

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 \* \* \* Mercury-Added Motor Vehicle Components \* \* \*

4 Sec. 3. 10 V.S.A. § 7108 is added to read:

5 § 7108. MERCURY-ADDED MOTOR VEHICLE COMPONENTS

6 (a) Applicability. This section applies to:

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

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

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

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

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

20 (c) Manufacturer mercury-added switch recovery program. A  
21 manufacturer of vehicles sold in this State, individually or as part of a group,

1 shall implement a mercury-added vehicle switch recovery program that  
2 includes the following:

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

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

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

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

18 (d) Agency responsibility.

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

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

6           Sec. 4. APPLICATION OF ENACTMENT

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

15          Sec. 5. REPEAL OF MERCURY-ADDED MOTOR VEHICLE

16                   COMPONENT REQUIREMENTS

17          10 V.S.A. § 7108 (mercury-added vehicle component requirements) shall  
18          be repealed on December 31, 2021.

1                                   \* \* \* Forgiveness of Municipal Water Supply and  
2                                   Pollution Control Planning Advances \* \* \*

3       Sec. 6. FORGIVENESS OF REPAYMENT OF PLANNING ADVANCES

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

7                   (1) the engineering planning advance was awarded prior to September 1,  
8           2011; and

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

12                                   \* \* \* Act 250 Corrective Action Plans \* \* \*

13       Sec. 7. 10 V.S.A. § 6081 is amended to read:

14       § 6081. PERMITS REQUIRED; EXEMPTIONS

15                                   \* \* \*

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

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



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

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

5           (D) a corrective action authorized in a corrective action plan  
6           approved by the Secretary of Natural Resources under section 6615b of this  
7           title;

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

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

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

17                           \* \* \* Environmental Enforcement Report \* \* \*

18          Sec. 8. 10 V.S.A. § 8017 is amended to read:

19          § 8017. ANNUAL REPORT

20                 The Secretary and the Attorney General shall report annually to the  
21          President Pro Tempore of the Senate, the Speaker of the House, the House

1 Committee on ~~Fish, Wildlife and Water Resources~~ Natural Resources, Fish,  
2 and Wildlife, and the Senate ~~and House Committees~~ Committee on Natural  
3 Resources and Energy. The report shall be filed ~~no later than January 15~~ on or  
4 before February 15, on the enforcement actions taken under this chapter, and  
5 on the status of citizen complaints about environmental problems in the State.  
6 The report shall describe, at a minimum, the number of violations, the actions  
7 taken, the disposition of cases, the amount of penalties collected, and the cost  
8 of administering the enforcement program. The provisions of 2 V.S.A. § 20(d)  
9 (expiration of required reports) shall not apply to the report to be made under  
10 this section.

11 \* \* \* Citizen Right of Action \* \* \*

12 Sec. 9. 10 V.S.A. chapter 205 is added to read:

13 CHAPTER 205. CITIZEN RIGHT OF ACTION

14 § 8055. CITIZEN RIGHT OF ACTION

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

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

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

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

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

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

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

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

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

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

6           (1) if the Secretary of Agriculture, Food and Markets, the Secretary of  
7           Natural Resources, or the Attorney General has commenced and is diligently  
8           prosecuting a civil or criminal action to require compliance with a statute,  
9           permit, certification, rule, permit condition, prohibition, or order set forth,  
10           issued, or required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this  
11           title; or

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

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

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

19           (1) Any person may intervene as a matter of right when:

20           (A) the person seeking intervention claims an interest relating to the  
21           subject of the action and he or she is so situated that the disposition of the

1 action may, as a practical matter, impair or impede his or her ability to protect  
2 that interest; and

3 (B)(i) for an action initiated under subdivision (a)(1) or (3) of this  
4 section, the Secretary of Agriculture, Food and Markets or the Secretary of  
5 Natural Resources demonstrates that the applicant's interest is adequately  
6 represented by existing parties; or

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

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

13 (f) Notice of action. A person bringing an action under subsection (a) of  
14 this section shall provide the notice required under subsection (b) of this  
15 section in writing. The notice shall be served on the alleged violator in person  
16 or by certified mail, return receipt requested. The notice to the Secretary shall  
17 be served by certified mail, return receipt requested. The notice shall include a  
18 brief description of the alleged violation and identification of the statute,  
19 permit, certification, rule, permit condition, prohibition, or order that is the  
20 subject of the violation.

1       (g) Attorney’s fees; costs. The Environmental Division of the Superior  
2       Court may award costs, including reasonable attorney’s fees and fees for  
3       expert witnesses, to a person bringing an action under subsection (a) of this  
4       section when the court determines that the award is appropriate. The  
5       Environmental Division of the Superior Court may award costs, including  
6       reasonable attorney’s fees and fees for expert witnesses, to the State or to a  
7       person subject to an action under this section if the court determines that the  
8       action was frivolous, unreasonable, or without foundation.

9       (h) Rights preserved. Nothing in this section shall be construed to impair  
10       or diminish any common law or statutory right or remedy that may be available  
11       to any person. Rights and remedies created by this section shall be in addition  
12       to any other right or remedy, including the authority of the State to bring an  
13       enforcement action separate from an action brought under this section. No  
14       determination made by a court in an action maintained under this section, to  
15       which the State has not been a party, shall be binding upon the State in any  
16       enforcement action.

17                                   \* \* \* Stormwater Permitting \* \* \*

18       Sec. 10. 27 V.S.A. § 613(b) is amended to read:

19       (b) Beginning on July 1, 2004, and notwithstanding any law to the  
20       contrary, no encumbrance on record title to real property or effect on  
21       marketability of title shall be created by the failure of the holder of real

1 property from which regulated stormwater runoff discharges to an impaired  
2 watershed to obtain, renew, or comply with the terms and conditions of a  
3 pretransition stormwater discharge permit for a conveyance or refinancing,  
4 provided that such holder:

5 (1) provides a notice of deferral of permit to the Secretary of Natural  
6 Resources with a property description, the identity of the impaired watershed,  
7 the permit number of any expired pretransition stormwater discharge permit  
8 covering the property, and such other information as the Secretary may  
9 require; and

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

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

21 Sec. 3. REPEAL

1       27 V.S.A. § 613 (stormwater discharges during transition period;  
2       encumbrance on title) shall be repealed ~~on June 30, 2018~~ 180 days after the  
3       date the Agency of Natural Resources adopts the stormwater rule pursuant to  
4       10 V.S.A. § 1264.

5                                   \* \* \* Pollinator Friendly Solar \* \* \*

6       Sec. 12. 6 V.S.A. chapter 217 is added to read:

7                   CHAPTER 217. POLLINATOR-FRIENDLY SOLAR GENERATION

8                                   STANDARD

9       § 5101. DEFINITIONS

10       As used in this chapter:

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

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

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

14       Rule under chapter 84 of this title;

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

16       List;

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

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

19       Resources.

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

21       Native perennial vegetation does not include invasive species.



1           (4) “Naturalized” refers to perennial vegetation that is not native to  
2           Vermont, but is now considered to be well established and part of Vermont  
3           flora. Naturalized perennial vegetation does not include invasive species.

4           (5) “Owner” means a public or private entity that has a controlling  
5           interest in the solar site.

6           (6) “Perennial vegetation” means wildflowers, forbs, shrubs, sedges,  
7           rushes, and grasses that serve as habitat, forage, and migratory way stations for  
8           pollinators.

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

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

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

16          § 5102. BENEFICIAL HABITAT STANDARD

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

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

4             (1) The owner adheres to guidance set forth by the Pollinator-Friendly  
5       Scorecard (Scorecard) published by the University of Vermont (UVM)  
6       Extension.

7             (2) The owner shall make the solar site's completed Scorecard available  
8       to the public and provide a copy of the completed Scorecard to the UVM  
9       Extension.

10            (3) If the site has a vegetation management plan:

11                (A) The plan shall maximize the use of native and naturalized  
12       perennial vegetation for foraging habitat beneficial to pollinators consistent  
13       with the solar site's Scorecard.

14                (B) The owner shall make the vegetation management plan available  
15       to the public and provide a copy of the plan to the UVM Extension.

16                (4) When establishing perennial vegetation and beneficial foraging  
17       habitat, the solar site shall use native and naturalized plant species and seed  
18       mixes whenever practicable.

19             (c) Nothing in this chapter affects any findings that must be made in order  
20       to issue a State permit or other approval for a solar site or the duty to comply  
21       with any conditions in such a permit or approval.

\* \* \* Municipalities; Village Center Designation; Electronic Filings \* \* \*

Sec. 13. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

\* \* \*

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community’s designation ~~every five~~ four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

\* \* \*

Sec. 14. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

\* \* \*

(d) The State Board shall review a village center designation every ~~five~~ eight years and may review compliance with the designation requirements at

1 more frequent intervals. ~~On and after July 1, 2014, any~~ Any community  
2 applying for renewal shall explain how the designation under this section has  
3 furthered the goals of the town plan and shall submit an approved town plan  
4 map that depicts the boundary of the designated district. If at any time the  
5 State Board determines that the village center no longer meets the standards for  
6 designation established in subsection (a) of this section, it may take any of the  
7 following actions:

8 \* \* \*

9 Sec. 15. 24 V.S.A. § 2793b is amended to read:

10 § 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT  
11 DISTRICTS

12 \* \* \*

13 (d) A designation issued under this section shall be effective for eight years  
14 and may be renewed on application by the municipality. The State Board also  
15 shall review a new town center designation every five four years after issuance  
16 or renewal and may review compliance with the designation requirements at  
17 more frequent intervals. The State Board may adjust the schedule of review  
18 under this subsection to coincide with the review of a related growth center. If  
19 at any time the State Board determines the new town center no longer meets  
20 the standards for designation established in subsection (b) of this section, it  
21 may take any of the following actions:

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\* \* \*

Sec. 16. 24 V.S.A. § 4345b is amended to read:

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

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

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

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

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

\* \* \*

Sec. 17. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

\* \* \*

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

7 (1) the chair of the legislative body of each municipality within the  
8 region;

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

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

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

16 (5) the Agency of Natural Resources and the Agency of Agriculture,  
17 Food and Markets.

18 \* \* \*

19 (e) The regional planning commission may make revisions to the proposed  
20 plan or amendment at any time not less than 30 days prior to the final public  
21 hearing held under this section. If the proposal is changed, a copy of the

1 proposed change shall be delivered, physically or electronically with proof of  
2 receipt or by certified mail, return receipt requested, to the ~~chairperson~~ chair of  
3 the legislative body of each municipality within the region, and to any  
4 individual or organization requesting a copy, at least 30 days prior to the final  
5 hearing.

6 \* \* \*

7 Sec. 18. 24 V.S.A. § 4352 is amended to read:

8 § 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE;

9 ENHANCED ENERGY PLANNING

10 \* \* \*

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

1 acceptable modifications. Submissions for a new determination that follow a  
2 negative determination shall receive a new determination within 45 days.

3 \* \* \*

4 Sec. 19. 24 V.S.A. § 4384 is amended to read:

5 § 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING

6 COMMISSION

7 \* \* \*

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

12 (1) the ~~chairperson~~ chair of the planning commission of each abutting  
13 municipality, or in the absence of any planning commission in an abutting  
14 municipality, to the clerk of that municipality;

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

17 (3) the ~~department of housing and community affairs~~ Department  
18 of Housing and Community Development within the ~~agency of commerce~~  
19 ~~and community development~~ Agency of Commerce and Community  
20 Development; and



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

4 \* \* \*

5 Sec. 20. 24 V.S.A. § 4385 is amended to read:

6 § 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY  
7 LEGISLATIVE BODY

8 \* \* \*

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

1 within 30 days ~~of~~ after adoption, which may be done electronically, provided  
2 the sender has proof of receipt. If a municipality wishes its plan or plan  
3 amendment to be eligible for approval under the provisions of section 4350 of  
4 this title, it shall request approval. The request for approval may be before or  
5 after adoption of the plan by the municipality, at the option of the municipality.

6 \* \* \*

7 Sec. 21. 24 V.S.A. § 4424 is amended to read:

8 § 4424. SHORELANDS; RIVER CORRIDOR PROTECTION AREAS;

9 FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING

10 BYLAWS

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

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

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

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(D)(i) Mandatory provisions. Except as provided in subsection (c) of this section, all flood and other hazard area bylaws shall provide that no permit for new construction or substantial improvement shall be granted for a flood or other hazard area until after both the following:

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

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

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

\* \* \*

Sec. 22. 24 V.S.A. § 4441 is amended to read:

1 § 4441. PREPARATION OF BYLAWS AND REGULATORY TOOLS;  
2 AMENDMENT OR REPEAL

3 \* \* \*

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

8 (1) The ~~chairperson~~ chair of the planning commission of each abutting  
9 municipality, or in the absence of any planning commission in a municipality,  
10 the clerk of that abutting municipality.

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

13 (3) The ~~department of housing and community affairs~~ Department of  
14 Housing and Community Development within the ~~agency of commerce and~~  
15 ~~community development~~ Agency of Commerce and Community Development.

16 \* \* \*

17 Sec. 23. 24 V.S.A. § 4445 is amended to read:

18 § 4445. AVAILABILITY AND DISTRIBUTION OF DOCUMENTS

19 Current copies of plans, bylaws, and capital budgets and programs shall be  
20 available to the public during normal business hours in the office of the clerk  
21 of any municipality in which those plans, bylaws, or capital budgets or

1 programs have been adopted. The municipality shall provide all final adopted  
2 bylaws, amendments, or repeals to the regional planning commission of the  
3 area in which the municipality is located and to the ~~department of housing and~~  
4 ~~community affairs~~ Department of Commerce and Community Development,  
5 which may be done electronically, provided the sender has proof of receipt.

6 \* \* \* Wastewater System and Potable Water Supplies Lending \* \* \*

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

8 § 4752. DEFINITIONS

9 As used in this chapter:

10 \* \* \*

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

16 \* \* \*

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

19 Sec. 25. 24 V.S.A. § 4753 is amended to read:

20 § 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

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

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\* \* \*

(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, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to \$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 at the beginning of each fiscal year to ensure a minimum balance of available funds of \$275,000.00 exists for each fiscal year.

\* \* \*

Sec. 26. 24 V.S.A. § 4763b is amended to read:

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

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only ~~one single family residence on its own lot~~ single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may

1 lend monies to ~~the owner of the residence~~ an owner of one or more of the  
2 residences from the Vermont Wastewater and Potable Water Revolving Loan  
3 Fund established in section 4753 of this title. In such cases, the following  
4 conditions shall apply:

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

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

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

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





1        This act shall take effect on passage, except that Secs. 12 (pollinator  
2        friendly solar generation standard) and Secs. 13-23 (State designation;  
3        electronic filing) shall take effect July 1, 2018.

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

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Senator \_\_\_\_\_

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FOR THE COMMITTEE