

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 program and project costs incurred by a  
14 clean water service provider or a grantee, including costs to conduct  
15 procurement, contract preparation, and 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, including Lake Carmi, not set forth in  
10       subdivision (1) of this 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 Formula Grant awarded by the State pursuant  
14 to section 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 pollution reduction values and  
2       design lives established under this section at least every five years to determine  
3       the adequacy or accuracy of a 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 design life of that clean water project. The Secretary shall  
12       provide funding for maintenance consistent with subdivision 1389(e)(1)(A) of  
13       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 decisions for the  
17          clean water service provider regarding the most significant water quality  
18          impairments that exist in the basin and prioritizing the projects that will  
19          address those impairments based on the basin plan. A basin water quality  
20          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 districts  
4                   in 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                  (D) 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                  (E) 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. Not 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, maintain or improve water quality in all  
19 waters, restore degraded or stressed waters, create resilient watersheds and  
20 communities, and support the public's use and enjoyment of the State's waters.  
21 When making awards under this program, the Secretary shall consider the

1 geographic distribution of these funds. Not more than 15 percent of the total  
2 grant amount awarded shall be used for administrative costs.

3 § 927. DEVELOPED LANDS IMPLEMENTATION GRANT PROGRAM

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

14 § 928. MUNICIPAL STORMWATER IMPLEMENTATION GRANT  
15 PROGRAM

16 The Secretary shall administer a Municipal Stormwater Implementation  
17 Grant Program to provide grants to any municipality required under section  
18 1264 of this title to obtain or seek coverage under the municipal roads general  
19 permit, the municipal separate storm sewer systems permit, a permit for  
20 impervious surface of three acres or more, or a permit required by the  
21 Secretary to reduce the adverse impacts to water quality of a discharge or



1 stormwater runoff. The grant program shall only be available in basins where  
2 a clean water service provider has met its annual goals or is making sufficient  
3 progress, as determined by the Secretary, towards those goals. Not more than  
4 15 percent of the total grant amount awarded shall be used for administrative  
5 costs.

6 § 929. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

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

10 § 930. RULEMAKING

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

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

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

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

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

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

- 1           (D) review the evaluations performed by the Secretary under  
2           subdivisions 922(a)(1) and (2) of this title and update those findings based on  
3           any new data collected as part of a basin plan;
- 4           (E) for projects in the basin that will result in enhancement of  
5           resources, including those that protect high quality waters of significant natural  
6           resources, the Secretary shall identify the funding needs beyond those currently  
7           funded by the Clean Water Fund;
- 8           (F) ensure that municipal officials, citizens, natural resources  
9           conservation districts, regional planning commissions, watershed groups, and  
10          other interested groups and individuals are involved in the basin planning  
11          process;
- 12          ~~(E)~~(G) ensure regional and local input in State water quality policy  
13          development and planning processes;
- 14          ~~(F)~~(H) provide education to municipal officials and citizens regarding  
15          the basin planning process;
- 16          ~~(G)~~(I) develop, in consultation with the regional planning  
17          commission, an analysis and formal recommendation on conformance with the  
18          goals and objectives of applicable regional plans;
- 19          ~~(H)~~(J) provide for public notice of a draft basin plan; and
- 20          ~~(I)~~(K) provide for the opportunity of public comment on a draft  
21          basin plan.

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

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

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

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

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

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

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

5 § 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

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

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

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

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

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

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

20 (E) the permanent protection of land and waters from future  
21 development and impairment through conservation and water quality projects

1 funded by the Vermont Housing and Conservation Trust Fund authorized by  
2 chapter 15 of this title.

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

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

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

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

18 (2) fund staff positions at the Agency of Natural Resources, Agency of  
19 Agriculture, Food and Markets, or Agency of Transportation when the  
20 positions are necessary to achieve or maintain compliance with water quality

1 requirements and existing revenue sources are inadequate to fund the necessary  
2 positions; and

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

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

8 § 1389. CLEAN WATER BOARD

9 (a) Creation.

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

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

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

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

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



1 (3) The Clean Water Board shall:

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

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

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

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

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

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

17 (iii) Notify the Secretary of Natural Resources that there are  
18 insufficient funds in the Fund. The Secretary of Natural Resources shall  
19 consider additional regulatory controls to address water quality improvements  
20 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 recommendations regarding funding for the  
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 Formula Grant under section 925  
10          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 under section 926 of this  
14          title at a funding level of at least 20 percent of the annual balance of the Clean  
15          Water Fund, provided that the maximum amount recommended under this  
16          subdivision (D) in any year shall not exceed \$ 5,000,000.00; and

17          (E) funding to partners for basin planning, basin water quality  
18          council participation, education, and outreach as provided in subdivision  
19          1253(d)(3) of this title, provided funding shall be at least \$500,000.00.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

10 A regional planning commission created under this chapter shall:

11 \* \* \*

12 (20) If designated as a clean water service provider under 10 V.S.A.  
13 § 924, provide for the identification, prioritization, development, construction,  
14 inspection, verification, operation, and maintenance of clean water projects in  
15 the basin assigned to the regional planning commission in accordance with the  
16 requirements of 10 V.S.A. chapter 37, subchapter 5.

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

18 § 704. POWERS OF COUNCIL

19 The State Natural Resources Conservation Council may employ an  
20 administrative officer and such technical experts and such other agents and  
21 employees as it may require. The Council may call upon the Attorney General

1 of the State for such legal services as it may require, or may employ its own  
2 counsel. It shall have authority to delegate to one or more of its members, or  
3 to one or more agents or employees, such powers and duties as it may deem  
4 proper. If designated as a clean water service provider under section 924 of  
5 this title, provide for the identification, prioritization, development,  
6 construction, inspection, verification, operation, and maintenance of clean  
7 water projects in the basin assigned to a natural resources conservation district  
8 in accordance with the requirements of chapter 37, subchapter 5 of this title.

9 Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

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

19 Sec. 8. TRANSITION

20 (a) Until November 1, 2021, the Secretary shall implement the existing  
21 ecosystem restoration funding delivery program and shall not make substantial

1 modifications to the manner in which that program has been implemented.

2 The Secretary may give increased priority to meeting legal obligations  
3 pursuant to a total maximum daily load when implementing that funding  
4 delivery program.

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

9 Sec. 9. LAND AND WATER CONSERVATION STUDY

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

19 (b) The State's success in achieving and maintaining compliance with the  
20 Vermont Water Quality Standards depends in part on strategic land  
21 conservation. To assist the State in enhancing the benefit of strategic land

1 conservation, the Secretary of Natural Resources shall convene a Land and  
2 Water Conservation Study Stakeholder Group to develop a recommended  
3 framework for statewide land conservation. On or before January 15, 2020,  
4 the Secretary shall submit the Stakeholder Group’s recommended framework  
5 for statewide land conservation to the General Assembly. The recommended  
6 framework shall include:

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

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

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

15 (A) the Secretary of Natural Resources;

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

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

19 (D) the President of the Vermont Land Trust;

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



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

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

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

8           § 1389a. CLEAN WATER INVESTMENT REPORT

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

16           (b) The Report shall include:

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

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

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

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

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

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

19           (c) The Report may also provide an overview of additional funding  
20 necessary to meet objectives established for clean water restoration and  
21 recommendations for additional revenue to meet those restoration objectives.

1 The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not  
2 apply to the report required by this section.

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

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

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

14 Sec. 11. EFFECTIVE DATE

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

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1 (Committee vote: \_\_\_\_\_)

2

\_\_\_\_\_

3

Representative \_\_\_\_\_

4

FOR THE COMMITTEE