

1 *Text highlighted in:*

- 2 • *yellow* = changes added to v.2, discussed with Committee on 2/4/20
- 3 • *turquoise* = changes added in v.3 discussed with Committee on 2/5
- 4 • *green* = changes added in v.4 to be discussed with Committee on
- 5 2/6/20

6
7 H.688

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

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

20 (3) “Hazard mitigation” shall have the same meaning as in 20 V.S.A.

21 § 2.

1 (4) “Mitigation” shall mean reduction of anthropogenic greenhouse gas
2 emissions, and preservation and enhancement of natural systems to sequester
3 and store carbon, in order to stabilize and reduce greenhouse gases in the
4 atmosphere.

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

8 § 591. VERMONT CLIMATE COUNCIL

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

11 (1) the Secretary of Administration, who shall serve as the Chair of the
12 Council [non-voting]; *Question: Did the Committee agree to this?*

13 (2) the Secretary of Natural Resources;

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

15 (3) the Secretary of Commerce and Community Development or
16 designee;

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

18 (5) the Secretary of Transportation or designee;

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

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

1 (8) the following members who shall be appointed by the Speaker of the
2 House:

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

5 (B) one member to represent rural communities;

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

7 (D) one member to represent distribution utilities;

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

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

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

11 (9) the following members who shall be appointed by the Committee on
12 Committees:

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

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

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

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

19 Partnership;

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

21 (F) one youth member; and

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

3 (b) The Council shall:

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

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

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

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

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

1 (E) evaluating and analyzing existing strategies and programs that
2 build resilience, and identifying, evaluating, and analyzing new strategies and
3 programs to prepare the State’s communities, infrastructure, and economy to
4 adapt to the current and anticipated effects of climate change.

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

12 (3) Identify the means to accurately measure:

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

16 (B) the effectiveness of the specific initiatives, programs, and
17 strategies set forth in the Plan and updates to the Plan in reducing greenhouse
18 gas emissions;

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

1 (D) the existing resilience of the State’s communities, infrastructure,
2 and economy and progress towards improving resilience to adapt to the current
3 and anticipated effects of climate change.

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

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

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

19 (A) develop a municipal vulnerability index to include factors
20 measuring a municipality’s population, average age, employment, and grand

1 list trends; active public and civic organizations; and distance from emergency
2 services and shelter;

3 (B) develop best practice recommendations specific to rural
4 communities for reducing municipal, school district, and residential fossil fuel
5 consumption; fortifying critical transportation, electricity, and community
6 infrastructure; and creating a distributed, redundant, storage-supported local
7 electrical system;

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

11 (D) recommend tools for municipalities to assess their climate
12 emergency preparedness, evaluate their financial capacity to address
13 infrastructure resilience, and prioritize investment in that infrastructure; and

14 (E) recommend programmatic, policy, and legislative changes based
15 on biennial reporting on municipal resilience to increased hazards presented by
16 climate change provided by Vermont Emergency Management.

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

1 (3) Just Transitions Subcommittee. This subcommittee shall focus on
2 ensuring that strategies to reduce greenhouse gas emissions and to build
3 resilience to adapt to the effects of climate change benefit and support all
4 residents of the State fairly and equitably. This subcommittee shall ensure that
5 strategies consider the disproportionate impact of climate change on rural, low
6 income, and marginalized communities and that programs and incentives for
7 building resilience are designed to be accessible to all Vermonters and do not
8 unfairly burden any groups, communities, geographic locations, or economic
9 sectors. This subcommittee may adopt a measurement tool to assess the
10 equitability of programs and strategies considered by the Council.

11 (4) Agriculture and Ecosystems Subcommittee. This subcommittee
12 shall focus on the role Vermont’s natural and working lands play in carbon
13 sequestration and storage, climate adaptation, and both ecosystem and
14 community resilience. The subcommittee will seek to understand current
15 initiatives in the agricultural and forestry sectors and the businesses that
16 depend on them, and to develop proposed actions and policies that increase
17 carbon stored on agricultural and forest land and in forest products; support
18 healthy agricultural soils; and restore wetlands. These actions and policies shall
19 in turn support a host of co-benefits such as improved air and water quality,
20 economic vitality, ecosystem functions, local food systems and create more
21 climate resilient communities and landscapes.

1 (d) The Council shall recommend necessary legislation to the General

2 Assembly concerning:

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

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

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

9 (e) The Council shall have the administrative, technical, and legal
10 assistance of the Agency of Natural Resources and the Department of Public
11 Service and may request the assistance of any Executive Branch Agency and
12 Department.

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

16 The Council may permit any or all members to participate in a meeting by, or
17 conduct the meeting through the use of, any means of communication,

18 including electronic, telecommunications, and video- or audio-conferencing
19 technology, by which all members participating may simultaneously or

20 sequentially communicate with each other during the meeting. A member

21 participating in a meeting by this means is deemed to be present in person at

1 the meeting. The Council may elect officers and adopt any other procedural
2 rules as it shall determine necessary and appropriate to perform its work.

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

8 (h) The members of the Council appointed pursuant to subdivision (a)(8) of
9 this section shall be appointed to initial terms of two years and members
10 appointed pursuant to subdivision (a)(9) of this section shall be appointed to
11 initial terms of three years. Thereafter, each appointed member shall serve a
12 term of three years or until his or her earlier resignation or removal. A
13 vacancy shall be filled by the appointing authority for the remainder of the
14 unexpired term. An appointed member shall not serve more than three full
15 consecutive three-year terms.

16 (i) On or before January 15, 2021 and every January 15 thereafter, the
17 Council shall submit a written report to the General Assembly concerning the
18 Council's activities and the State's progress towards meeting the greenhouse
19 gas reduction requirements pursuant to section 578 of this title. On or before
20 July 1, 2023 and every third July 1 thereafter, each municipality in the State
21 shall file a report with the Director of Vermont Emergency Management

1 concerning municipal emergency preparedness, infrastructure resilience, and
2 infrastructure investment using evaluation tools recommended by the Rural
3 Resilience and Adaptation Subcommittee pursuant to subdivision (c)(3)(D) of
4 this section. On or before November 1, 2021 and every second November 1
5 thereafter, the Director of Vermont Emergency Management shall file a report
6 with the Council concerning Vermont's overall municipal resilience to
7 increased hazards presented by climate change which shall include hazard
8 mitigation plans, local emergency management plans, and survey results as
9 deemed appropriate by the Director. Subsequent reports shall include updates
10 to demonstrate progress in local resilience. The report shall inform Council
11 recommendations on policies to address gaps.

12 § 592. THE VERMONT CLIMATE ACTION PLAN

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

16 (b) The Plan shall set forth the specific initiatives, programs, and strategies,
17 including regulatory and legislative changes, necessary to achieve the State's
18 greenhouse gas emissions reduction requirements pursuant to section 578 of
19 this title and build resilience to prepare the State's communities, infrastructure,
20 and economy to adapt to the current and anticipated effects of climate change.
21 The Plan shall include specific initiatives, programs, and strategies that will:

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

3 (2) encourage smart growth and related strategies;

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

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

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

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

11 (7) build and encourage climate adaptation and resilience of Vermont
12 communities and natural systems.

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

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

18 (2) reports, plans, and information pertaining to greenhouse gas
19 emissions reduction and climate resilience strategies from the Agency of
20 Natural Resources, the Department of Public Service, other State agencies and
21 departments and, where appropriate, the State Comprehensive Energy Plan

1 prepared pursuant to 30 V.S.A. § 202b and the 2018 Vermont Climate Action
2 Commission Report to the Governor; and

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

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

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

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

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

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

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

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

1 (7) to support the use of natural solutions to reduce greenhouse gas
2 emissions and increase resilience, including the use of working lands to
3 sequester and store carbon and protect against severe weather events; and

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

8 (e) The Plan shall form the basis for the rules adopted by the Secretary of
9 Natural Resources pursuant to section 593 of this chapter. If the Council fails
10 to adopt the Plan or update the Plan as required by this chapter, the Secretary
11 shall proceed with adopting and implementing rules pursuant to subsection
12 593(j) of this chapter to achieve the greenhouse gas emissions reductions
13 requirements pursuant to section 578 of this title.

14 § 593. RULES

15 (a) The Secretary of Natural Resources shall adopt rules pursuant to
16 3 V.S.A. chapter 25 consistent with the Vermont Climate Action Plan (Plan).
17 In adopting rules pursuant to this section the Secretary shall:

18 (1) Ensure that the rules are consistent with the specific initiatives,
19 programs, and strategies set forth in the Plan and updates to the Plan; follow
20 the Vermont Climate Council’s guidance provided pursuant to subdivision

1 591(b)(4) of this chapter; and further the objectives pursuant to subsection
2 592(d) of this chapter.

3 (2) Develop a detailed record containing facts; data; and legal, scientific,
4 and technical information sufficient to establish a reasonable basis to believe
5 that the rules shall achieve the State’s greenhouse gas emissions reductions
6 requirements pursuant to section 578 of this title. This detailed record shall be
7 included with the rule and filed with the Secretary of State pursuant to
8 3 V.S.A. § 838.

9 (b) On or before July 1, 2022, the Secretary shall adopt and implement
10 rules consistent with the specific initiatives, programs, and strategies set forth
11 in the Plan and achieve the 2025 greenhouse gas emissions reduction
12 requirement pursuant to section 578 of this title.

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

18 (d) The Secretary shall, on or before July 1, 2024, review and, if necessary,
19 update the rules required by subsection (b) of this section in order to ensure
20 that the 2025 greenhouse gas emissions reduction requirement pursuant to

1 section 578 of this title is achieved. In performing this review and update, the
2 Secretary shall observe the requirements of subsection (c) of this section.

3 (e) On or before July 1, 2026, 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 2030 greenhouse gas
6 emissions reduction requirement pursuant to section 578 of this title. The
7 Secretary shall observe the requirements of subsection (c) of this section.

8 (f) The Secretary shall, at his or her discretion, but not less frequently than
9 once every two years between 2026 and 2030, review and, if necessary, update
10 the rules required by subsection (e) of this section in order to ensure that the
11 2030 greenhouse gas emissions reduction requirement pursuant to section 578
12 of this title is achieved. In performing this review and update, the Secretary
13 shall observe the requirements of this subsection (c) of this section.

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

18 (h) The Secretary shall, at his or her discretion, but not less frequently than
19 once every two years between 2040 and 2050, review and, if necessary, update
20 the rules required by subsection (g) of this section in order to ensure that the
21 2050 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 subsection (c) of this section.

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

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

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

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

19 (k) Nothing in this section shall be construed to limit the existing authority
20 of a State agency, department, or entity to regulate greenhouse gas emissions

1 or establish strategies or promulgate rules to mitigate climate risk and build
2 resilience to climate change.

3 (1) The General Assembly may repeal, revise, or modify any rule or
4 amendment to any rule, and its action shall not be abridged, enlarged, or
5 modified by subsequent rule.

6 § 594. CAUSE OF ACTION

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

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

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

18 (3) If the court finds that the Secretary has failed to adopt or update
19 rules pursuant to the deadlines in section 593 of this chapter, the court shall
20 enter an order directing the Secretary to adopt or update rules. If the court

1 finds that the Secretary is taking prompt and effective action to adopt or update
2 rules, the court may grant the Secretary a reasonable period of time to do so.

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

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

9 (2) The complaint shall be filed within one year after the Vermont
10 Greenhouse Gas Emission Inventory and Forecast published pursuant to
11 section 582 of this title indicates that the rules adopted by the Secretary have
12 failed to achieve the greenhouse gas emissions reductions requirements
13 pursuant to section 578 of this title. However, a person shall not commence an
14 action under this subsection until at least 60 days after providing notice of the
15 alleged violation to the Secretary.

16 (3) If the court finds that the rules adopted by the Secretary pursuant to
17 section 593 of this chapter are a substantial cause of failure to achieve the
18 greenhouse gas emissions reductions requirements pursuant to section 578 of
19 this title, the court shall enter an order remanding the matter to the Secretary to
20 adopt or update rules that achieve the greenhouse gas emissions reductions
21 requirements consistent with this chapter. If the court finds that the Secretary

1 is taking prompt and effective action to comply the court may grant the
2 Secretary a reasonable period of time to do so.

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

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

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

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

12 * * * Rulemaking and Appointment of Council Members * * *

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

14 Any proposed rules and the detailed record required pursuant to section
15 10 V.S.A. § 593 shall be:

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

19 (2) submitted to the members of the House Committees on Energy and
20 Technology, on Natural Resources, Fish, and Wildlife, and on Transportation,
21 to the Senate Committees on Finance, on Natural Resources and Energy, and

1 on Transportation, and to the Joint Carbon Emissions Reduction Committee
2 not less than 30 days prior to submitting the proposed rule or rules to ICAR;
3 and
4 (3) filed with ICAR on or before March 1, 2022.

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

7 All members of the Vermont Climate Council established pursuant to
8 section 10 V.S.A. § 591 shall be appointed within 60 days of the effective date
9 of this act and the Chair shall call the first meeting of the Council within
10 30 days after all members have been appointed.

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

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

13 § 202a. STATE ENERGY POLICY

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

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

20 (2) To identify and evaluate, on an ongoing basis, resources that will
21 meet Vermont's energy service needs in accordance with the principles of

1 reducing greenhouse gas emissions and least-cost integrated planning;
2 including efficiency, conservation, and load management alternatives, wise use
3 of renewable resources, and environmentally sound energy supply.

4 (3) To meet Vermont’s energy service needs in a manner that will
5 achieve the greenhouse gas emissions reductions requirements pursuant to
6 10 V.S.A § 578 and are consistent with the Vermont Climate Action Plan
7 adopted and updated pursuant to 10 V.S.A. § 592.

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

9 § 202b. STATE COMPREHENSIVE ENERGY PLAN

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

19 * * *

1 * * * Appropriation and Positions * * *

2 Sec. 9. APPROPRIATION

3 The sum of \$XX.00 is appropriated from the General Fund to the Agency of
4 Natural Resources in fiscal year 2021 for the purpose of implementing this
5 Act, including costs associated with providing administrative, technical, and
6 legal support to the Vermont Climate Council; compensation and
7 reimbursement of expenses for members of the Council; developing the
8 Climate Action Plan; developing and promulgating rules; and for other costs,
9 expenses, and personal services.

10 Sec. 10. AGENCY OF NATURAL RESOURCES; POSITIONS

11 (a) The following positions are created in the Agency of Natural
12 Resources:

13 (1) x full-time, exempt xxx

14 (2) x full-time exempt xxx

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

18 * * * Effective Date * * *

19 Sec. 11. EFFECTIVE DATE

20 This act shall take effect on passage.