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H.651

Introduced by Representatives Christie of Hartford, Cina of Burlington,  
Vyhovsky of Essex, Bos-Lun of Westminster, Burke of  
Brattleboro, Burrows of West Windsor, Colburn of Burlington,  
Dolan of Essex, Houghton of Essex, Small of Winooski, and  
Surprenant of Barnard

Referred to Committee on

Date:

Subject: Conservation and development; government; environmental justice

Statement of purpose of bill as introduced: This bill proposes to establish an  
environmental justice policy for the State of Vermont and require the State  
agencies to incorporate environmental justice into their work. It would  
establish the Advisory Council on Environmental Justice within the Agency of  
Natural Resources to advise the State on environmental justice issues. It also  
would require the creation of an environmental justice mapping tool.

An act relating to environmental justice in Vermont

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

2 Sec. 1. FINDINGS

3 The General Assembly finds:

4 (1) According to the American Journal of Public Health, Black,  
5 Indigenous, and Persons of Color (BIPOC) and low-income individuals are  
6 disproportionately exposed to environmental hazards and unsafe housing,  
7 facing higher levels of air and water pollution, mold, lead, and pests.

8 (2) In Executive Order 12898 of 1994, the federal government  
9 recognized that BIPOC and low-income communities face disproportionately  
10 negative impacts of agency decisions, such as approving permits for facilities  
11 like mines and landfills.

12 (3) Census data shows that water contaminants like lead and  
13 perfluoroalkyl substances (PFAS) are disproportionately found in Vermont  
14 communities with higher populations of BIPOC and low-income individuals.

15 (4) The cumulative impacts of environmental harms, including air and  
16 water pollution, low-quality housing stock, and greater exposure to extreme  
17 weather events, disproportionately and adversely impact the health of BIPOC  
18 and low-income communities. These disproportionate adverse impacts are  
19 exacerbated by lack of access to affordable energy, adequate transportation,  
20 healthy food, and green spaces.

1           (5) According to the U.S. Department of Agriculture, 24 percent of  
2           Vermonters have low access to grocery stores, which factors in distance to and  
3           quantity of stores, family and neighborhood income, and vehicle and public  
4           transportation availability. A study conducted at the University of Vermont  
5           showed that BIPOC individuals were twice as likely to have trouble affording  
6           fresh food and to go hungry in a month.

7           (6) Lack of adequate transportation can be a major barrier to health care  
8           for Vermonters. In a University of Vermont study, about nine percent of  
9           surveyed patients reported that transportation problems prevent them from  
10           accessing health services, like doctor's appointments, and BIPOC individuals  
11           were twice as likely to lack access to transportation and to not own a vehicle  
12           compared to White individuals in Vermont, and those who did not own a  
13           vehicle were twice as likely to not have access to fresh food and a primary care  
14           doctor.

15           (7) Inadequate transportation also impedes job access, narrowing the  
16           scope of jobs available to low-income individuals and potentially impacting  
17           job performance.

18           (8) The U.S. Department of Agriculture reports that BIPOC individuals  
19           own less than two percent of private woodland, only approximately 0.9 percent  
20           of agricultural land, and 0.6 percent of forestland, which is largely made up of  
21           Abenaki tribal ownership in Vermont.

1           (9) The Center for American Progress finds that 76 percent of BIPOC  
2           individuals in Vermont live in “nature deprived” census tracts with a higher  
3           proportion of natural areas lost to human activities than the Vermont median.  
4           In contrast, 20 percent of White individuals live in these areas.

5           (10) The Centers for Disease Control and Prevention states that systemic  
6           health and social inequities disproportionately increases the risk of racial and  
7           ethnic minority groups becoming infected by and dying from COVID-19.

8           (11) According to the Vermont Department of Health, inequities in  
9           access to and quality of health care, employment, and housing have contributed  
10           to disproportionately high rates of COVID-19 among BIPOC Vermonters.  
11           Long-term exposure to particulate matter in the air increases the likelihood of  
12           severe COVID-19 outcomes.

13           (12) Extreme weather events are projected to increase progressively this  
14           century. Vermont experienced an uptick in federally declared flood disasters  
15           in recent decades, and the State government projects that Vermont will become  
16           wetter in the winter and spring. A study by the University of Vermont shows  
17           that BIPOC Vermonters were three times more likely to report Lyme disease  
18           than White Vermonters.

19           (13) An analysis by University of Vermont researchers found that  
20           mobile homes, whether in a park or on private land, are more likely than  
21           permanent structures to be located in a flood hazard area. The State

1 government reports that during Hurricane Irene, 15 mobile parks and over 561  
2 mobile homes in Vermont were damaged or destroyed, impacting the public  
3 health and safety of residents. Mobile homes make up 7.2 percent of all  
4 housing units in Vermont and were approximately 40 percent of sites affected  
5 by Hurricane Irene.

6 (14) A University of Vermont study reports that BIPOC individuals  
7 were seven times more likely to have gone without heat in the past year, over  
8 two times more likely to have trouble affording electricity, and seven times  
9 less likely to own a solar panel than White Vermonters.

10 (15) The Environmental Protection Agency recognized Vermont's  
11 deficiencies in addressing environmental justice concerns related to legacy  
12 mining and mobile home park habitability, providing grants for these projects  
13 in 1998 and 2005.

14 (16) Vermont State agencies receiving federal funds are subject to the  
15 antidiscrimination requirements of Title VI of the Civil Rights Act of 1964.  
16 Historically, however, Vermont has lagged in the development of policies  
17 necessary for Title VI compliance, such as meaningful public participation  
18 outlets.

19 (17) Vermont is one of a few remaining states lacking a formal  
20 environmental justice policy.

1           (18) At least 24 states have environmental justice mapping tools.  
2           Environmental justice mapping tools can help identify environmentally  
3           disadvantaged communities for remediation efforts, including funding  
4           allocations and restrictions on permitting in these communities.

5           (19) The 1991 Principles of Environmental Justice demand the right of  
6           all individuals to participate as equal partners at every level of decision  
7           making, including needs assessment, planning, implementation, enforcement,  
8           and evaluation. This includes providing meaningful access to the 9,000  
9           individuals in Vermont with limited English proficiency (LEP).

10           (20) It is the responsibility of the State of Vermont to pursue  
11           environmental justice for its residents and to ensure that the policies and  
12           practices of its agencies do not unfairly burden low-income and BIPOC  
13           communities.

14           (21) Chapter I, Article 7 of the Vermont Constitution establishes the  
15           government as a vehicle for the common benefit, protection, and security of  
16           Vermonters and not for the particular emolument or advantage of any single  
17           set of persons who are only a part of that community. This, coupled with  
18           Chapter I, Article 1's guarantee of equal rights to enjoying life, liberty, and  
19           safety, and Chapter I, Article 4's assurance of timely justice for all, encourages  
20           political officials to identify how particular communities may be unequally

1 burdened or receive unequal protection under the law due to race, income, or  
2 geographic location.

3 Sec. 2. 3 V.S.A. chapter 70 is added to read:

4 CHAPTER 70. ENVIRONMENTAL JUSTICE

5 § 6001. DEFINITIONS

6 As used in this chapter:

7 (1) “Environmental benefits” means the benefits that enhance the  
8 capability of communities and individuals to function and flourish in society,  
9 such as access to a healthy environment and clean natural resources, including  
10 air, water resources, open green spaces, constructed playgrounds and other  
11 outdoor recreational facilities and venues, affordable renewable energy  
12 sources, public transportation, fulfilling and dignified green jobs, healthy  
13 homes, health care, environmental enforcement, and training and funding  
14 disbursed or administered by governmental agencies.

15 (2) “Environmental burdens” means any threat to the fundamental right  
16 to clean air, land, and water, including any destruction, damage, or impairment  
17 of natural resources that is not insignificant, resulting from intentional or  
18 reasonably foreseeable causes, including climate change; air pollution; water  
19 pollution; improper sewage disposal; dumping of solid wastes and other  
20 noxious substances; excessive noise; activities that limit access to natural  
21 resources and constructed outdoor recreational facilities and venues;

1 inadequate remediation of pollution; reduction of ground water levels;  
2 impairment of water quality; increased flooding or stormwater flows; and  
3 damage to inland waterways and waterbodies, wetlands, marine shores and  
4 waters, forests, open spaces, and playgrounds from private industrial,  
5 commercial, or government operations or other activity that contaminates or  
6 alters the quality of the environment and poses a risk to public health.

7 (3) “Environmental justice” means all individuals are afforded the right  
8 to equitable access to environmental benefits; proportionate distribution of  
9 environmental burdens; fair and equitable treatment and meaningful  
10 participation in decision-making processes and the development,  
11 implementation, and enforcement of environmental laws, regulations, and  
12 policies; and recognition of the unique needs of individuals of all race, color,  
13 income, class, ability status, gender identity, sexual orientation, national origin,  
14 ethnicity or ancestry, religious belief, or English language proficiency.

15 Environmental justice redresses structural and institutional racism, colonialism,  
16 and other systems of oppression that result in the marginalization, degradation,  
17 disinvestment, and neglect of Black, Indigenous, and Communities of Color.

18 Environmental justice requires prioritizing resources for community  
19 revitalization, ecological restoration, resilience planning, and a just recovery to  
20 communities most impacted by environmental injustices and natural disasters.

1           (4) “Meaningful participation” means that all individuals have the right  
2           and opportunity to participate in energy, climate change, and environmental  
3           decision making, including needs assessments, planning, implementation,  
4           compliance and enforcement, and evaluation. “Meaningful participation” also  
5           means that indigenous communities and diverse knowledge systems, histories,  
6           traditions, languages, and cultures are integrated in decision-making processes;  
7           and communities are enabled and administratively assisted to participate fully  
8           through education and training and are given transparency by the State  
9           government with regards to community input and encouraged to develop  
10           environmental, energy, and climate change stewardship.

11           § 6002. ENVIRONMENTAL JUSTICE STATE POLICY

12           (a) It is the policy of the State of Vermont that no segment of the  
13           population of the State should, because of its racial, cultural, or economic  
14           makeup, bear a disproportionate share of the environmental benefits or  
15           burdens. This policy requires the meaningful participation of all individuals in  
16           the development, implementation, or enforcement of any environmental law,  
17           regulation, or policy.

18           (b) On or before July 1, 2024, the Agencies of Natural Resources, of  
19           Transportation, of Commerce and Community Development, and of Education  
20           and the Departments of Health, of Public Safety, and of Public Service shall  
21           report to the General Assembly all actions taken to incorporate environmental

1 justice into the agencies' policies or determinations, rulemaking, permit  
2 proceeding, or project review, including incorporation of Title VI of the Civil  
3 Rights Act of 1964.

4 (c) State agencies shall submit annual summaries to the Advisory Council  
5 on Environmental Justice established pursuant to section 6003 of this title,  
6 detailing all complaints alleging environmental justice issues or Title VI  
7 violations and any agency action taken to resolve such complaints. Agencies  
8 shall consider the recommendations of the Advisory Council pursuant to  
9 subdivision 6003(b)(7) of this title and substantively respond in writing if an  
10 agency chooses not to implement any such recommendations, within 90 days  
11 of receipt of recommendations.

12 § 6003. ADVISORY COUNCIL ON ENVIRONMENTAL JUSTICE

13 (a) Advisory Council. There is created the Advisory Council on  
14 Environmental Justice within the Agency of Natural Resources to provide  
15 independent advice and recommendations to the Agency of Natural Resources  
16 and the State on matters relating to environmental justice, including the  
17 integration of environmental justice principles into State programs, policies,  
18 regulations, legislation, and activities.

19 (b) Duties. The Council shall:

20 (1) Examine existing data and studies on environmental justice and  
21 consult with State, federal, and local agencies and affected communities

1 regarding the impact of current statutes, regulations, and policies on the  
2 achievement of environmental justice.

3 (2) Identify and define “environmentally distressed communities,”  
4 informed by the use of the environmental justice mapping tool established  
5 pursuant to section 6004 of this title. These communities shall be identified  
6 based on geographic, socioeconomic, demographic, public health, and  
7 environmental hazard criteria and may include:

8 (A) areas disproportionately affected by environmental pollution and  
9 other hazards that can lead to negative public health effects, exposure, or  
10 environmental degradation; and

11 (B) areas with concentrated populations of Black, Indigenous, and  
12 Persons of Color, individuals who are of low income, high unemployment, low  
13 levels of homeownership, limited English proficiency, high rent or energy  
14 burden, low transportation, sensitive populations, or low levels of educational  
15 attainment.

16 (3) Identify objectives and policies to promote meaningful participation  
17 in the public decision-making process and recommend procedures to ensure  
18 that public documents, notices, and public hearings relating to human health or  
19 the environment are concise, understandable, and readily accessible to the  
20 public. The recommendations shall include guidance for determining when it  
21 is appropriate for State agencies to translate crucial public documents, notices,

1 and hearings relating to human health or the environment for limited English  
2 proficient populations.

3 (4) Identify objectives, statutes, regulations, and policies that prioritize  
4 improvements and programs that address the needs of environmentally  
5 distressed communities, especially those that reduce the unique or  
6 compounded health risks in environmentally stressed communities by means  
7 that include the reduction of pollution exposure and the promotion of  
8 environmental benefits.

9 (5) Create policy recommendations for the evaluation of environmental  
10 and social determinants of health and environmentally distressed communities,  
11 including recommendations for use of the environmental justice mapping tool  
12 established pursuant to section 6004 of this title, in enhancing meaningful  
13 participation, reduction of environmental burdens, and equitable distribution of  
14 environmental benefits.

15 (6) Advise the Agency of Natural Resources, the Agency of  
16 Administration, and other State agencies on environmental justice issues and  
17 on how to incorporate environmental justice into agency procedures as  
18 required under subsection 6002(b) of this title and evaluate the potential for  
19 disproportionate impacts on environmentally distressed communities as a  
20 result of State actions.

1           (7) Receive and review agency summaries of complaints alleging  
2           environmental justice issues, including Title VI complaints.

3           (8) Recommend options to agencies for the resolution of complaints or  
4           issues identified by or presented to the Council under subdivisions (1)–(7) of  
5           this subsection (b).

6           (c) Membership.

7           (1) The Council shall consist of the following members:

8           (A) one member of the House of Representatives, appointed by the  
9           Speaker of the House;

10           (B) one member of the Senate, appointed by the Committee on  
11           Committees;

12           (C) the Secretary of Administration or designee;

13           (D) the Secretary of Natural Resources or designee;

14           (E) the Commissioner of Health or designee;

15           (F) the Secretary of Transportation or designee;

16           (G) the Commissioner of Housing and Community Development or  
17           designee;

18           (H) the Director of Emergency Management or designee;

19           (I) the Director of Racial Equity or designee;

20           (J) one representative of municipal government, appointed by the  
21           Committee on Committees;

1           (K) one representative from a statewide environmental organization,  
2           appointed by the Speaker of the House;

3           (L) two representatives from a social justice organization, one  
4           appointed by the Committee on Committees and one appointed by the Speaker  
5           of the House;

6           (M) two members representing mobile home parks, one appointed by  
7           the Committee on Committees and one appointed by the Speaker of the House;

8           (N) one member of a community affected by environmental justice  
9           issues, appointed by the Speaker of the House;

10          (O) one member of a State-recognized Native American Indian tribe,  
11          recommended by the Vermont Commission on Native American Affairs; and

12          (P) two members representing the immigrant community in Vermont,  
13          one appointed by the Committee on Committees and one appointed by the  
14          Speaker of the House.

15          (2) The Council may elect a chair and a vice chair and may hold public  
16          hearings.

17          (3) After initial appointments, all appointed members of the Council  
18          shall serve three-year terms and serve until a successor is appointed. The  
19          initial terms shall be staggered so that three of the appointed members shall  
20          serve a one-year term, three of the appointed members shall serve a two-year  
21          term, and the remaining three members shall be appointed to a three-year term.

1           (4) Vacancies shall be appointed in the same manner as original  
2           appointments.

3           (5) The Advisory Council shall have the administrative, technical, and  
4           legal assistance of the Agency of Natural Resources.

5           (6)(A) For attendance at meetings during adjournment of the General  
6           Assembly, a legislative member of the Advisory Council serving in his or her  
7           capacity as a legislator shall be entitled to per diem compensation and  
8           reimbursement of expenses pursuant to 2 V.S.A. § 406.

9           (B) Other members of the Advisory Council shall be entitled to per  
10          diem compensation and reimbursement of expenses as permitted under  
11          32 V.S.A. § 1010.

12          § 6004. ENVIRONMENTAL JUSTICE MAPPING

13          (a) In consultation with the Advisory Council on Environmental Justice,  
14          the Department of Health, and the Agency of Natural Resources, the Agency  
15          of Digital Services shall determine indices and criteria to be included in a State  
16          mapping tool to measure environmental justice impacts at the local level. The  
17          Agency of Digital Services shall maintain the mapping tool.

18          (b) The Agency of Digital Services may cooperate and contract with other  
19          states or private organizations when developing the mapping tool. The  
20          mapping tool may incorporate the federal environmental justice mapping tool.

1 EJSCREEN, as well as existing State mapping tools such as the Vermont  
2 Social Vulnerability Index.

3 (c) On or before July 1, 2023, the mapping tool shall be available for use  
4 by the public as well as by the State government.

5 (d) The Advisory Council on Environmental Justice shall recommend uses  
6 for the environmental mapping tool in distribution of environmental burdens  
7 and benefits.

8 Sec. 3. INTERIM REPORT

9 On or before July 1, 2023, the Agencies of Natural Resources, of  
10 Transportation, of Commerce and Community Development, and of Education  
11 and the Departments of Health, of Public Safety, and of Public Service shall  
12 report to the General Assembly and the Advisory Council On Environmental  
13 Justice all actions taken toward completing the work required under 3 V.S.A.  
14 § 6002(b).

15 Sec. 4. EFFECTIVE DATE

16 This act shall take effect on July 1, 2022.