund, which shall be used to provide loans to individuals, in accordance with

1 section 4763b of this title, for the design and construction of repairs to or
2 replacement of wastewater systems and potable water supplies when the
3 wastewater system or potable water supply is a failed system or supply as
4 defined in 10 V.S.A. § 1972, or when a designer demonstrates that the
5 wastewater system or potable water supply has a high probability of failing.

6 The amount of up to \$275,000.00 from the fees collected pursuant to 3 V.S.A.
7 § 2822(j)(4) shall be deposited ~~on an annual basis~~ into this Fund at the
8 beginning of each fiscal year to ensure a minimum balance of available funds
9 of \$275,000.00 exists for each fiscal year.

10 * * *

11 Sec. 29. 24 V.S.A. § 4763b is amended to read:

12 § 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER
13 SYSTEMS AND FAILED POTABLE WATER SUPPLIES

14 (a) Notwithstanding any other provision of law, when the wastewater
15 system or potable water supply serving only ~~one single-family residence on its~~
16 ~~own lot~~ single-family and multifamily residences either meets the definition of
17 a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer
18 to have a high probability of failing, the Secretary of Natural Resources may
19 lend monies to ~~the owner of the residence~~ an owner of one or more of the
20 residences from the Vermont Wastewater and Potable Water Revolving Loan

1 Fund established in section 4753 of this title. In such cases, the following
2 conditions shall apply:

3 (1) ~~loans a loan~~ may only be made to ~~households with an~~ owner with a
4 household income equal to or less than 200 percent of the State average
5 median household income;

6 (2) ~~loans a loan~~ may only be made to ~~households where the recipient of~~
7 ~~the loan resides in the residence~~ an owner who resides in one of the residences
8 served by the failed supply or system on a year-round basis;

9 (3) ~~loans a loan~~ may only be made ~~if the owner of the residence~~ to an
10 owner who has been denied financing for the repair, replacement, or
11 construction due to involuntary disconnection by at least one other financing
12 entity;

13 (4) when the failed supply or system also serves residences owned by
14 persons other than the loan applicant, a loan may only be made for an equitable
15 share of the cost to repair or replace the failed supply or system that is
16 determined through agreement of all of the owners of residences served by the
17 failed system or supply;

18 (5) no construction loan shall be made to an individual under this
19 subsection, nor shall any part of any revolving loan made under this subsection
20 be expended, until all of the following take place:

1 (A) the Secretary of Natural Resources determines that if a
2 wastewater system and potable water supply permit is necessary for the design
3 and construction of the project to be financed by the loan, the permit has been
4 issued to the owner of the failed system or supply; and

5 (B) the individual applying for the loan certifies to the Secretary of
6 Natural Resources that the proposed project has secured all State and federal
7 permits, licenses, and approvals necessary to construct and operate the project
8 to be financed by the loan;

9 ~~(5)~~(6) all funds from the repayment of loans made under this section
10 shall be deposited into the Vermont Wastewater and Potable Water Revolving
11 Loan Fund.

12 (b) The Secretary of Natural Resources shall establish standards, policies,
13 and procedures as necessary for the implementation of this section. The
14 Secretary may establish criteria to extend the payment period of a loan or to
15 waive all or a portion of the loan amount.

16 * * * Effective Dates * * *

17 Sec. 30. EFFECTIVE DATES

18 This act shall take effect on passage, except that Secs. 15 (pollinator
19 friendly solar generation standard) and Secs. 16-26 (State designation;
20 electronic filing) shall take effect July 1, 2018.

21

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE