

House Proposal of Amendment

S. 96

An act relating to the provision of water quality services.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 37, subchapter 5 is amended to read:

Subchapter 5. ~~Aquatic Nuisance Control~~ Water Quality Restoration and Improvement

§ 921. DEFINITIONS

As used in this subchapter:

(1) “Administrative cost” means program and project costs incurred by a clean water service provider or a grantee, including costs to conduct procurement, contract preparation, and monitoring, reporting, and invoicing.

(2) “Basin” means a watershed basin designated by the Secretary for use as a planning unit under subsection 1253(d) of this title.

(3) “Best management practice” or “BMP” means a schedule of activities, prohibitions, practices, maintenance procedures, green infrastructure, or other management practices to prevent or reduce water pollution.

(4) “Clean water project” means a best management practice or other program designed to improve water quality to achieve a target established under section 922 of this title that:

(A) is not subject to a permit under chapter 47 of this title, is not subject to the requirements of 6 V.S.A. chapter 215, exceeds the requirements of a permit issued under chapter 47 of this title, or exceeds the requirements of 6 V.S.A chapter 215; and

(B) is within the following activities:

(i) developed lands, sub-jurisdictional practices related to developed lands including municipal separate storm sewers, operational stormwater discharges, municipal roads, and other developed lands discharges;

(ii) natural resource protection and restoration, including river corridor and floodplain restoration and protection, wetland protection and restoration, riparian and lakeshore corridor protection and restoration, and natural woody buffers associated with riparian, lakeshore, and wetland protection and restoration;

(iii) forestry; or

(iv) agriculture.

(5) “Co-benefit” means the additional benefit to local governments and the public provided by or associated with a clean water project, including flood resilience, ecosystem improvement, and local pollution prevention.

(6) “Design life” means the period of time that a clean water project is designed to operate according to its intended purpose.

(7) “Maintenance” means ensuring that a clean water project continues to achieve its designed pollution reduction value for its design life.

(8) “Standard cost” means the projected cost of achieving a pollutant load reduction per unit or per best management practice in a basin.

§ 922. WATER QUALITY IMPLEMENTATION PLANNING AND TARGETS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall include in the implementation plan for the water a strategy for returning the water to compliance with the Vermont Water Quality Standards. With respect to a water that is impaired due to sources outside the State or if there is insufficient data or no data available to quantify reductions required by this subchapter, the Secretary shall not be required to implement the requirements of this subchapter; however, the Secretary shall provide an alternate strategy for attaining water quality standards in the implementation plan for the water. For waters determined to be subject to this subchapter, the Secretary shall include the following in an implementation plan:

(1) An evaluation of whether implementation of existing regulatory programs will achieve water quality standards in the impaired water. If the Secretary determines that existing regulatory programs will not achieve water quality standards, the Secretary shall determine the amount of additional pollutant reduction necessary to achieve water quality standards in that water. When making this determination, the Secretary may express the pollutant reduction in a numeric reduction or through defining a clean water project that must be implemented to achieve water quality standards.

(2) An allocation of the pollutant reduction identified under subdivision (a)(1) of this section to each basin and the clean water service provider assigned to that basin pursuant to subsection 924(a) of this title. When making this allocation, the Secretary shall consider the sectors contributing to the water quality impairment in the impaired water’s boundaries and the contribution of the pollutant from regulated and nonregulated sources within the basin. Those allocations shall be expressed in annual pollution reduction goals and five-year pollution reduction targets as checkpoints to gauge progress and adapt or modify as necessary.

(3) A determination of the standard cost per unit of pollutant reduction. The Secretary shall publish a methodology for determining standard cost pollutant reductions. The standard cost shall include the costs of project identification, project design, and project construction.

(b)(1) The Secretary shall conduct the analysis required by subsection (a) of this section for previously listed waters as follows:

(A) For phosphorous in the Lake Champlain watershed, not later than November 1, 2021.

(B) For phosphorous in the Lake Memphremagog watershed, not later than November 1, 2022.

(2) By not later than November 1, 2023, the Secretary shall adopt a schedule for implementing the requirements of this subchapter in all other previously listed impaired waters, including Lake Carmi, not set forth in subdivision (1) of this subsection.

(c) When implementing the requirements of this section, the Secretary shall follow the type 3 notice process established in section 7714 of this title.

§ 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN

WATER PROJECTS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for calculating pollution reduction values associated with a clean water project in that water. When establishing a pollutant reduction value, the Secretary shall consider pollution reduction values established in the TMDL; pollution reduction values established by other jurisdictions; pollution reduction values recommended by organizations that develop pollutant reduction values for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Pollution reduction values established by the Secretary shall be the exclusive method for determining the pollutant reduction value of a clean water project.

(b) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for establishing a design life associated with a clean water project. The design life of a clean water project shall be determined based on a review of values established in other jurisdictions, values recommended by organizations that regularly estimate the design life of clean water projects, actual data documenting the design life of a practice, or a comparison to other similar practices if no other data exists. A design life adopted by the Secretary shall be the exclusive method for determining the design life of a best management practice or other control.

(c)(1) If a person is proposing a clean water project for which no pollution reduction value or design life exists for a listed water, the Secretary shall establish a pollution reduction value or design life for that clean water project within 60 days following a request from the person proposing the clean water project. A pollution reduction value or design life established under this subdivision shall be based on a review of pollution reduction values established in the TMDL; pollution reduction values or design lives established by other jurisdictions; pollution reduction values or design lives recommended by organizations that develop pollutant reduction values or design lives for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; actual data documenting the design life of a clean water project; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Any estimate developed under this subsection by the Secretary shall be posted on the Agency of Natural Resources' website.

(2) Upon the request of a clean water service provider, the Secretary shall evaluate a proposed clean water project and issue a determination as to whether the proposed clean water project is eligible to receive funding as a part of a Water Quality Restoration Formula Grant awarded by the State pursuant to section 925 of this title.

(d)(1) The Secretary shall conduct the analysis required by subsections (a) and (b) of this section for clean water projects and design lives related to phosphorous not later than November 1, 2021.

(2) By not later than November 1, 2023, the Secretary shall adopt a schedule for implementing the requirements of subsections (a) and (b) of this section for clean water projects and design lives related to all other impairments not listed under subdivision (1) of this subsection.

(e) The Secretary shall periodically review pollution reduction values and design lives established under this section at least every five years to determine the adequacy or accuracy of a pollution reduction value or design life.

(f)(1) When implementing the requirements of subsections (a) and (b) of this section, the Secretary shall follow the type 3 notice process established in section 7714 of this title.

(2) When implementing the requirements of subsection (c) of this section, the Secretary shall follow the type 4 notice process in section 7715 of this title.

§ 924. CLEAN WATER SERVICE PROVIDER; RESPONSIBILITY FOR
CLEAN WATER PROJECTS

(a) Clean water service providers; establishment.

(1) On or before November 1, 2020, the Secretary shall adopt rules that assign a clean water service provider to each basin in the Lake Champlain and Lake Memphremagog watersheds for the purposes of achieving pollutant reduction values established by the Secretary for the basin and for identification, design, construction, operation, and maintenance of clean water projects within the basin. For all other impaired waters, the Secretary shall assign clean water service provider no later than six months prior to the implementation of the requirements of this subchapter scheduled by the Secretary under subdivision 922(b)(2) of this title. The rulemaking shall be done in consultation with regional planning commissions, natural resource conservation districts, watershed organizations, and municipalities located within each basin.

(2) An entity designated as a clean water service provider shall be required to identify, prioritize, develop, construct, verify, inspect, operate, and maintain clean water projects in accordance with the requirements of this subchapter.

(3) The Secretary shall adopt guidance on a clean water service provider's obligation with respect to implementation of this chapter. The Secretary shall provide notice to the public of the proposed guidance and a comment period of not less than 30 days. At a minimum, the guidance shall address the following:

(A) how the clean water service provider integrates prioritizes and selects projects consistent with the applicable basin plan, including how to account for the co-benefits provided by a project;

(B) minimum requirements with respect to selection and agreements with subgrantees;

(C) requirements associated with the distribution of administrative costs to the clean water service provider and subgrantees;

(D) Secretary's assistance to clean water service providers with respect to their maintenance obligations pursuant to subsection (c) of this section; and

(E) the Secretary's strategy with respect to accountability pursuant to subsection (f) of this section.

(4) In carrying out its duties, a clean water service provider shall adopt guidance for subgrants consistent with the guidance from the Secretary developed pursuant to subdivision (a)(3) of this section that establishes a policy for how the clean water service provider will issue subgrants to other organizations in the basin, giving due consideration to the expertise of those organizations and other requirements for the administration of the grant program. The subgrant guidance shall include how the clean water service

provider will allocate administrative costs to subgrantees for project implementation and for the administrative costs of the basin water quality council. The subgrant guidance shall be subject to the approval of the Secretary and basin water quality council.

(5) When selecting clean water projects for implementation or funding, a clean water service provider shall prioritize projects identified in the basin plan for the area where the project is located and shall consider the pollutant targets provided by the Secretary and the recommendations of the basin water quality council.

(b) Project identification, prioritization, selection. When identifying, prioritizing, and selecting a clean water project to meet a pollutant reduction value, the clean water service provider shall consider the pollution reduction value associated with the clean water project, the co-benefits provided by the project, operation, and maintenance of the project, conformance with the tactical basin plan, and other water quality benefits beyond pollution reduction associated with that clean water project. All selected projects shall be entered into the watershed projects database.

(c) Maintenance responsibility. A clean water service provider shall be responsible for maintaining a clean water project or ensuring the maintenance for at least the design life of that clean water project. The Secretary shall provide funding for maintenance consistent with subdivision 1389(e)(1)(A) of this title.

(d) Water quality improvement work. If a clean water service provider achieves a greater level of pollutant reduction than a pollutant reduction goal or five-year target established by the Secretary, the clean water service provider may carry those reductions forward into a future year. If a clean water service provider achieves its pollutant reduction goal or five-year target and has excess grant funding available, a clean water service provider may:

(1) carry those funds forward into the next program year;

(2) use those funds for other eligible project;

(3) use those funds for operation and maintenance responsibilities for existing constructed projects;

(4) use those funds for projects within the basin that are required by federal or State law; or

(5) use those funds for other work that improves water quality within the geographic area of the basin, including protecting river corridors, aquatic species passage, and other similar projects.

(e) Reporting. A clean water service provider shall report annually to the Secretary. The report from clean water service providers shall be integrated

into the annual clean water investment report, including outcomes from the work performed by clean water service providers. The report shall contain the following:

(1) a summary of all clean water projects completed that year in the basin;

(2) a summary of any inspections of previously implemented clean water projects and whether those clean water projects continue to operate in accordance with their design;

(3) all administrative costs incurred by the clean water service provider;

(4) a list of all of the subgrants awarded by the clean water service provider in the basin; and

(5) all data necessary for the Secretary to determine the pollutant reduction achieved by the clean water service provider during the prior year.

(f) Accountability for pollution reduction goals. If a clean water service provider fails to meet its allocated pollution reduction goals or its five-year target or fails to maintain previously implemented clean water projects the Secretary shall take appropriate steps to hold the clean water service provider accountable for the failure to meet pollution reduction goals or its five-year target. The Secretary may take the following steps:

(1) enter a plan to ensure that the clean water service provider meets current and future year pollution reduction goals and five-year targets; or

(2) initiate rulemaking to designate an alternate clean water service provider as accountable for the basin.

(g) Basin water quality council.

(1) A clean water service provider designated under this section shall establish a basin water quality council for each assigned basin. The purpose of a basin water quality council is to establish policy and make decisions for the clean water service provider regarding the most significant water quality impairments that exist in the basin and prioritizing the projects that will address those impairments based on the basin plan. A basin water quality council shall also participate in the basin planning process.

(2) A basin water quality council shall include, at a minimum, the following:

(A) two persons representing natural resource conservation districts in that basin, selected by the applicable natural resource conservation districts;

(B) two persons representing regional planning commissions in that basin, selected by the applicable regional planning commission;

(C) two persons representing local watershed protection organizations operating in that basin, selected by the applicable watershed protection organizations;

(D) one representative from an applicable local or statewide land conservation organization selected by the conservation organization in consultation with the clean water service provider; and

(E) two persons representing from each municipality within the basin, selected by the clean water service provider in consultation with municipalities in the basin.

(3) The designated clean water service provider and the Agency of Natural Resources shall provide technical staff support to the basin water quality council. The clean water service provider may invite support from persons with specialized expertise to address matters before a basin water quality council, including support from the University of Vermont Extension, staff of the Agency of Natural Resources, staff of the Agency of Agriculture, Food and Markets, staff of the Agency of Transportation, staff from the Agency of Commerce and Community Development, the Natural Resource Conservation Service, U.S. Department of Fish and Wildlife, and U.S. Forest Service.

§ 925. CLEAN WATER SERVICE PROVIDER; WATER QUALITY

RESTORATION FORMULA GRANT PROGRAM

The Secretary shall administer a Water Quality Restoration Formula Grant Program to award grants to clean water service providers to meet the pollutant reduction requirements under this subchapter. The grant amount shall be based on the annual pollutant reduction goal established for the clean water service provider multiplied by the standard cost for pollutant reduction including the costs of administration and reporting. Not more than 15 percent of the total grant amount awarded to a clean water service provider shall be used for administrative costs.

§ 926. WATER QUALITY ENHANCEMENT GRANT PROGRAM

The Secretary shall administer a Water Quality Enhancement Grant Program. This program shall be a competitive grant program to fund projects that protect high quality waters, maintain or improve water quality in all waters, restore degraded or stressed waters, create resilient watersheds and communities, and support the public's use and enjoyment of the State's waters. When making awards under this program, the Secretary shall consider the geographic distribution of these funds. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

§ 927. DEVELOPED LANDS IMPLEMENTATION GRANT PROGRAM

The Secretary shall administer a Developed Lands Implementation Grant Program to provide grants or financing to persons who are required to obtain a permit to implement regulatory requirements that are necessary to achieve water quality standards. The grant or financing program shall only be available in basins where a clean water service provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals. This grant program shall fund or provide financing for projects related to the permitting of impervious surface of three acres or more under subdivision 1264(g)(3) of this title. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

§ 928. MUNICIPAL STORMWATER IMPLEMENTATION GRANT PROGRAM

The Secretary shall administer a Municipal Stormwater Implementation Grant Program to provide grants to any municipality required under section 1264 of this title to obtain or seek coverage under the municipal roads general permit, the municipal separate storm sewer systems permit, a permit for impervious surface of three acres or more, or a permit required by the Secretary to reduce the adverse impacts to water quality of a discharge or stormwater runoff. The grant program shall only be available in basins where a clean water service provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

§ 929. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

The Secretary shall provide technical assistance upon the request of any person who, under this chapter, receives a grant or is a subgrantee of funds to implement a clean water project.

§ 930. RULEMAKING

The Secretary may adopt rules to implement the requirements of this subchapter.

Sec. 2. 10 V.S.A. § 1253(d)(2) and (3) are amended to read:

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

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

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

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

(D) review the evaluations performed by the Secretary under subdivisions 922(a)(1) and (2) of this title and update those findings based on any new data collected as part of a basin plan;

(E) for projects in the basin that will result in enhancement of resources, including those that protect high quality waters of significant natural resources, the Secretary shall identify the funding needs beyond those currently funded by the Clean Water Fund;

(F) ensure that municipal officials, citizens, natural resources conservation districts, regional planning commissions, watershed groups, and other interested groups and individuals are involved in the basin planning process;

~~(E)~~(G) ensure regional and local input in State water quality policy development and planning processes;

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

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

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

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

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

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

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

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

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

Sec. 3. 10 V.S.A. § 1387 is amended to read:

§ 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

(a)(1) The State has committed to implementing a long-term Clean Water Initiative to provide mechanisms, staffing, and financing necessary to achieve and maintain compliance with the Vermont Water Quality Standards for all State waters.

(2) Success in implementing the Clean Water Initiative will depend largely on providing sustained and adequate funding to support the implementation of all of the following:

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

(B) federal or State required cleanup plans for individual waters or water segments, such as total maximum daily load plans;

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

(D) the operations of clean water service providers under chapter 37, subchapter 5 of this title; and

(E) the permanent protection of land and waters from future development and impairment through conservation and water quality projects funded by the Vermont Housing and Conservation Trust Fund authorized by chapter 15 of this title.

(3) To ensure success in implementing the Clean Water Initiative, the State should commit to funding the Clean Water Initiative in a manner that ensures the maintenance of effort and that provides an annual appropriation for clean water programs in a range of \$50 million to \$60 million as adjusted for inflation over the duration of the Initiative.

(4) To avoid the future impairment and degradation of the State's waters, the State should commit to continued funding for the protection of land and waters through agricultural and natural resource conservation, including through permanent easements and fee acquisition.

(b) The General Assembly establishes in this subchapter a Vermont Clean Water Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Fund shall be used to:

(1) ~~assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs~~ the implementation of the Clean Water Initiative;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions; and

(3) ~~provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects~~ clean water service providers to meet the obligations of chapter 37, subchapter 5 of this title.

Sec. 3a. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

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

(1) revenues from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a;

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

(3) the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title; ~~and~~

(4) four percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225; and

~~(4)~~(5) other revenues dedicated for deposit into the Fund by the General Assembly.

* * *

Sec. 4. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER BOARD

(a) Creation.

(1) There is created the Clean Water Board that shall:

(A) be responsible and accountable for planning, coordinating, and financing of the remediation, improvement, and protection of the quality of State waters;

(B) recommend to the Secretary of Administration expenditures:

(i) appropriations from the Clean Water Fund according to the priorities established under subsection (e) of this section; and

(ii) clean water water quality programs or projects that provide water quality benefits, reduce pollution, protect natural areas, enhance water quality protections on agricultural land enhance flood and climate resilience, provide wildlife habitat, or promote and enhance outdoor recreation in support of rural community vitality to be funded by capital appropriations.

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

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

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

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

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

(5) the Secretary of Transportation or designee; and

(6) four members of the public, who are not legislators, with expertise in one or more of the following subject matters: public management, civil engineering, agriculture, ecology, wetlands, stormwater system management, forestry, transportation, law, banking, finance, and investment, to be appointed by the Governor.

* * *

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

* * *

(3) The Clean Water Board shall:

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

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

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

(C) if the Board determines that there are insufficient funds in the Clean Water Fund to issue all grants or financing required by sections 925–928 of this title, conduct all of the following:

(i) Direct the Secretary of Natural Resources to prioritize the work needed in every basin, adjust pollution allocations assigned to clean water service providers, and issue grants based on available funding.

(ii) Make recommendations to the Governor and General Assembly on additional revenue to address unmet needs.

(iii) Notify the Secretary of Natural Resources that there are insufficient funds in the Fund. The Secretary of Natural Resources shall consider additional regulatory controls to address water quality improvements that could not be funded.

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

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

~~(F) establish a process under which a watershed organization, State agency, or other interested party may propose that a water quality project or program identified in a watershed basin plan receive funding from the Clean Water Fund~~ recommend capital appropriations for the permanent protection of land and waters from future development through conservation and water quality projects.

(e) Priorities.

(4) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize as follows:

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

~~(B) funding to projects that address sources of water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;~~

(1) As a first priority, make recommendations regarding funding for the following grants and programs, which shall each be given equal priority:

(A) grants to clean water service providers to fund the reasonable costs associated with the inspection, verification, operation, and maintenance of clean water projects in a basin;

(B) the Water Quality Restoration Formula Grant under section 925 of this title;

(C) the Agency of Agriculture, Food and Markets' agricultural water quality programs; and

(D) the Water Quality Enhancement Grants under section 926 of this title at a funding level of at least 20 percent of the annual balance of the Clean Water Fund, provided that the maximum amount recommended under this subdivision (D) in any year shall not exceed \$ 5,000,000.00; and

(E) funding to partners for basin planning, basin water quality council participation, education, and outreach as provided in subdivision 1253(d)(3) of this title, provided funding shall be at least \$500,000.00.

(2) As the next priority after reviewing funding requests for programs identified under subdivision (1) of this subsection:

~~(C)~~(A) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

~~(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;~~

~~(E)~~(B) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;

~~(F)~~(C) funding for the Municipal Stormwater Implementation Grant as provided in section 928 of this title;

(D) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy; and

~~(G)~~(E) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices;

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

~~(1) investment in watershed basin planning, water quality project identification screening, water quality project evaluation, and conceptual plan development of water quality projects.~~

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

~~(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide investment in all watersheds of the State based on the needs identified in watershed basin plans.~~

(3) As the next priority after reviewing funding requests under subdivisions (1) and (2) of this subsection, funding for the Developed Lands Implementation Grant Program as provided in section 927 of this title.

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

Sec. 4a. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) The Education Fund is established to comprise the following:

* * *

(4) ~~25~~ 21 percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225;

* * *

Sec. 4b. REPEAL

Sec. G.8 (prewritten software accessed remotely) of 2015 Acts and Resolves No. 51 is repealed.

Sec. 5. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(20) If designated as a clean water service provider under 10 V.S.A. § 924, provide for the identification, prioritization, development, construction, inspection, verification, operation, and maintenance of clean water projects in the basin assigned to the regional planning commission in accordance with the requirements of 10 V.S.A. chapter 37, subchapter 5.

Sec. 6. 10 V.S.A. § 704 is amended to read:

§ 704. POWERS OF COUNCIL

The State Natural Resources Conservation Council may employ an administrative officer and such technical experts and such other agents and employees as it may require. The Council may call upon the Attorney General of the State for such legal services as it may require, or may employ its own counsel. It shall have authority to delegate to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. If designated as a clean water service provider under section 924 of this title, provide for the identification, prioritization, development, construction, inspection, verification, operation, and maintenance of clean water projects in the basin assigned to a natural resources conservation district in accordance with the requirements of chapter 37, subchapter 5 of this title.

Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

On or before July 1, 2022, the Secretary of Natural Resources, after consultation with the Clean Water Board, shall submit to the Senate Committees on Appropriations, on Natural Resources and Energy, and on Finance and the House Committees on Appropriations, on Natural Resources, Fish, and Wildlife, and on Ways and Means recommendations regarding implementation of a market-based mechanism that allows the purchase of water quality credits by permittees under 10 V.S.A. chapter 47, and other entities. The report shall include information on the cost to develop and manage any recommended trading program.

Sec. 8. TRANSITION

(a) Until November 1, 2021, the Secretary shall implement the existing ecosystem restoration funding delivery program and shall not make substantial modifications to the manner in which that program has been implemented. The Secretary may give increased priority to meeting legal obligations pursuant to a total maximum daily load when implementing that funding delivery program.

(b) Until the plan required by 10 V.S.A. § 923(d)(2) has been fully implemented, the Secretary shall provide additional weight to geographic areas

of the State not receiving a grant pursuant to 10 V.S.A. § 925 when making funding decisions with respect to grants awarded pursuant to 10 V.S.A. § 926.

Sec. 9. LAND AND WATER CONSERVATION STUDY

(a) The State's success in achieving and maintaining compliance with the Vermont Water Quality Standards for all State waters depends on avoiding the future degradation or impairment of surface waters. An important component of avoiding the future degradation or impairment of surface waters is the permanent protection of lands for multiple conservation purposes, including the protection of surface waters and associated natural resources, according to priorities for multiple conservation values, including water quality benefits, natural areas, flood and climate resilience, wildlife habitat, and outdoor recreation.

(b) The State's success in achieving and maintaining compliance with the Vermont Water Quality Standards depends in part on strategic land conservation. To assist the State in enhancing the benefit of strategic land conservation, the Secretary of Natural Resources shall convene a Land and Water Conservation Study Stakeholder Group to develop a recommended framework for statewide land conservation. On or before January 15, 2020, the Secretary shall submit the Stakeholder Group's recommended framework for statewide land conservation to the General Assembly. The recommended framework shall include:

(1) recommendations for maximizing both water quality benefits and other state priorities from land conservation projects, including agricultural uses, natural area and headwaters protection, flood and climate resilience, wildlife habitat, outdoor recreation, and rural community development; and

(2) recommended opportunities to leverage federal and other nonstate funds for conservation projects.

(c)(1) The Land and Water Conservation Study Stakeholder Group shall include the following individuals or their designees:

(A) the Secretary of Natural Resources;

(B) the Secretary of Agriculture, Food and Markets;

(C) the Executive Director of the Vermont Housing and Conservation Board;

(D) the President of the Vermont Land Trust;

(E) the Vermont and New Hampshire Director of the Trust for Public Land; and

(F) the Director of the Nature Conservancy for the State of Vermont.

(2) The Secretary of Natural Resources shall invite the participation in the Stakeholder Group by the U.S. Department of Agriculture's Natural Resources Conservation Service, representatives of farmer's watershed alliances, representatives of landowner organizations, and other interested parties.

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

§ 1389a. CLEAN WATER INVESTMENT REPORT

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

(b) The Report shall include:

(1) Documentation of progress or shortcomings in meeting established indicators for clean water restoration.

(2) A summary of additional funding sources pursued by the Board, including whether those funding sources were attained; if it was not attained, why it was not attained; and where the money was allocated from the Fund.

(3) A summary of water quality problems or concerns in each watershed basin of the State, a list of water quality projects identified as necessary in each basin of the State, and how identified projects have been prioritized for implementation. The water quality problems and projects identified under this subdivision shall include programs or projects identified across State government and shall not be limited to projects listed by the Agency of Natural Resources in its watershed projects database.

(4) A summary of any changes to applicable federal law or policy related to the State's water quality improvement efforts, including any changes to requirements to implement total maximum daily load plans in the State.

(5) A summary of available federal funding related to or for water quality improvement efforts in the State.

(6) Beginning January 2023, a summary of the administration of the grant programs established under sections 925–928 of this title, including whether these grant programs are adequately funding implementation of the Clean Water Initiative and whether the funding limits for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of this title should be amended to improve State implementation of the Clean Water Initiative.

(c) The Report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(d)(1) The Secretary of Administration shall develop and use a results-based accountability process in publishing the annual report required by subsection (a) of this section.

(2) The Secretary of Administration shall develop user-friendly issue briefs, tables, or executive summaries that make the information required under subdivision (b)(3) available to the public separately from the report required by this section.

(3) On or before September 1 of each year, the Secretary of Administration shall submit to the Joint Fiscal Committee an interim report regarding the information required under subdivision (b)(5) of this section relating to available federal funding.

Sec. 10a. REPORT OF SECRETARY OF ADMINISTRATION;

WATER QUALITY PROJECTS ON FARMS

On or before January 15, 2020, the Secretary of Administration, as the chair of the Clean Water Board, shall, after consultation with the Secretary of Natural Resources and the Secretary of Agriculture, Food and Markets, submit to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry and the Senate Committees on Natural Resources and Energy and on Agriculture a report regarding the administration and funding of water quality projects on farms as part of the Clean Water Initiative. The report shall include recommendations on:

(1) how farmers can maximize access to funding for water quality projects on farms, including funding available through grants authorized under 10 V.S.A chapter 37, subchapter 5;

(2) how the Agency of Agriculture, Food and Markets should be involved in water quality projects on farms, including how the Agency of Agriculture, Food and Markets would give approval of, be notified of, or participate in water quality projects on farms funded by a clean water service provided under 10 V.S.A. chapter 37, subchapter 5;

(3) how to minimize duplication of effort, administration, and oversight between the Agency of Agriculture, Food and Markets and clean water service providers regarding water quality projects on farms; and

(4) how to most efficiently and effectively fund water quality projects on farms, including how to ensure the continued functionality of projects after construction or implementation.

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2019.