

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish, and Wildlife to which was
3 referred Senate Bill No. 96 entitled “An act relating to the provision of water
4 quality services” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

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

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

11 § 921. DEFINITIONS

12 As used in this subchapter:

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

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

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

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

4 (A) is not subject to a permit under chapter 47 of this title, is not
5 subject to the requirements of 6 V.S.A. chapter 215, exceeds the requirements
6 of a permit issued under chapter 47 of this title, or exceeds the requirements of
7 6 V.S.A chapter 215; and

8 (B) is within the following activities:

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

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

17 (iii) forestry; or

18 (iv) agriculture.

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

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

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

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

7 § 922. WATER QUALITY IMPLEMENTATION PLANNING AND
8 TARGETS

9 (a) After listing a water as impaired on the list of waters required by
10 33 U.S.C. § 1313(d), the Secretary shall include in the implementation plan for
11 the water a strategy for returning the water to compliance with the Vermont
12 Water Quality Standards. With respect to a water that is impaired due to
13 sources outside the State or if there is insufficient data or no data available to
14 quantify reductions required by this subchapter, the Secretary shall not be
15 required to implement the requirements of this subchapter; however, the
16 Secretary shall provide an alternate strategy for attaining water quality
17 standards in the implementation plan for the water. For waters determined to
18 be subject to this subchapter, the Secretary shall include the following in an
19 implementation plan:

20 (1) An evaluation of whether implementation of existing regulatory
21 programs will achieve water quality standards in the impaired water. If the

1 Secretary determines that existing regulatory programs will not achieve water
2 quality standards, the Secretary shall determine the amount of additional
3 pollutant reduction necessary to achieve water quality standards in that water.
4 When making this determination, the Secretary may express the pollutant
5 reduction in a numeric reduction or through defining a clean water project that
6 must be implemented to achieve water quality standards.

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

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

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

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

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

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

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

13 § 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN
14 WATER PROJECTS

15 (a) After listing a water as impaired on the list of waters required by
16 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for calculating
17 pollution reduction values associated with a clean water project in that water.
18 When establishing a pollutant reduction value, the Secretary shall consider
19 pollution reduction values established in the TMDL; pollution reduction values
20 established by other jurisdictions; pollution reduction values recommended by
21 organizations that develop pollutant reduction values for a clean water project;

1 applicable monitored data with respect to a clean water project, if available;
2 modeled data, if available; or a comparison to other similar projects or
3 programs if no other data on a pollution reduction value or design life exists.

4 Pollution reduction values established by the Secretary shall be the exclusive
5 method for determining the pollutant reduction value of a clean water project.

6 (b) After listing a water as impaired on the list of waters required by
7 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for
8 establishing a design life associated with a clean water project. The design life
9 of a clean water project shall be determined based on a review of values
10 established in other jurisdictions, values recommended by organizations that
11 regularly estimate the design life of clean water projects, actual data
12 documenting the design life of a practice, or a comparison to other similar
13 practices if no other data exists. A design life adopted by the Secretary shall
14 be the exclusive method for determining the design life of a best management
15 practice or other control.

16 (c)(1) If a person is proposing a clean water project for which no pollution
17 reduction value or design life exists for a listed water, the Secretary shall
18 establish a pollution reduction value or design life for that clean water project
19 within 60 days following a request from the person proposing the clean water
20 project. A pollution reduction value or design life established under this
21 subdivision shall be based on a review of pollution reduction values

1 established in the TMDL; pollution reduction values or design lives established
2 by other jurisdictions; pollution reduction values or design lives recommended
3 by organizations that develop pollutant reduction values or design lives for a
4 clean water project; applicable monitored data with respect to a clean water
5 project, if available; modeled data, if available; actual data documenting the
6 design life of a clean water project; or a comparison to other similar projects or
7 programs if no other data on a pollution reduction value or design life exists.
8 Any estimate developed under this subsection by the Secretary shall be posted
9 on the Agency of Natural Resources' website.

10 (2) Upon the request of a clean water service provider, the Secretary
11 shall evaluate a proposed clean water project and issue a determination as to
12 whether the proposed clean water project is eligible to receive funding as a part
13 of a Water Quality Restoration Grant awarded by the State pursuant to **section**
14 **925** of this title.

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

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

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

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

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

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

12 (a) Clean water service providers; establishment.

13 (1) On or before November 1, 2020, the Secretary shall adopt rules that
14 assign a clean water service provider to each basin in the Lake Champlain and
15 Lake Memphremagog watersheds for the purposes of achieving pollutant
16 reduction values established by the Secretary for the basin and for
17 identification, design, construction, operation, and maintenance of clean water
18 projects within the basin. For all other impaired waters, the Secretary shall
19 assign clean water service provider no later than six months prior to the
20 implementation of the requirements of this subchapter scheduled by the
21 Secretary under subdivision 922(b)(2) of this title. The rulemaking shall be

1 done in consultation with regional planning commissions, natural resource
2 conservation districts, watershed organizations, and municipalities located
3 within each basin.

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

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

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

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

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

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

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

6 (4) In carrying out its duties, a clean water service provider shall adopt
7 guidance for subgrants consistent with the guidance from the Secretary
8 developed pursuant to subdivision (a)(3) of this section that establishes a
9 policy for how the clean water service provider will issue subgrants to other
10 organizations in the basin, giving due consideration to the expertise of those
11 organizations and other requirements for the administration of the grant
12 program. The subgrant guidance shall include how the clean water service
13 provider will allocate administrative costs to subgrantees for project
14 implementation and for the administrative costs of the basin water quality
15 council. The subgrant guidance shall be subject to the approval of the
16 Secretary and basin water quality council.

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

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

9 (c) Maintenance responsibility. A clean water service provider shall be
10 responsible for maintaining a clean water project or ensuring the maintenance
11 for at least the duration of the design life of that clean water project. The
12 Secretary shall provide funding for maintenance consistent with subdivision
13 1389(e)(1)(A) of this title.

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

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

21 (2) use those funds for other eligible project;

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

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

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

8 (e) Reporting. A clean water service provider shall report annually to the
9 Secretary. The report from clean water service providers shall be integrated
10 into the annual clean water investment report, including outcomes from the
11 work performed by clean water service providers. The report shall contain the
12 following:

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

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

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

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

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

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

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

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

13 (g) Basin water quality council.

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

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

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

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

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

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

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

16 (3) The designated clean water service provider and the Agency of
17 Natural Resources shall provide technical staff support to the basin water
18 quality council. The clean water service provider may invite support from
19 persons with specialized expertise to address matters before a basin water
20 quality council, including support from the University of Vermont Extension,
21 staff of the Agency of Natural Resources, staff of the Agency of Agriculture,

1 Food and Markets, staff of the Agency of Transportation, staff from the
2 Agency of Commerce and Community Development, the Natural Resource
3 Conservation Service, U.S. Department of Fish and Wildlife, and U.S. Forest
4 Service.

5 § 925. CLEAN WATER SERVICE PROVIDER; WATER QUALITY
6 RESTORATION FORMULA GRANT PROGRAM

7 The Secretary shall administer a Water Quality Restoration Formula Grant
8 Program to award grants to clean water service providers to meet the pollutant
9 reduction requirements under this subchapter. The grant amount shall be based
10 on the annual pollutant reduction goal established for the clean water service
11 provider multiplied by the standard cost for pollutant reduction including the
12 costs of administration and reporting. No more than 15 percent of the total
13 grant amount awarded to a clean water service provider shall be used for
14 administrative costs.

15 § 926. WATER QUALITY ENHANCEMENT GRANT PROGRAM

16 The Secretary shall administer a Water Quality Enhancement Grant
17 Program. This program shall be a competitive grant program to fund projects
18 that protect high quality waters, restore degraded or stressed waters, create
19 resilient watersheds and communities, and support the public's use and
20 enjoyment of the State's waters. When making awards under this program, the
21 Secretary shall consider the geographic distribution of these funds. Not more

1 than 15 percent of the total grant amount awarded shall be used for
2 administrative costs.

3 **§ 927. THREE-ACRE IMPERVIOUS SURFACE IMPLEMENTATION**
4 **GRANT PROGRAM**

5 The Secretary shall administer a **Three-Acre Impervious Surface**
6 **Implementation Grant Program** to provide grants or financing to persons who
7 are required to obtain a permit to implement regulatory requirements that are
8 necessary to achieve water quality standards. The grant or financing program
9 shall only be available in basins where a clean water service provider has met
10 its annual goals or is making sufficient progress, as determined by the
11 Secretary, towards those goals. This grant program shall fund or provide
12 **financing for** projects related to the permitting of impervious surface of three
13 acres or more under subdivision 1264(g)(3) of this title. Not more than
14 15 percent of the total grant amount awarded shall be used for administrative
15 costs.

16 **§ 928. MUNICIPAL STORMWATER IMPLEMENTATION GRANT**
17 **PROGRAM**

18 (d) The Secretary shall administer a Municipal Stormwater Implementation
19 Grant Program to provide grants to any municipality **required under section**
20 **1264 of this title to obtain or seek coverage under the municipal roads general**
21 **permit, the municipal separate storm sewer systems permit, a permit for**

1 impervious surface of three acres or more, or a permit required by the
2 Secretary to reduce the adverse impacts to water quality of a discharge or
3 stormwater runoff. The grant program shall only be available in basins where
4 a clean water service provider has met its annual goals or is making sufficient
5 progress, as determined by the Secretary, towards those goals. Not more than
6 15 percent of the total grant amount awarded shall be used for administrative
7 costs.

8 § 929. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

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

12 § 930. RULEMAKING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 § 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

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

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

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

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

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

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

3 (E) the permanent protection of land and waters from future
4 development and impairment through conservation and water quality projects
5 funded by the Vermont Housing and Conservation Trust Fund authorized by
6 10 VSA Chapter 15.

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

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

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

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

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

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

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

11 § 1389. CLEAN WATER BOARD

12 (a) Creation.

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

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

17 (B) recommend to the Secretary of Administration expenditures:

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

20 (ii) clean water water quality projects that provide water quality
21 benefits, reduce pollution, protect natural areas, enhance water quality

1 protections on agricultural land enhance flood and climate resilience, provide
2 wildlife habitat, or promote and enhance outdoor recreation in support of rural
3 community vitality to be funded by capital appropriations.

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

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

8 (1) the Secretary of Administration or designee;

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

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

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

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

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

19 * * *

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

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(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 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.

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

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

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

13 (e) Priorities.

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

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

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

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

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

9 (B) the Water Quality Restoration Grant Program as provided under
10 section 925 of this title;

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

13 (D) the Water Quality Enhancement Grants as provided in section
14 926 of this title, provided funding shall be at least \$1,500,000.00; and

15 (E) funding to partners for basin planning, basin water quality
16 council participation, education, and outreach as provided in subdivision
17 1253(d)(3) of this title, provided funding shall be at least \$500,000.00.

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

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

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

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

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

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

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

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

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

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

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

16 (3) As the next priority after reviewing funding requests under
17 subdivisions (1) and (2) of this subsection, funding for the **Three-Acre**
18 **Impervious Surface Implementation Grant Program as provided in section 927**
19 **of this title.**

20 (f) Assistance. The Clean Water Board shall have the administrative,
21 technical, and legal assistance of the Agency of Administration, the Agency of

1 Natural Resources, the Agency of Agriculture, Food and Markets, the Agency
2 of Transportation, and the Agency of Commerce and Community
3 Development for those issues or services within the jurisdiction of the
4 respective agency. The cost of the services provided by agency staff shall be
5 paid from the budget of the agency providing the staff services.

6 Sec. 5. 10 V.S.A. § 8003(a) is amended to read

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

11 * * *

12 (5) 10 V.S.A. chapter 37, relating to wetlands protection, water
13 restoration goals and targets, and water resources management;

14 * * *

15 Sec. 6. 24 V.S.A. § 4345a is amended to read:

16 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

17 A regional planning commission created under this chapter shall:

18 * * *

19 (20) If designated as a clean water service provider under 10 V.S.A.
20 § 924, provide for the identification, prioritization, development, construction,
21 inspection, verification, operation, and maintenance of clean water projects in

1 the basin assigned to the regional planning commission in accordance with the
2 requirements of 10 V.S.A. chapter 37, subchapter 5.

3 Sec. 7. 10 V.S.A. § 704 is amended to read:

4 § 704. POWERS OF COUNCIL

5 The State Natural Resources Conservation Council may employ an
6 administrative officer and such technical experts and such other agents and
7 employees as it may require. The Council may call upon the Attorney General
8 of the State for such legal services as it may require, or may employ its own
9 counsel. It shall have authority to delegate to one or more of its members, or
10 to one or more agents or employees, such powers and duties as it may deem
11 proper. If designated as a clean water service provider under 10 V.S.A. § 924,
12 provide for the identification, prioritization, development, construction,
13 inspection, operation, and maintenance of clean water projects in the basin
14 assigned to a natural resources conservation district in accordance with the
15 requirements of chapter 37, subchapter 5 of this title.

16 Sec. 8. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

17 On or before July 1, 2022, the Secretary of Natural Resources, after
18 consultation with the Clean Water Board, shall submit to the Senate
19 Committees on Appropriations, on Natural Resources and Energy, and on
20 Finance and the House Committees on Appropriations, on Natural Resources,
21 Fish, and Wildlife, and on Ways and Means recommendations regarding

1 implementation of a market-based mechanism that allows the purchase of
2 water quality credits by permittees under 10 V.S.A. chapter 47, and other
3 entities. The report shall include information on the cost to develop and
4 manage any recommended trading program.

5 Sec. 9. TRANSITION

6 (a) Until November 1, 2021, the Secretary shall implement the existing
7 ecosystem restoration funding delivery program and shall not make substantial
8 modifications to the manner in which that program has been implemented.

9 The Secretary may give increased priority to meeting legal obligations
10 pursuant to a total maximum daily load when implementing that funding
11 delivery program.

12 (b) Until the plan required by 10 V.S.A. § 923(d)(2) has been fully
13 implemented, the Secretary shall provide additional weight to geographic areas
14 of the State not receiving a grant pursuant to 10 V.S.A. § 925 when making
15 funding decisions with respect to grants awarded pursuant to 10 V.S.A. § 926.

16 **Sec 10. LAND CONSERVATION AND WATER QUALITY [VHCB**
17 **Proposal]**

18 (a) The State's success in achieving and maintaining compliance with the
19 Vermont Water Quality Standards for all State waters depends on avoiding
20 their future degradation and impairment. Notwithstanding priorities
21 established for funding from the Clean Water Fund under 10 V.S.A. § 1389(e),

1 the State shall continue to provide funding through the Vermont Housing and
2 Conservation Trust Fund for the permanent protection of lands for multiple
3 conservation purposes, including the protection of surface waters and
4 associated natural resources pursuant to 10 V.S.A. §303(3)(F). The projects
5 will be prioritized for their multiple conservation values including water
6 quality benefits, agricultural uses, natural areas, flood and climate resilience,
7 wildlife habitat and outdoor recreation. Funding to Vermont Housing and
8 Conservation Board for these purposes shall equal, at a minimum, \$3.5 million
9 as adjusted for inflation and come from the annual capital construction and
10 State bonding act or the annual appropriations act.

11 (b) Activities pursuant to subsection (a) of this section shall include the
12 purchase of agricultural land in order to take that land out of production when
13 the State water quality requirements cannot be remediated or it is most cost-
14 effective for water quality purposes to retire such land from agricultural use.

15 **Sec. 10. LAND AND WATER CONSERVATION STUDY [ANR Proposal]**

16 (a) The State's success in achieving and maintaining compliance with the
17 Vermont Water Quality Standards for all State waters depends on avoiding
18 their future degradation and impairment. The permanent protection of lands
19 for multiple conservation purposes, including the protection of surface waters
20 and associated natural resources, prioritized for multiple conservation values
21 including water quality benefits, natural areas, flood and climate resilience,

1 wildlife habitat and outdoor recreation are an important component of this
2 work.

3 (b) The State’s success in achieving and maintaining compliance with
4 Vermont Water Quality Standards depends in part on strategic land
5 conversation. The Secretary shall convene a stakeholder group, which shall
6 report back to the General Assembly on or before January 15, 2020 with a
7 recommended framework for statewide land conservation. The recommended
8 framework shall maximize both water quality benefits and other state priorities
9 including but not limited to agricultural uses, natural area and headwaters
10 protection, flood and climate resilience, wildlife habitat, outdoor recreation and
11 rural community development. The recommendations shall also consider
12 opportunities to leverage federal and other non-state funds for conservation
13 projects. The stakeholder group shall include the following individuals or their
14 designees: the Secretaries of the Agencies of Natural Resources and
15 Agricultural, Food, and Markets; the Executive Director of the Vermont
16 Housing and Conservation Board, the President of the Vermont Land Trust, the
17 Vermont and New Hampshire Director of the Trust for Public Land and the
18 State Director of the Nature Conservancy. The Secretary shall also invite the
19 United States Department of Agriculture’s Natural Resources Conservation
20 Service to participate.

21 Sec. 11. EFFECTIVE DATE

1 This act shall take effect on July 1, 2019.

2

3

4

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6

7

8 (Committee vote: _____)

9

10

Representative _____

11

FOR THE COMMITTEE