

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred  
3 House Bill No. 926 entitled “An act relating to changes to Act 250”  
4 respectfully reports that it has considered the same and recommends that the  
5 Senate propose to the House that the bill be amended by striking out all after  
6 the enacting clause and inserting in lieu thereof the following:

7 \* \* \* Trails \* \* \*

8 Sec. 1. 10 V.S.A. § 6001 is amended to read:

9 § 6001. DEFINITIONS

10 \* \* \*

11 (38) “Recreational trail” has the same meaning as “trails” in subdivision  
12 442(3) of this title.

13 (39) “Vermont trails system trail” means a recreational trail recognized  
14 by the Agency of Natural Resources pursuant to chapter 20 of this title. For  
15 purposes of this chapter, the construction, operation, and maintenance of a  
16 Vermont trails system trail shall be for a municipal, county, or State purpose.

17 Sec. 2. 10 V.S.A. § 442(3) is amended to read:

18 (3) “Trails” means land used for hiking, walking, bicycling, cross-country  
19 skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other  
20 similar activities. Trails may be used for recreation, transportation, and other  
21 compatible purposes, but the primary purpose shall not be the operation of a

1 motor vehicle. As used in this subdivision, “motor vehicle” shall not include  
2 all-terrain vehicles or snowmobiles.

3 Sec. 3. 10 V.S.A. § 6001(3)(A) is amended to read:

4 (3)(A) “Development” means each of the following:

5 \* \* \*

6 (xi) The construction of improvements for a Vermont trails system  
7 trail on a tract or tracts of land involving more than 10 acres.

8 (I) This subdivision (xi) shall be the exclusive mechanism for  
9 determining jurisdiction over a recreational trail that is a Vermont trails system  
10 trail and shall only apply to the construction of improvements made on or after  
11 October 1, 2020.

12 (II) For purposes of this subdivision (xi), involved land  
13 includes:

14 (aa) land that is physically altered, including any ground  
15 disturbance and clearing that will occur; and

16 (bb) infrastructure that is incidental to the operation of the  
17 trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and  
18 interpretive and directional signage.

19 (III) For purposes of this subdivision (xi), involved land does  
20 not include land where no ground will be disturbed or cleared or any Vermont  
21 trails system trail constructed before October 1, 2020.

1 Sec. 4. 10 V.S.A. § 6001(3)(C) is amended to read:

2 (C) For the purposes of determining jurisdiction under subdivision  
3 (3)(A) of this section, the following shall apply:

4 \* \* \*

5 (vi) Recreational trails. When jurisdiction over a trail has been  
6 established pursuant to subdivision (A) of this subdivision (3), jurisdiction  
7 shall extend only to the recreational trail and infrastructure that is incidental to  
8 the operation of the trail. Jurisdiction shall not extend to the remainder of a  
9 parcel or parcels where a recreational trail is located, unless otherwise  
10 determined to be jurisdictional pursuant to another provision of this chapter.

11 Sec. 5. 10 V.S.A. § 6081 is amended to read:

12 § 6081. PERMITS REQUIRED; EXEMPTIONS

13 \* \* \*

14 (y) No permit or permit amendment shall be required for the construction  
15 of improvements on a tract of land that would provide access across a  
16 recreational trail, provided that the access is not related to the use of the  
17 permitted recreational trail and would not establish jurisdiction under this  
18 chapter on its own.

19 (z) Notwithstanding 1 V.S.A. §§ 213 and 214, and until January 1, 2022,  
20 no permit is required for a Vermont trails system trail recognized pursuant to  
21 chapter 20 of this title if the trail was in existence prior to October 1, 2020.

1       Sec. 6. RECREATIONAL TRAILS RECOMMENDATIONS AND  
2                       REPORT

3           On or before January 15, 2021, the Agency of Natural Resources shall  
4 report to the House Committee on Natural Resources, Fish, and Wildlife and to  
5 the Senate Committee on Natural Resource and Energy with legislative  
6 recommendations for a best management practices driven program for  
7 Vermont trails system trails that is administered by the Agency of Natural  
8 Resources. The report shall include recommendations for revisions to  
9 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to  
10 administer the program, potential funding sources, staffing needs, and whether  
11 to include other recreational trails. The Agency of Natural Resources shall  
12 consult with stakeholders on the proposed program, including the Vermont  
13 Trail Alliance, the Forest Partnership, and the Vermont Agency of  
14 Transportation.

15       Sec. 7. PROSPECTIVE REPEAL

16           10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.

17                               \* \* \* Forest Blocks \* \* \*

18       Sec. 8. 10 V.S.A. § 6001 is amended to read:

19       § 6001. DEFINITIONS

20                               \* \* \*

1           (40) “Connecting habitat” means land or water, or both, that links  
2           patches of habitat within a landscape, allowing the movement, migration, and  
3           dispersal of wildlife and plants and the functioning of ecological processes. A  
4           connecting habitat may include features including recreational trails and  
5           improvements constructed for farming, logging, or forestry purposes.

6           (41) “Forest block” means a contiguous area of forest in any stage of  
7           succession and not currently developed for nonforest use. A forest block may  
8           include features including recreational trails, wetlands, or other natural features  
9           that do not themselves possess tree cover and improvements constructed for  
10           farming, logging, or forestry purposes.

11           (42) “Habitat” means the physical and biological environment in which  
12           a particular species of plant or wildlife lives.

13           Sec. 9. 10 V.S.A. § 6086(a)(8) is amended to read:

14           (8) Ecosystem protection; scenic beauty; historic sites.

15           (A) Will not have an undue adverse effect on the scenic or natural  
16           beauty of the area, aesthetics, historic sites or rare and irreplaceable natural  
17           areas.

18           ~~(A)~~(B) Necessary wildlife habitat and endangered species. A permit  
19           will not be granted if it is demonstrated by any party opposing the applicant  
20           that a development or subdivision will destroy or significantly imperil  
21           necessary wildlife habitat or any endangered species; and

1 (i) the economic, social, cultural, recreational, or other benefit to  
2 the public from the development or subdivision will not outweigh the  
3 economic, environmental, or recreational loss to the public from the  
4 destruction or imperilment of the habitat or species; or

5 (ii) all feasible and reasonable means of preventing or lessening  
6 the destruction, diminution, or imperilment of the habitat or species have not  
7 been or will not continue to be applied; or

8 (iii) a reasonably acceptable alternative site is owned or controlled  
9 by the applicant ~~which~~ that would allow the development or subdivision to  
10 fulfill its intended purpose.

11 (C) Will not have an undue adverse impact on forest blocks and  
12 connecting habitat. A permit shall be granted only if impacts to forest blocks  
13 and connecting habitat are avoided, minimized, and mitigated in accordance  
14 with rules adopted by the Board.

15 Sec. 10. CRITERION 8(C) RULEMAKING

16 (a) The Natural Resources Board (Board), in consultation with the Agency  
17 of Natural Resources shall adopt rules pursuant to 3 V.S.A. chapter 25 to  
18 implement the requirements for the administration of 10 V.S.A.  
19 § 6086(a)(8)(C). Rules adopted by the Board shall include:

20 (1) How forest blocks and connecting habitat are further defined,  
21 including their size, location, and function, which may include:

1           (A) information that will be available to the public to determine  
2           where forest blocks and connecting habitat are located; or

3           (B) advisory mapping resources, how they will be made available,  
4           how they will be used, and how they will be updated.

5           (2) Standards establishing how impacts can be avoided, minimized, or  
6           mitigated, including how fragmentation of forest blocks or connecting habitat  
7           is avoided or minimized, which may include steps to promote proactive site  
8           design of buildings, roadways and driveways, utility location, and location  
9           relative to existing features such as roads, tree lines, and fence lines. As used  
10           in this subdivision, “fragmentation” means the division or conversion of a  
11           forest block or connecting habitat by the separation of a parcel into two or  
12           more parcels; the construction, conversion, relocation, or enlargement of any  
13           building or other structure, or of any mining, excavation, or landfill; and any  
14           change in the use of any building or other structure, or land, or extension of use  
15           of land. However, fragmentation does not include the division or conversion  
16           of a forest block or connecting habitat by a recreational trail or by  
17           improvements constructed for farming, logging, or forestry purposes below the  
18           elevation of 2,500 feet.

19           (3) Criteria to identify when a forest block or connecting habitat is  
20           eligible for mitigation, and criteria to identify when a forest block or  
21           connecting habitat is not eligible for mitigation due to the unique value of the

1 area and need to maintain the functionality of the forest block or connecting  
2 habitat.

3 (4) Standards for how impacts to a forest block or connecting habitat  
4 may be mitigated. Standards may include:

5 (A) appropriate ratios for compensation;

6 (B) appropriate forms of compensation such as conservation  
7 easements, fee interests in land, and other forms of compensation; and

8 (C) appropriate uses and limitations of on-site and off-site mitigation.

9 (b) Prior to pre-filing with the Interagency Committee on Administrative  
10 Rules, the Board shall convene a working group to gather input on the rule.

11 The working group shall ensure broad, inclusive, and transparent engagement  
12 with the public, which shall include a broad range of stakeholders and

13 interested parties. The Board shall convene the working group on or before  
14 March 15, 2021.

15 (c) The Board shall file a final proposed rule with the Secretary of State  
16 and Legislative Committee on Administrative Rules on or before August 15,  
17 2022.

18 Sec. 11. 10 V.S.A. § 127 is amended to read:

19 § 127. RESOURCE MAPPING

20 (a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources  
21 (the Secretary) shall complete and maintain resource mapping based on the

1 Geographic Information System (GIS) or other technology. The mapping shall  
2 identify natural resources throughout the State, including forest blocks, that  
3 may be relevant to the consideration of energy projects and projects subject to  
4 chapter 151 of this title. The Center for Geographic Information shall be  
5 available to provide assistance to the Secretary in carrying out the ~~GIS-based~~  
6 resource mapping.

7 (b) The Secretary ~~of Natural Resources~~ shall consider the ~~GIS-based~~  
8 resource maps developed under subsection (a) of this section when providing  
9 evidence and recommendations to the Public Utility Commission under  
10 30 V.S.A. § 248(b)(5) and when commenting on or providing  
11 recommendations under chapter 151 of this title to District Commissions on  
12 other projects.

13 (c) The Secretary shall establish and maintain written procedures that  
14 include a process and science-based criteria for updating resource maps  
15 developed under subsection (a) of this section. Before establishing or revising  
16 these procedures, the Secretary shall provide opportunities for affected parties  
17 and the public to submit relevant information and recommendations.

18 \* \* \* Effective Dates \* \* \*

19 Sec. 12. EFFECTIVE DATES

20 This act shall take effect on October 1, 2020, except that Sec. 9, 10 V.S.A.  
21 § 6086(a)(8), shall take effect on September 1, 2022.

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4 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

6

Senator \_\_\_\_\_

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FOR THE COMMITTEE