

1 *Note: This document (v.2) incorporates decisions made by Committee on*
2 *Friday, 1/31/20 to v.1. Yellow highlighting in v.1 was removed (unless*
3 *something had been left unresolved), and any new changes made in response*
4 *to Comm. Decisions on Friday was highlighted.*

5
6 H.688

7 Introduced by Representatives Briglin of Thetford, Colburn of Burlington,
8 Copeland Hanzas of Bradford, Hooper of Montpelier, LaLonde
9 of South Burlington, Sibilina of Dover, Ancel of Calais, Anthony
10 of Barre City, Austin of Colchester, Bartholomew of Hartland,
11 Birong of Vergennes, Bock of Chester, Brownell of Pownal,
12 Brumsted of Shelburne, Burke of Brattleboro, Campbell of St.
13 Johnsbury, Carroll of Bennington, Chase of Colchester,
14 Chesnut-Tangerman of Middletown Springs, Christensen of
15 Weathersfield, Christie of Hartford, Cina of Burlington, Coffey
16 of Guilford, Colston of Winooski, Cordes of Lincoln, Demrow
17 of Corinth, Dolan of Waitsfield, Donovan of Burlington, Durfee
18 of Shaftsbury, Elder of Starksboro, Gannon of Wilmington,
19 Gardner of Richmond, Gonzalez of Winooski, Grad of
20 Moretown, Haas of Rochester, Hashim of Dummerston, Hill of
21 Wolcott, Hooper of Randolph, Hooper of Burlington, Houghton
22 of Essex, Howard of Rutland City, James of Manchester,
23 Jerome of Brandon, Jessup of Middlesex, Killacky of South

1 Burlington, Kitzmiller of Montpelier, Kornheiser of Brattleboro,
2 Krowinski of Burlington, Lanpher of Vergennes, Lippert of
3 Hinesburg, Long of Newfane, Macaig of Williston, Masland of
4 Thetford, McCarthy of St. Albans City, McCormack of
5 Burlington, McCullough of Williston, Mrowicki of Putney,
6 Nicoll of Ludlow, Noyes of Wolcott, O'Brien of Tunbridge,
7 Ode of Burlington, O'Sullivan of Burlington, Pajala of
8 Londonderry, Patt of Worcester, Potter of Clarendon, Pugh of
9 South Burlington, Rachelson of Burlington, Ralph of Hartland,
10 Redmond of Essex, Reed of Braintree, Scheu of Middlebury,
11 Sheldon of Middlebury, Squirrel of Underhill, Stevens of
12 Waterbury, Sullivan of Burlington, Szott of Barnard, Till of
13 Jericho, Toleno of Brattleboro, Townsend of South Burlington,
14 Trieber of Rockingham, Troiano of Stannard, Walz of Barre
15 City, Webb of Shelburne, White of Hartford, Wood of
16 Waterbury, Yacovone of Morristown, and Yantachka of
17 Charlotte

18 Referred to Committee on

19 Date:

20 Subject: Air pollution control; greenhouse gas reductions; climate change

1 Statement of purpose of bill as introduced: This bill proposes to create a
2 legally enforceable system by which Vermont will reduce its statewide
3 greenhouse gas emissions and establish strategies to mitigate climate risks and
4 build resiliency to climate change.

5 An act relating to addressing climate change

6 It is hereby enacted by the General Assembly of the State of Vermont:

7 * * * Title and Findings * * *

8 Sec. 1. SHORT TITLE

9 This act may be cited as the Vermont Global Warming Solutions Act of
10 2020.

11 Sec. 2. LEGISLATIVE FINDINGS

12 The General Assembly finds that:

13 (1) According to the Intergovernmental Panel on Climate Change
14 (IPCC), the climate crisis is both caused and exacerbated by greenhouse gas
15 emissions that result from human activity. The IPCC has determined that
16 industrialized countries must cut their emissions to net zero by 2050, which is
17 necessary to achieve the Paris Agreement’s goal of keeping the increase in
18 global average temperature to below 2°C. A climate emergency threatens our
19 communities, State, and region and poses a significant threat to human health

1 and safety, infrastructure, biodiversity, our common environment, and our
2 economy.

3 (2) The State of Vermont is part of the U.S. Climate Alliance, a
4 bipartisan coalition of 25 states that have committed to reducing greenhouse
5 gas emissions consistent with the goals of the Paris Agreement. Working in
6 parallel with other members of the U.S. Climate Alliance, the State of Vermont
7 will help accelerate solutions that address the climate crisis in the absence of
8 federal action. By implementing climate mitigation, adaptation, and resilience
9 strategies, Vermont will also position its economy to benefit and thrive from
10 the global transition to carbon neutrality and national and international efforts
11 to address the crisis.

12 (3) According to the IPCC and the World Bank, a failure to substantially
13 reduce emissions over the next ten years will require even more substantial
14 reductions later and will increase the costs of decarbonization. Delaying
15 necessary policy action to address the climate crisis risks significant economic
16 damage to Vermont.

17 (4) According to the IPCC and the State of Vermont, adaptation and
18 resilience measures are necessary to address climate risks.

19 (5) According to the IPCC, the climate crisis disproportionately impacts
20 rural and marginalized, disenfranchised, and disinvested communities, which
21 already bear significant public health, environmental, socioeconomic, and

1 other burdens. Mitigation, adaptation, and resilience strategies must prioritize
2 the allocation of investment of public resources to these communities and
3 minimize, to the greatest extent practicable, potential regressive impacts.

4 (6) According to the Vermont Agency of Natural Resources, the adverse
5 impacts of climate change in Vermont include an increase in the severity and
6 frequency of extreme weather events, a rise in vector-borne diseases including
7 Lyme disease, more frequent cyanobacteria blooms, adverse impacts to forest
8 and agricultural soils, forest and crop damage, shorter and irregular sugaring
9 seasons, a reduction in seasonal snow cover, and variable and rising average
10 temperatures that result in uncertain and less snowfall.

11 (7) According to the Vermont Agency of Natural Resources the
12 conservation and restoration of Vermont forests, floodplains, and wetlands and
13 the promotion of farming practices that sequester carbon are critical to achieve
14 climate mitigation, adaptation, and resilience.

15 (8) The credit rating industry is now analyzing the adaptation and
16 resilience strategies of issuers of state and municipal bonds and may apply a
17 negative credit factor for issuers with insufficient strategies. Establishing
18 robust adaptation and resilience strategies for Vermont will help protect the
19 State from a climate crisis-related credit downgrade.

1 * * * Greenhouse Gas Reduction Requirements * * *

2 Sec. 3. 10 V.S.A. § 578 is amended to read:

3 § 578. GREENHOUSE GAS REDUCTION ~~GOALS~~ REQUIREMENTS

4 (a) ~~General goal of greenhouse~~ Greenhouse gas reduction requirements. ~~It~~
5 ~~is the goal of the State to~~ Vermont shall reduce emissions of greenhouse gases
6 from within the geographical boundaries of the State and those emissions
7 outside the boundaries of the State that are caused by the use of energy in
8 Vermont ~~in order to make an appropriate contribution to achieving the regional~~
9 ~~goals of reducing emissions of greenhouse gases from the 1990 baseline, as~~
10 measured and inventoried pursuant to section 582 of this title, by:

11 (1) ~~25~~ not less than 26 percent from 2005 greenhouse gas emissions by
12 January 1, 2012 2025 pursuant to the State’s membership in the United States
13 Climate Alliance and commitment to implement policies to achieve the
14 objectives of the 2016 Paris Agreement;

15 (2) ~~50~~ not less than 40 percent from 1990 greenhouse gas emissions by
16 January 1, 2028 2030 pursuant to the State’s 2016 Comprehensive Energy
17 Plan; and

18 (3) ~~if practicable using reasonable efforts, 75~~ not less than 80 percent
19 from 1990 greenhouse gas emissions by January 1, 2050 pursuant to the
20 State’s 2016 Comprehensive Energy Plan.

21 * * *

1 (c) Implementation of State programs to reduce greenhouse gas emissions.
2 In order to facilitate the State’s compliance with the goals established in this
3 section, all State agencies shall consider, ~~whenever practicable~~, any increase or
4 decrease in greenhouse gas emissions in their decision-making procedures with
5 respect to the purchase and use of equipment and goods; the siting,
6 construction, and maintenance of buildings; the assignment of personnel; and
7 the planning, design and operation of programs, services, and infrastructure.

8 * * *

9 * * * Vermont Climate Council and Vermont Climate Action Plan * * *

10 Sec. 4. 10 V.S.A. chapter 24 is added to read:

11 CHAPTER 24. VERMONT CLIMATE COUNCIL AND CLIMATE
12 ACTION PLAN

13 § 590. DEFINITIONS

14 As used in this chapter:

15 (1) “Adaptation” shall mean advancing resiliency through planned and
16 implemented enhancements to, or avoiding degradation of, natural and built
17 systems and structures.

18 (2) “Greenhouse gas” shall have the same meaning as in section 552 of
19 this title.

20 (3) “Mitigation” shall mean reduction of anthropogenic greenhouse gas
21 emissions, and preservation and enhancement of natural systems to sequester

1 and store carbon, in order to stabilize and reduce greenhouse gases in the
2 atmosphere.

3 (4) “Resiliency” shall mean the capacity of individuals, communities,
4 and natural and built systems to withstand and recover from climatic events,
5 trends, and disruptions.

6 § 591. VERMONT CLIMATE COUNCIL

7 (a) There is created the Vermont Climate Council (Council). The Council
8 shall be composed of the following members:

9 (1) the Secretary of Natural Resources, who shall serve as the Chair of
10 the Council;

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

12 (3) the Secretary of Commerce and Community Development or
13 designee;

14 (4) the Secretary of Human Services or designee;

15 (5) the Secretary of Transportation or designee;

16 (6) the Commissioner of Public Safety or designee;

17 (7) the Commissioner of Public Service or designee;

18 (8) the following members who shall be appointed by the Speaker of the
19 House:

20 (A) one member with expertise and professional experience in the
21 design and implementation of programs to reduce greenhouse gas emissions;

1 (B) one member to represent rural communities;

2 (C) one member to represent the municipal governments;

3 (D) one member to represent distribution utilities;

4 (E) one member to represent a statewide environmental organization;

5 (F) one member to represent the fuel sector; and

6 (G) one member with expertise in climate change science;

7 (9) the following members who shall be appointed by the Committee on
8 Committees:

9 (A) one member with expertise in the design and implementation of
10 programs to increase resilience to and respond to natural disasters resulting
11 from climate change;

12 (B) one member to represent the clean energy sector;

13 (C) one member to represent the small business community;

14 (D) one member to represent the Vermont Community Action

15 Partnership;

16 (E) one member to represent the farm and forest sector;

17 (F) one youth member; and

18 (G) one member of a Vermont-based organization with expertise in
19 energy and data analysis.

20 (b) The Council shall:

1 (1) Identify, analyze, and evaluate strategies and programs to reduce
2 greenhouse gas emissions; achieve the State’s reduction requirements pursuant
3 to section 578 of this title; and build resiliency to prepare the State’s
4 communities, infrastructure, and economy to adapt to the current and
5 anticipated effects of climate change, including:

6 (A) creating an inventory of all existing programs that impact
7 greenhouse gas emissions and their efficacy;

8 (B) evaluating and analyzing the technical feasibility and cost-
9 effectiveness of existing strategies and programs and identifying, evaluating,
10 and analyzing new strategies and programs that are based upon emerging
11 scientific and technical information;

12 (C) analyzing each source or category of sources of greenhouse gas
13 emissions and identifying which strategies and programs will result in the
14 largest greenhouse gas emissions reductions in the most cost-effective manner;

15 (D) identifying, analyzing, and evaluating public and private
16 financing strategies to support the transition to a reduced greenhouse gas
17 emissions economy and a more resilient State; and

18 (E) evaluating and analyzing existing strategies and programs that
19 build resiliency, and identifying, evaluating, and analyzing new strategies and
20 programs to prepare the State’s communities, infrastructure, and economy to
21 adapt to the current and anticipated effects of climate change.

1 (2) On or before July 1, 2021, adopt the Vermont Climate Action Plan
2 (Plan) and update the Plan on or before July 1 every four years thereafter. The
3 Plan shall set forth the specific initiatives, programs, and strategies that the
4 State shall pursue to reduce greenhouse gas emissions; achieve the State’s
5 reduction requirements pursuant to section 578 of this title; and build resiliency
6 to prepare the State’s communities, infrastructure, and economy to adapt to the
7 current and anticipated effects of climate change.

8 (3) Identify the means to accurately measure:

9 (A) the State’s greenhouse gas emissions and progress towards
10 meeting the reduction requirements pursuant to section 578 of this title,
11 including publishing emissions data in a timely manner;

12 (B) the effectiveness of the specific initiatives, programs, and
13 strategies set forth in the Plan and updates to the Plan in reducing greenhouse
14 gas emissions;

15 (C) the effect of climate change on the State’s climate, wildlife, and
16 natural resources; and

17 (D) the existing resiliency of the State’s communities, infrastructure,
18 and economy to adapt to the current and anticipated effects of climate change,
19 optimal levels of resiliency, and a comparison of existing and optimal levels.

1 (4) Provide guidance to the Secretary of Natural Resources concerning
2 the form, content, and subject matter of rules to be adopted pursuant to
3 section 593 of this chapter.

4 (c) Subcommittees. The Council shall create the subcommittees listed in
5 this subsection and may also create other subcommittees to advise the Council,
6 assist in preparing the Plan, and carry out other duties. The Council may
7 appoint members of the Council to serve as members of subcommittees and
8 may also appoint individuals who are not members of the Council to serve as
9 members of subcommittees.

10 (1) Rural Resiliency and Adaptation Subcommittee. The Rural
11 Resiliency and Adaptation Subcommittee shall focus on the pressures that
12 climate change adaptation will impose on rural transportation, electricity,
13 housing, emergency services, and communications infrastructure, and the
14 difficulty of rural communities in meeting the needs of its citizens. The
15 Subcommittee shall:

16 (A) develop a municipal vulnerability index to include factors
17 measuring a municipality’s population, average age, employment, and grand
18 list trends; active public and civic organizations; and distance from emergency
19 services and shelter;

20 (B) develop best practice recommendations specific to rural
21 communities for reducing municipal, school district, and residential fossil fuel

1 consumption; fortifying critical transportation, electricity, and community
2 infrastructure; and creating a distributed, redundant, storage-supported local
3 electrical system;

4 (C) recommend a means of securely sharing self-identified
5 vulnerable residents' information with State and local emergency responders
6 and utilities;

7 (D) recommend tools for municipalities to assess their climate
8 emergency preparedness, evaluate their financial capacity to address
9 infrastructure resiliency, and prioritize investment in that infrastructure; and

10 (E) review ? the Vermont Emergency Management biennial report on
11 Vermont's hazard mitigation plans and projects [LS].

12 (2) Cross-Sector Mitigation Subcommittee. This subcommittee shall
13 focus on identifying the most scientifically and technologically feasible
14 strategies and programs that will result in the largest possible greenhouse gas
15 emissions reductions in the most cost-effective manner.

16 (3) Just Transitions Subcommittee. This subcommittee shall focus on
17 ensuring that strategies to reduce greenhouse gas emissions and to build
18 resiliency to adapt to the effects of climate change benefit and support all
19 residents of the State fairly and equitably. This subcommittee shall ensure that
20 strategies consider the disproportionate impact of climate change on rural, low
21 income, and marginalized communities and that programs and incentives for

1 building resiliency are designed to be accessible to all Vermonters and do not
2 unfairly burden any groups, communities, geographic locations, or economic
3 sectors. This subcommittee may adopt a measurement tool to assess the
4 equitability of programs and strategies considered by the Council.

5 (4) Agriculture and Ecosystems Subcommittee. [need add text]

6
7 (d) The Council shall recommend necessary legislation to the General
8 Assembly concerning:

9 (1) adopting market-based or alternative compliance mechanisms as part
10 of the State’s greenhouse gas emissions reduction strategies;

11 (2) changes to land use and development, including to chapter 151 of
12 this title and 30 V.S.A. § 248, to reduce greenhouse gas emissions and promote
13 resiliency in response to climate change; and

14 (3) any other matter the Council deems appropriate.

15 (e) The Council shall have the administrative, technical, and legal
16 assistance of the Agency of Natural Resources and the Department of Public
17 Service and may request the assistance of any Executive Branch Agency and
18 Department.

19 (f) A majority of the sitting members of the Council shall constitute a
20 quorum, and action taken by the Council may be authorized by a majority of
21 the members present and voting at any meeting at which a quorum is present.

1 The Council may permit any or all members to participate in a meeting by, or
2 conduct the meeting through the use of, any means of communication,
3 including an electronic, telecommunications, and video- or audio-conferencing
4 conference telephone call, by which all members participating may
5 simultaneously or sequentially communicate with each other during the
6 meeting. A member participating in a meeting by this means is deemed to be
7 present in person at the meeting. The Council may elect officers and adopt any
8 other procedural rules as it shall determine necessary and appropriate to
9 perform its work.

10 (g) Members of the Council who are not State employees shall be entitled
11 to per diem compensation and reimbursement of expenses for each day spent
12 in the performance of their duties, as permitted under 32 V.S.A. § 1010. These
13 payments shall be made from monies appropriated to the Agency of Natural
14 Resources.

15 (h) The members of the Council appointed pursuant to subdivision (a)(8) of
16 this section shall be appointed to initial terms of two years and members
17 appointed pursuant to subdivision (a)(9) of this section shall be appointed to
18 initial terms of three years. Thereafter, each appointed member shall serve a
19 term of three years or until his or her earlier resignation or removal. A
20 vacancy shall be filled by the appointing authority for the remainder of the

1 unexpired term. An appointed member shall not serve more than three
2 consecutive three-year terms.

3 (g) On or before January 15, 2021 and every January 15 thereafter, the
4 Council shall submit a written report to the General Assembly concerning the
5 Council’s activities and the State’s progress towards meeting the greenhouse
6 gas reduction requirements pursuant to section 578 of this title. On or before
7 July 1, 2023 and every third July 1 thereafter, each municipality in the State
8 shall file a report with the Director of Vermont Emergency Management
9 concerning municipal emergency preparedness, infrastructure resiliency, and
10 infrastructure investment using evaluation tools recommended by the Rural
11 Resiliency and Adaptation Subcommittee pursuant to subdivision (c)(3)(D) of
12 this section.

13 and/or ?

14 ... On or before January 15, 2021 and every second January 15 thereafter, the
15 Director of Vermont Emergency Management shall file a report with the
16 Council concerning Vermont's overall municipal hazard mitigation reports,
17 cross referenced with the Vermont Department of Health Socio-Economic
18 Vulnerability Index, and periodic surveying of Municipal Emergency
19 Managers and RPCS; what progress has been made on Vermont's overall
20 resiliency. [LS]

1 § 592. THE VERMONT CLIMATE ACTION PLAN

2 (a) On or before July 1, 2021, the Vermont Climate Council (Council) shall
3 adopt the Vermont Climate Action Plan (Plan) and update the Plan on or
4 before July 1 every four years thereafter.

5 (b) The Plan shall set forth the specific initiatives, programs, and strategies,
6 including regulatory and legislative changes, necessary to achieve the State’s
7 greenhouse gas emissions reduction requirements pursuant to section 578 of
8 this title and build resiliency to prepare the State’s communities, infrastructure,
9 and economy to adapt to the current and anticipated effects of climate change.

10 The Plan shall include specific initiatives, programs, and strategies that will:

11 (1) reduce greenhouse gas emissions from the transportation, building,
12 regulated utility, industrial, commercial, and agricultural sectors;

13 (2) encourage smart growth and related strategies;

14 (3) achieve long-term sequestration and storage of carbon and promote
15 best management practices to achieve climate mitigation, adaption, and
16 resilience on natural working lands;

17 (4) achieve net zero emissions by 2050 across all sectors;

18 (5) reduce energy burdens for rural and marginalized communities;

19 (6) limit the use of chemicals, substances, or products that contribute to
20 climate change; and

1 (7) build and encourage climate adaptation and resiliency of Vermont
2 communities and natural systems.

3 (c) The analysis, development, and selection of the specific initiatives,
4 programs, and strategies contained in the Plan and updates to the Plan shall be
5 based upon:

6 (1) the Council’s analysis and evaluation of strategies and programs
7 pursuant to subdivision 591(b)(1) of this chapter;

8 (2) reports, plans, and information pertaining to greenhouse gas
9 emissions reduction and climate resiliency strategies from the Agency of
10 Natural Resources, the Department of Public Service, other State agencies and
11 departments and, where appropriate, the State Comprehensive Energy Plan
12 prepared pursuant to 30 V.S.A. § 202b and the 2018 Vermont Climate Action
13 Commission Report to the Governor; and

14 (3) other reports, plans, and information.

15 (d) The specific initiatives, programs, and strategies contained in the Plan
16 and updates to the Plan shall further the following objectives:

17 (1) to prioritize the most cost-effective, technologically feasible, and
18 equitable greenhouse gas emissions reduction pathways and adaptation and
19 preparedness strategies informed by scientific and technical expertise;

20 (2) to provide for greenhouse gas emissions reductions that reflect the
21 relative contribution of each source or category of source of emissions;

1 (3) to minimize negative impacts on marginalized and rural
2 communities and upon individuals with low and moderate income;

3 (4) to ensure that all regions of the State benefit from greenhouse gas
4 emissions reductions, including sharing in the resulting economic, quality-of-
5 life, and public health benefits;

6 (5) to support economic sectors and regions of the State that face the
7 greatest barriers to emissions reductions, especially rural and economically
8 distressed regions and industries;

9 (6) to support industries, technology, and training that will allow
10 workers and businesses in the State to benefit from greenhouse gas emissions
11 reduction solutions;

12 (7) to support the use of natural solutions to reduce greenhouse gas
13 emissions and increase resiliency, including the use of working lands to
14 sequester and store carbon and protect against severe weather events; and

15 (8) to maximize the State’s involvement in interstate and regional
16 initiatives and programs designed to reduce regional greenhouse gas emissions
17 and build upon state, national, and international partnerships and programs
18 designed to mitigate climate change and its impacts.

19 (e) The Plan shall form the basis for the rules adopted by the Secretary of
20 Natural Resources pursuant to section 593 of this chapter. If the Council fails
21 to adopt the Plan or update the Plan as required by this chapter, the Secretary

1 shall proceed with adopting and implementing rules pursuant to subsection
2 593(j) of this chapter to achieve the greenhouse gas emissions reductions
3 requirements pursuant to section 578 of this title.

4 § 593. RULES

5 (a) The Secretary of Natural Resources shall adopt rules pursuant to
6 3 V.S.A. chapter 25 consistent with the Vermont Climate Action Plan (Plan).

7 In adopting rules pursuant to this section the Secretary shall:

8 (1) Ensure that the rules are consistent with the specific initiatives,
9 programs, and strategies set forth in the Plan and updates to the Plan; follow
10 the Vermont Climate Council’s guidance provided pursuant to subdivision
11 591(b)(4) of this chapter; and further the objectives pursuant to subsection
12 592(d) of this chapter.

13 (2) Develop a detailed record containing facts; data; and legal, scientific,
14 and technical information sufficient to establish a reasonable basis to believe
15 that the rules shall achieve the State’s greenhouse gas emissions reductions
16 requirements pursuant to section 578 of this title. This detailed record shall be
17 included with the rule and filed with the Secretary of State pursuant to
18 3 V.S.A. § 838.

19 (b) On or before July 1, 2022, the Secretary shall adopt and implement
20 rules consistent with the specific initiatives, programs, and strategies set forth

1 in the Plan and achieve the 2025 greenhouse gas emissions reduction
2 requirement pursuant to section 578 of this title.

3 (c) The Secretary shall conduct public hearings across the State concerning
4 the proposed rules. The Secretary shall conduct a portion of these hearings in
5 areas and communities that have the most significant exposure to the impacts
6 of climate change, including disadvantaged, low-income, and rural
7 communities and areas.

8 (d) The Secretary shall, on or before July 1, 2024, review and, if necessary,
9 update the rules required by subsection (b) of this section in order to ensure
10 that the 2025 greenhouse gas emissions reduction requirement pursuant to
11 section 578 of this title is achieved. In performing this review and update, the
12 Secretary shall observe the requirements of subsection (c) of this section.

13 (e) On or before July 1, 2026, the Secretary shall adopt and implement
14 rules consistent with the specific initiatives, programs, and strategies set forth
15 in the Plan and updates to the Plan and achieve the 2030 greenhouse gas
16 emissions reduction requirement pursuant to section 578 of this title. The
17 Secretary shall observe the requirements of subsection (c) of this section.

18 (f) The Secretary shall, at his or her discretion, but not less frequently than
19 once every two years between 2026 and 2030, review and, if necessary, update
20 the rules required by subsection (e) of this section in order to ensure that the
21 2030 greenhouse gas emissions reduction requirement pursuant to section 578

1 of this title is achieved. In performing this review and update, the Secretary
2 shall observe the requirements of this subsection (c) of this section.

3 (g) On or before July 1, 2040, the Secretary shall adopt and implement
4 rules consistent with the specific initiatives, programs, and strategies set forth
5 in the Plan and updates to the Plan and achieve the 2050 greenhouse gas
6 emissions reduction requirement pursuant to section 578 of this title.

7 (h) The Secretary shall, at his or her discretion, but not less frequently than
8 once every two years between 2040 and 2050, review and, if necessary, update
9 the rules required by subsection (g) of this section in order to ensure that the
10 2050 greenhouse gas emissions reduction requirement pursuant to section 578
11 of this title is achieved. In performing this review and update, the Secretary
12 shall observe the requirements of subsection (c) of this section.

13 (i) The Secretary may establish alternative reduction mechanisms to be
14 used by sources of greenhouse gas emissions, if necessary, to achieve net zero
15 emissions after 2050.

16 (1) The use of alternative reduction mechanisms shall account for not
17 more than 20 percent of statewide greenhouse gas emissions estimated as a
18 percentage of 1990 emissions. The use of a mechanism must offset a quantity
19 of greenhouse gas emissions equal to or greater than the amount of greenhouse
20 gasses emitted.

1 (2) The Secretary shall verify that any greenhouse gas emissions offset
2 projects authorized as alternative reduction mechanisms represent equivalent
3 emissions reductions or carbon sequestration that are real, additional,
4 verifiable, enforceable, and permanent.

5 (j) If the Council fails to adopt the Plan or update the Plan as required by
6 section 592 of this chapter, the Secretary shall adopt and implement rules
7 pursuant to 3 V.S.A. chapter 25 to achieve the greenhouse gas emissions
8 reductions requirements pursuant to section 578 of this title.

9 (k) Nothing in this section shall be construed to limit the existing authority
10 of a State agency or department to regulate greenhouse gas emissions or
11 establish strategies or promulgate rules to mitigate climate risk and build
12 resiliency to climate change.

13 (l) The General Assembly may repeal, revise, or modify any rule or
14 amendment to any rule, and its action shall not be abridged, enlarged, or
15 modified by subsequent rule.

16 § 594. CAUSE OF ACTION

17 (a) Any person may commence an action based upon the failure of the
18 Secretary of Natural Resources to adopt or update rules pursuant to the
19 deadlines in section 593 of this chapter.

1 (1) The action shall be brought pursuant to Rule 75 of the Vermont
2 Rules of Civil Procedure in the Civil Division of the Superior Court of
3 Washington County.

4 (2) The complaint shall be filed within one year after expiration of the
5 time in which the Secretary of Natural Resources was required to adopt or
6 update rules pursuant to section 593 of this chapter. However, a person shall
7 not commence an action under this subsection until at least 60 days after
8 providing notice of the alleged violation to the Secretary.

9 (3) If the court finds that the Secretary has failed to adopt or update
10 rules pursuant to the deadlines in section 593 of this chapter, the court shall
11 enter an order directing the Secretary to adopt or update rules. If the court
12 finds that the Secretary is taking prompt and effective action to adopt or update
13 rules, the court may grant the Secretary a reasonable period of time to do so.

14 (b) Any person may commence an action alleging that rules adopted by the
15 Secretary pursuant to section 593 of this chapter have failed to achieve the
16 greenhouse gas emissions reductions requirements pursuant to section 578 of
17 this title.

18 (1) The action shall be brought in the Civil Division of the Superior
19 Court of Washington County.

20 (2) The complaint shall be filed within one year after the Vermont
21 Greenhouse Gas Emission Inventory and Forecast published pursuant to

1 section 582 of this title indicates that the rules adopted by the Secretary have
2 failed to achieve the greenhouse gas emissions reductions requirements
3 pursuant to section 578 of this title. However, a person shall not commence an
4 action under this subsection until at least 60 days after providing notice of the
5 alleged violation to the Secretary.

6 (3) If the court finds that the rules adopted by the Secretary pursuant to
7 section 593 of this chapter are a substantial cause of failure to achieve the
8 greenhouse gas emissions reductions requirements pursuant to section 578 of
9 this title, the court shall enter an order remanding the matter to the Secretary to
10 adopt or update rules that achieve the greenhouse gas emissions reductions
11 requirements consistent with this chapter. If the court finds that the Secretary
12 is taking prompt and effective action to comply the court may grant the
13 Secretary a reasonable period of time to do so.

14 (c) In an action brought pursuant to this section, a prevailing party or
15 substantially prevailing party:

16 (1) that is a plaintiff shall be awarded reasonable costs and attorney's
17 fees unless doing so would not serve the interests of justice; or

18 (2) that is a defendant may be awarded reasonable costs if the action was
19 frivolous or lacked a reasonable basis in law or fact.

1 (d) Nothing in this section shall be construed to limit the rights, procedures,
2 and remedies available under any law, including the Vermont Administrative
3 Procedure Act pursuant to 3 V.S.A. chapter 25.

4 * * * Rulemaking and Appointment of Council Members * * *

5 Sec. 5. RULES REQUIRED PURSUANT TO 10 V.S.A. § 593

6 Any proposed rules and the detailed record required pursuant to section
7 10 V.S.A. § 593 shall be:

8 (1) submitted to the Vermont Climate Council not less than 45 days
9 prior to submitting the proposed rule or rules to the Interagency Committee on
10 Administrative Rules (ICAR);

11 (2) submitted to the members of the House Committees on Energy and
12 Technology, on Natural Resources, Fish, and Wildlife, and on Transportation,
13 to the Senate Committees on Finance, on Natural Resources and Energy, and
14 on Transportation, and to the Joint Carbon Emissions Reduction Committee
15 not less than 30 days prior to submitting the proposed rule or rules to ICAR;
16 and

17 (3) filed with ICAR on or before March 1, 2022.

18 Sec. 6. VERMONT CLIMATE COUNCIL; APPOINTMENT OF MEMBERS
19 AND FIRST MEETING

20 All members of the Vermont Climate Council established pursuant to
21 section 10 V.S.A. § 591 shall be appointed within 60 days of the effective date

1 of this act and the Chair shall call the first meeting of the Council within
2 30 days after all members have been appointed.

3 * * * State Energy Policy and the Comprehensive Energy Plan * * *

4 Sec. 7. 30 V.S.A. § 202a is amended to read:

5 § 202a. STATE ENERGY POLICY

6 It is the general policy of the State of Vermont:

7 (1) To ~~assure~~, ensure to the greatest extent practicable, that Vermont can
8 meet its energy service needs in a manner that is adequate, reliable, secure, and
9 sustainable; that ~~assures~~ ensures affordability and encourages the State's
10 economic vitality, the efficient use of energy resources, and cost-effective
11 demand-side management; and that is environmentally sound.

12 (2) To identify and evaluate, on an ongoing basis, resources that will
13 meet Vermont's energy service needs in accordance with the principles of
14 reducing greenhouse gas emissions and least-cost integrated planning;
15 including efficiency, conservation, and load management alternatives, wise use
16 of renewable resources, and environmentally sound energy supply.

17 (3) To meet Vermont's energy service needs in a manner that will
18 achieve the greenhouse gas emissions reductions requirements pursuant to
19 10 V.S.A § 578 and are consistent with the Vermont Climate Action Plan
20 adopted and updated pursuant to 10 V.S.A. § 592.

21 Sec. 8. 30 V.S.A. § 202b is amended to read:

1 § 202b. STATE COMPREHENSIVE ENERGY PLAN

2 (a) The Department of Public Service, in conjunction with other State
3 agencies designated by the Governor, shall prepare a State Comprehensive
4 Energy Plan covering at least a 20-year period. The Plan shall seek to
5 implement the State energy policy set forth in section 202a of this title,
6 including meeting the State’s greenhouse gas emissions reductions
7 requirements pursuant to 10 V.S.A. § 578, and shall be consistent with the
8 relevant goals of 24 V.S.A. § 4302 and with the Vermont Climate Action Plan
9 adopted and updated pursuant to 10 V.S.A. § 592. The State Comprehensive
10 Energy Plan shall include:

11 * * *

12 * * * Appropriation and Positions * * *

13 **Sec. 9. APPROPRIATION**

14 The sum of \$XX.00 is appropriated from the General Fund to the Agency of
15 Natural Resources in fiscal year 2021 for the purpose of implementing this
16 Act, including costs associated with providing administrative, technical, and
17 legal support to the Vermont Climate Council; compensation and
18 reimbursement of expenses for members of the Council; developing the

1 Climate Action Plan; developing and promulgating rules; and for other costs,
2 expenses, and personal services.

3 **Sec. 10. AGENCY OF NATURAL RESOURCES; POSITIONS**

4 (a) The following positions are created in the Agency of Natural
5 Resources:

6 (1) x full-time, exempt xxx

7 (2) x full-time exempt xxx

8 (b) The positions established in this section shall be transferred and
9 converted from existing vacant positions in the Executive Branch of State
10 government.

11 * * * Effective Date * * *

12 **Sec. 11. EFFECTIVE DATE**

13 This act shall take effect on passage.