

1 S.148

2 Introduced by Senators Ram, Campion, Hardy, Lyons, Pearson, Perchlik and

3 Pollina

4 Referred to Committee on Natural Resources and Energy

5 Date: April 30, 2021

6 Subject: Conservation and development; government; environmental justice;

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

13 An act relating to environmental justice in Vermont

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

15 ~~Sec. 1. FINDINGS~~

16 ~~The General Assembly finds that:~~

17 ~~(1) According to the American Journal of Public Health, Black,~~

18 ~~Indigenous, and Persons of Color (BIPCC) and low-income individuals are~~

1 ~~disproportionately exposed to environmental hazards and unsafe housing~~  
2 ~~facng higher levels of air and water pollution, mold, lead, and pests.~~

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

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

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

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

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

8 ~~(7) Inadequate transportation also impedes job access, narrowing the~~  
9 ~~scope of jobs available to low-income individuals and potentially impacting~~  
10 ~~job performance.~~

11 ~~(8) The U.S. Department of Agriculture reports that BIPOC individuals~~  
12 ~~own less than 2 percent of private woodland, only approximately 0.9 percent~~  
13 ~~of agricultural land, and 0.6 percent of forestland, which is largely made up of~~  
14 ~~Abenaki tribal ownership in Vermont.~~

15 ~~(9) The Center for American Progress finds that 76 percent of BIPOC~~  
16 ~~individuals in Vermont live in "nature deprived" census tracts with a higher~~  
17 ~~proportion of natural areas lost to human activities than the Vermont median.~~  
18 ~~In contrast, 20 percent of White individuals live in these areas.~~

19 ~~(10) The Centers for Disease Control and Prevention states that~~  
20 ~~systemic health and social inequities disproportionately increases the risk of~~

1 racial and ethnic minority groups becoming infected by and dying from  
2 COVID-19.

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

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

14 (13) An analysis by University of Vermont researchers found that  
15 mobile homes, whether in a park or on private land, are more likely than  
16 permanent structures to be located in a flood hazard area. The State  
17 government reports that during Hurricane Irene, 15 mobile parks and over 561  
18 mobile homes in Vermont were damaged or destroyed, impacting the public  
19 health and safety of residents. Mobile homes make up 7.2 percent of all  
20 housing units in Vermont and were approximately 40 percent of sites affected  
21 by Hurricane Irene.

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

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

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

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

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

20 (19) The 1991 Principles of Environmental Justice demand the right of  
21 all individuals to participate as equal partners at every level of decision

1 ~~making, including needs assessment, planning, implementation, enforcement,~~  
2 ~~and evaluation. This includes providing meaningful access to the 9,000~~  
3 ~~individuals in Vermont with limited English proficiency (LEP).~~

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

8 (21) Article 7 of the Vermont Constitution establishes the government as  
9 a vehicle for the common benefit, protection, and security of Vermonters and  
10 not for the particular emolument or advantage of any single set of persons who  
11 are only a part of that community. This, coupled with Article 1's guarantee of  
12 equal rights to enjoying life, liberty, and safety, and Article 4's assurance of  
13 timely justice for all, encourages political officials to identify how particular  
14 communities may be unequally burdened or receive unequal protection under  
15 the law due to race, income, or geographic location.

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

17 CHAPTER 70. ENVIRONMENTAL JUSTICE

18 § 6001. DEFINITIONS

19 As used in this chapter:

20 (1) "Environmental benefits" means the benefits that enhance the  
21 capability of communities and individuals to function and flourish in society,

1 ~~such as access to a healthy environment and clean natural resources, including~~  
2 ~~air, water resources, open green spaces, constructed playgrounds and other~~  
3 ~~outdoor recreational facilities and venues, affordable renewable energy~~  
4 ~~sources, public transportation, fulfilling and dignified green jobs, healthy~~  
5 ~~homes, health care, environmental enforcement, and training and funding~~  
6 ~~disbursed or administered by governmental agencies.~~

7 (2) “Environmental burdens” means any threat to the fundamental right  
8 to clean air, land, and water, including any destruction, damage, or impairment  
9 of natural resources that is not insignificant, resulting from intentional or  
10 reasonably foreseeable causes, including climate change; air pollution; water  
11 pollution; improper sewage disposal; dumping of solid wastes and other  
12 noxious substances; excessive noise; activities that limit access to natural  
13 resources and constructed outdoor recreational facilities and venues;  
14 inadequate remediation of pollution; reduction of ground water levels;  
15 impairment of water quality; increased flooding or stormwater flows; and  
16 damage to inland waterways and waterbodies, wetlands, marine shores and  
17 waters, forests, open spaces, and playgrounds from private industrial,  
18 commercial, or government operations or other activity that contaminates or  
19 alters the quality of the environment and poses a risk to public health.

20 (3) “Environmental justice” means all individuals are afforded the right  
21 to equitable access to environmental benefits, proportionate distribution of

1 environmental burdens; fair and equitable treatment and meaningful  
2 participation in decision-making processes and the development,  
3 implementation, and enforcement of environmental laws, regulations, and  
4 policies; and recognition of the unique needs of individuals of all race, color,  
5 income, class, ability status, gender identity, sexual orientation, national origin,  
6 ethnicity or ancestry, religious belief, or English language proficiency.

7 Environmental justice redresses structural and institutional racism,  
8 colonialism, and other systems of oppression that result in the marginalization,  
9 degradation, disinvestment, and neglect of Black, Indigenous, and  
10 Communities of Color. Environmental justice requires prioritizing resources  
11 for community revitalization, ecological restoration, resilience planning, and a  
12 just recovery to communities most impacted by environmental injustices and  
13 natural disasters.

14 (4) “Meaningful participation” means that all individuals have the right  
15 and opportunity to participate in energy, climate change, and environmental  
16 decision making, including needs assessments, planning, implementation,  
17 compliance and enforcement, and evaluation. “Meaningful participation” also  
18 means that indigenous communities and diverse knowledge systems, histories,  
19 traditions, languages, and cultures are integrated in decision-making processes;  
20 and communities are enabled and administratively assisted to participate fully  
21 through education and training and are given transparency by the State



1 ~~government with regards to community input and encouraged to develop~~  
2 ~~environmental, energy, and climate change stewardship.~~

3 § 6002. ENVIRONMENTAL JUSTICE STATE POLICY

4 (a) It is the policy of the State of Vermont that no segment of the  
5 population of the State should, because of its racial, cultural, or economic  
6 makeup, bear a disproportionate share of the environmental benefits or  
7 burdens. This policy requires the meaningful participation of all individuals in  
8 the development, implementation, or enforcement of any environmental law,  
9 regulation, or policy.

10 (b) On or before July 1, 2024, the Agencies of Natural Resources, of  
11 Transportation, of Commerce and Community Development, and of Education  
12 and the Departments of Health, of Public Safety, and of Public Service shall  
13 report to the General Assembly all actions taken to incorporate environmental  
14 justice into the agencies' policies or determinations, rulemaking, permit  
15 proceeding, or project review, including incorporation of Title VI of the Civil  
16 Rights Act of 1964.

17 (c) State agencies shall submit annual summaries to the Advisory Council  
18 on Environmental Justice established pursuant to section 6003 of this title,  
19 detailing all complaints alleging environmental justice issues or Title VI  
20 violations and any agency action taken to resolve such complaints. Agencies  
21 shall consider the recommendations of the Advisory Council pursuant to

1 ~~subdivision 6003(b)(7) of this title and substantively respond in writing if an~~  
2 agency chooses not to implement any such recommendations, within 90 days  
3 of receipt of recommendations.

4 § 6003. ADVISORY COUNCIL ON ENVIRONMENTAL JUSTICE

5 (a) Advisory Council. There is created the Advisory Council on  
6 Environmental Justice within the Agency of Natural Resources to provide  
7 independent advice and recommendations to the Agency of Natural Resources  
8 and the State on matters relating to environmental justice, including the  
9 integration of environmental justice principles into State programs, policies,  
10 regulations, legislation, and activities.

11 (b) Duties. The Council shall:

12 (1) Examine existing data and studies on environmental justice and  
13 consult with State, federal, and local agencies and affected communities  
14 regarding the impact of current statutes, regulations, and policies on the  
15 achievement of environmental justice.

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

1 ~~(A) areas disproportionately affected by environmental pollution and~~  
2 ~~other hazards that can lead to negative public health effects, exposure, or~~  
3 ~~environmental degradation; and~~

4 ~~(B) areas with concentrated populations of Black, Indigenous, and~~  
5 ~~Persons of Color individuals who are of low income, high unemployment, low~~  
6 ~~levels of homeownership, limited English proficiency, high rent or energy~~  
7 ~~burden, low transportation, sensitive populations, or low levels of educational~~  
8 ~~attainment.~~

9 ~~(3) Identify objectives and policies to promote meaningful participation~~  
10 ~~in the public decision-making process and recommend procedures to ensure~~  
11 ~~that public documents, notices, and public hearings relating to human health or~~  
12 ~~the environment are concise, understandable, and readily accessible to the~~  
13 ~~public. The recommendations shall include guidance for determining when it~~  
14 ~~is appropriate for State agencies to translate crucial public documents, notices,~~  
15 ~~and hearings relating to human health or the environment for limited English~~  
16 ~~proficient populations.~~

17 ~~(4) Identify objectives, statutes, regulations, and policies that prioritize~~  
18 ~~improvements and programs that address the needs of environmentally~~  
19 ~~distressed communities, especially those that reduce the unique or~~  
20 ~~compounded health risks in environmentally stressed communities by means~~

1 ~~that include the reduction of pollution exposure and the promotion of~~  
2 environmental benefits.

3 (5) Create policy recommendations for the evaluation of environmental  
4 and social determinants of health and environmentally distressed communities,  
5 including recommendations for use of the environmental justice mapping tool  
6 established pursuant to section 6004 of this title, in enhancing meaningful  
7 participation, reduction of environmental burdens, and equitable distribution of  
8 environmental benefits.

9 (6) Advise the Agency of Natural Resources, the Agency of  
10 Administration, and other State agencies on environmental justice issues and  
11 on how to incorporate environmental justice into agency procedures as  
12 required under subsection 6002(b) of this title and evaluate the potential for  
13 disproportionate impacts on environmentally distressed communities as a  
14 result of State actions.

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

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

20 (c) Membership.

21 ~~(1) The Council shall consist of the following members.~~

- 1 ~~(A) one member of the House of Representatives, appointed by the~~  
2 ~~Speaker of the House;~~
- 3 ~~(B) one member of the Senate, appointed by the Committee on~~  
4 ~~Committees;~~
- 5 ~~(C) the Secretary of Administration or designee;~~
- 6 ~~(D) the Secretary of Natural Resources or designee;~~
- 7 ~~(E) the Commissioner of Health or designee;~~
- 8 ~~(F) the Secretary of Transportation or designee;~~
- 9 ~~(G) the Commissioner of Housing and Community Development or~~  
10 ~~designee;~~
- 11 ~~(H) the Director of Emergency Management or designee;~~
- 12 ~~(I) the Director of Racial Equity or designee;~~
- 13 ~~(J) one representative of municipal government, appointed by the~~  
14 ~~Committee on Committees;~~
- 15 ~~(K) one representative from a statewide environmental organization,~~  
16 ~~appointed by the Speaker of the House;~~
- 17 ~~(L) two representatives from a social justice organization, one~~  
18 ~~appointed by the Committee on Committees and one appointed by the Speaker~~  
19 ~~of the House;~~
- 20 ~~(M) two members representing mobile home parks, one appointed by~~  
21 ~~the Committee on Committees and one appointed by the Speaker of the House;~~

1 ~~(N) one member of a community affected by environmental justice~~  
2 ~~issues, appointed by the Speaker of the House;~~

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

5 ~~(P) two members representing the immigrant community in Vermont,~~  
6 ~~one appointed by the Committee on Committees and one appointed by the~~  
7 ~~Speaker of the House.~~

8 ~~(2) The Council may elect a chair and a vice chair and may hold public~~  
9 ~~hearings.~~

10 ~~(3) After initial appointments, all appointed members of the Council~~  
11 ~~shall serve three-year terms and serve until a successor is appointed. The~~  
12 ~~initial terms shall be staggered so that three of the appointed members shall~~  
13 ~~serve a one-year term, three of the appointed members shall serve a two-year~~  
14 ~~term, and the remaining three members shall be appointed to a three-year term.~~

15 ~~(4) Vacancies shall be appointed in the same manner as original~~  
16 ~~appointments.~~

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

19 ~~(6)(A) For attendance at meetings during adjournment of the General~~  
20 ~~Assembly, a legislative member of the Advisory Council serving in his or her~~

1 ~~capacity as a legislator shall be entitled to per diem compensation and~~  
2 ~~reimbursement of expenses pursuant to 2 V.S.A. § 406.~~

3 ~~(B) Other members of the Advisory Council shall be entitled to per~~  
4 ~~diem compensation and reimbursement of expenses as permitted under~~  
5 ~~32 V.S.A. § 1010.~~

6 § 6004. ENVIRONMENTAL JUSTICE MAPPING

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

12 (b) The Agency of Digital Services may cooperate and contract with other  
13 states or private organizations when developing the mapping tool. The  
14 mapping tool may incorporate the federal environmental justice mapping tool,  
15 EJSCREEN, as well as existing state mapping tools such as the Vermont Social  
16 Vulnerability Index.

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

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

1 ~~Sec. 3. INTERIM REPORT~~

2 ~~On or before July 1, 2023, the Agencies of Natural Resources, of~~  
3 ~~Transportation, of Commerce and Community Development, and of Education~~  
4 ~~and the Departments of Health, of Public Safety, and of Public Service shall~~  
5 ~~report to the General Assembly and the Advisory Council On Environmental~~  
6 ~~Justice all actions taken toward completing the work required under 3 V.S.A.~~  
7 ~~§ 6002(b).~~

8 Sec. 4. EFFECTIVE DATE

9 ~~This act shall take effect on July 1, 2022.~~

*Sec. 1. FINDINGS*

*The General Assembly finds that:*

*(1) According to American Journal of Public Health studies published in 2014 and 2018 and affirmed by decades of research, Black, Indigenous, and Persons of Color (BIPOC) and individuals with low income are disproportionately exposed to environmental hazards and unsafe housing, facing higher levels of air and water pollution, mold, lead, and pests.*

*(2) The cumulative impacts of environmental harms disproportionately and adversely impact the health of BIPOC and communities with low income, with climate change functioning as a threat multiplier. These disproportionate adverse impacts are exacerbated by lack of access to affordable energy, healthy food, green spaces, and other environmental benefits.*

*(3) Since 1994, Executive Order 12898 has required federal agencies to make achieving environmental justice part of their mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and populations with low incomes in the United States.*

*(4) According to the Centers for Disease Control and Prevention, 30 percent of Vermont towns with high town household poverty have limited access to grocery stores. In addition, a study conducted at the University of Vermont showed that in Vermont, BIPOC individuals were twice as likely to*



have trouble affording fresh food and to go hungry in a month than white individuals.

(5) Inadequate transportation impedes job access, narrowing the scope of jobs available to individuals with low income and potentially impacting job performance.

(6) In 2020, the Center for American Progress found that 76 percent of BIPOC individuals in Vermont live in “nature deprived” census tracts with a higher proportion of natural areas lost to human activities than the Vermont median. In contrast, 27 percent of white individuals live in these areas.

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

(8) According to the Vermont Department of Health, inequities in access to and quality of health care, employment, and housing have contributed to disproportionately high rates of COVID-19 among BIPOC Vermonters.

(9) An analysis by University of Vermont researchers found that mobile homes are more likely than permanent structures to be located in a flood hazard area. During Tropical Storm Irene, mobile parks and over 561 mobile homes in Vermont were damaged or destroyed. Mobile homes make up 7.2 percent of all housing units in Vermont and were approximately 40 percent of sites affected by Tropical Storm Irene.

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

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

(12) Vermont State agencies receiving federal funds are subject to the antidiscrimination requirements of Title VI of the Civil Rights Act of 1964.

(13) In response to the documented inadequacy of state and federal environmental and land use laws to protect vulnerable communities, increasing numbers of states have adopted formal environmental justice laws and policies.

(14) At least 17 states have developed mapping tools to identify environmentally overburdened communities and environmental health disparities.

(15) The State of Vermont does not currently have a State-managed mapping tool that clearly identifies environmentally overburdened communities.

(16) The 1991 Principles of Environmental Justice adopted by The First National People of Color Environmental Leadership Summit demand the right of all individuals to participate as equal partners at every level of decision making, including needs assessment, planning, implementation, enforcement, and evaluation.

(17) Article VII of the Vermont Constitution establishes the government as a vehicle for the common benefit, protection, and security of Vermonters and not for the particular emolument or advantage of any single set of persons who are only a part of that community. This, coupled with Article I's guarantee of equal rights to enjoying life, liberty, and safety, and Article IV's assurance of timely justice for all, encourages political officials to identify how particular communities may be unequally burdened or receive unequal protection under the law due to race, income, or geographic location.

(18) On January 27, 2021, President Biden signed Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," that created a government-wide "Justice40 Initiative" that aims to deliver 40 percent of the overall benefits of federal investments related to climate, natural disasters, environment, clean energy, clean transportation, housing, water and wastewater infrastructure, and legacy pollution reduction to "disadvantaged communities" that have been historically marginalized and overburdened by pollution and underinvestment.

(19) According to American Community Survey data from 2016–2019, at least 51 percent of census block groups in Vermont (or 52 percent of Vermont's population) meet the Justice40 Initiative federal guidelines of a disadvantaged community.

(20) Lack of a clear environmental justice policy has resulted in a piecemeal approach to understanding and addressing environmental justice in Vermont and creates a barrier to establishing clear definitions, metrics, and strategies to ensure meaningful engagement and more equitable distribution of environmental benefits and burdens.

(21) It is the State of Vermont's responsibility to pursue environmental justice for its residents and to ensure that its agencies do not contribute to

unfair distribution of environmental benefits to or environmental burdens on low-income, limited-English proficient, and BIPOC communities.

Sec. 2. 3 V.S.A. chapter 72 is added to read:

CHAPTER 72. ENVIRONMENTAL JUSTICE

§ 6001. DEFINITIONS

As used in this chapter:

(1) “Environmental benefits” means the assets and services that enhance the capability of communities and individuals to function and flourish in society, such as access to a healthy environment and clean natural resources, including air, water, land, green spaces, constructed playgrounds, and other outdoor recreational facilities and venues; affordable clean renewable energy sources; public transportation; fulfilling and dignified green jobs; healthy homes and buildings; health care; nutritious food; Indigenous food and cultural resources; environmental enforcement, and training and funding disbursed or administered by governmental agencies.

(2) “Environmental burdens” means any significant impact to clean air, water, and land, including any destruction, damage, or impairment of natural resources resulting from intentional or reasonably foreseeable causes. Examples of environmental burdens include climate change; air and water pollution; improper sewage disposal; improper handling of solid wastes and other noxious substances; excessive noise; activities that limit access to green spaces, nutritious food, Indigenous food or cultural resources, or constructed outdoor playgrounds and other recreational facilities and venues; inadequate remediation of pollution; reduction of groundwater levels; increased flooding or stormwater flows; home and building health hazards, including lead paint, lead plumbing, asbestos, and mold; and damage to inland waterways and waterbodies, wetlands, forests, green spaces, or constructed playgrounds or other outdoor recreational facilities and venues from private, industrial, commercial, and government operations or other activity that contaminates or alters the quality of the environment and poses a risk to public health.

(3) “Environmental justice” means all individuals are afforded equitable access to and distribution of environmental benefits; equitable distribution of environmental burdens; fair and equitable treatment and meaningful participation in decision-making processes; and the development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice recognizes the particular needs of individuals of every race, color, income, class, ability status, gender identity, sexual orientation, national origin, ethnicity or ancestry, religious belief, or English language proficiency level. Environmental justice redresses structural and

institutional racism, colonialism, and other systems of oppression that result in the marginalization, degradation, disinvestment, and neglect of Black, Indigenous, and Persons of Color. Environmental justice requires prioritizing resources for community revitalization, ecological restoration, resilience planning, and a just recovery to communities most impacted by environmental burdens and natural disasters.

(4) “Environmental justice population” means any census block group in which:

(A) the annual median household income is not more than 80 percent of the State median household income;

(B) Persons of Color and Indigenous Peoples comprise at least six percent or more of the population; or

(C) at least one percent or more of households have limited English proficiency.

(5) “Limited English proficiency” means that a household does not have an adult who speaks English “very well” as defined by the U.S. Census Bureau.

(6) “Meaningful participation” means that all individuals have the opportunity to participate in energy, climate change, and environmental decision making, including needs assessments, planning, implementation, permitting, compliance and enforcement, and evaluation. Meaningful participation also integrates diverse knowledge systems, histories, traditions, languages, and cultures of Indigenous communities in decision-making processes. It requires that communities are enabled and administratively assisted to participate fully through education and training. Meaningful participation requires the State to operate in a transparent manner with regard to opportunities for community input and also encourages the development of environmental, energy, and climate change stewardship.

#### § 6002. ENVIRONMENTAL JUSTICE STATE POLICY

(a) It is the policy of the State of Vermont that no segment of the population of the State should, because of its racial, cultural, or economic makeup, bear a disproportionate share of environmental burdens or be denied an equitable share of environmental benefits. It is further the policy of the State of Vermont to provide the opportunity for the meaningful participation of all individuals, with particular attention to environmental justice populations, in the development, implementation, or enforcement of any law, regulation, or policy.

(b) The following State agencies, departments, and bodies shall consider cumulative environmental burdens, as defined by rule pursuant to subsection

6003(a) of this title, and access to environmental benefits when making decisions about the environment, energy, climate, and public health projects; facilities and infrastructure; and associated funding: the Agencies of Natural Resources, of Transportation, of Commerce and Community Development, of Agriculture, Food and Markets, and of Education; the Public Utility Commission; the Natural Resources Board; and the Departments of Health, of Public Safety, and of Public Service.

(c) On or before July 1, 2025, every State agency shall create and adopt a community engagement plan that describes how the agency will engage with environmental justice populations as it evaluates new and existing activities and programs. Community engagement plans shall align with the core principles developed by the Interagency Environmental Justice Committee pursuant to subdivision 6004(c)(3)(B) of this title and take into consideration the recommendations of the Environmental Justice Advisory Council pursuant to subdivision 6004(c)(2)(B) of this title. Each plan shall describe how the agency plans to facilitate equitable participation and support meaningful and direct involvement of environmental justice populations in compliance with Title VI of the Civil Rights Act of 1964.

(d) Every State agency shall submit annual summaries to the Environmental Justice Advisory Council established pursuant to subdivision 6004(a)(1)(A) of this title, detailing all complaints alleging environmental justice issues or Title VI violations and any agency action taken to resolve such complaints. Agencies shall consider the recommendations of the Advisory Council pursuant to subdivision 6004(c)(2)(E) of this title and substantively respond in writing if an agency chooses not to implement any of the recommendations, within 90 days after receipt of the recommendations.

(e) The Agency of Natural Resources, in consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, shall review the definition of “environmental justice population” at least every five years and recommend revisions to the General Assembly to ensure the definition achieves the Environmental Justice State Policy.

(f) On or before July 1, 2023, the Agency of Natural Resources, in consultation with the Interagency Environmental Justice Committee and the Environmental Justice Advisory Council, shall issue guidance on how the agencies, departments, and bodies listed in subsection (b) of this section shall determine which investments provide environmental benefits to environmental justice populations. A draft version of the guidance shall be released for a 60-day public comment period before being finalized.

(g)(1) On or before January 15, 2024, all agencies, departments, and bodies listed in subsection (b) of this section shall, in accordance with the Agency of Natural Resources's guidance document developed pursuant to subsection (f) of this section, review the past three years and generate baseline spending reports that include:

(A) where investments were made, if any, and which geographic areas, at the municipal level and census block group, where practicable, received environmental benefits from those investments; and

(B) the percentage of overall environmental benefits from those investments provided to environmental justice populations.

(2) The agencies, departments, and bodies shall publicly post the baseline spending reports on their respective websites.

(h) On or before July 1, 2024, the agencies, departments, and bodies listed in subsection (b) of this section shall direct investments to environmental justice populations with a goal that at least 55 percent of the overall benefits from those investments go to environmental justice populations.

(i)(1) On or before July 1, 2025, and annually thereafter, all agencies, departments, and bodies listed in subsection (b) of this section shall issue annual spending reports that include:

(A) where investments were made and which geographic areas, at the municipal level and census block group, where practicable, received environmental benefits from those investments; and

(B) the percentage of overall environmental benefits from those investments provided to environmental justice populations.

(2) The agencies, departments, and bodies shall publicly post the annual spending reports on their respective websites.

(j) On or before December 15, 2025, the Agency of Natural Resources shall submit a report to the General Assembly describing whether the baseline spending reports completed pursuant to subsection (g) of this section indicate if any municipalities or portions of municipalities are routinely underserved with respect to environmental benefits, taking into consideration whether those areas receive, averaged across three years, a significantly lower percentage of environmental benefits from State investments as compared to other municipalities or portions of municipalities in the State. This report shall include a recommendation as to whether a statutory definition of "underserved community" and any other revisions to this chapter are necessary to best carry out the Environmental Justice State Policy.

§ 6003. RULEMAKING

(a) On or before July 1, 2024, the Agency of Natural Resources, in consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, shall adopt rules to:

(1) define cumulative environmental burdens;

(2) implement consideration of cumulative environmental burdens within the Agency of Natural Resources; and

(3) inform how the public and the State agencies, departments, and bodies specified in subsection 6002(b) of this title implement the consideration of cumulative environmental burdens and use the environmental justice mapping tool.

(b) On or before July 1, 2025 and as appropriate thereafter, the Agencies of Natural Resources, of Transportation, of Commerce and Community Development, of Agriculture, Food and Markets, and of Education; the Public Utility Commission; the Natural Resources Board; and the Departments of Health, of Public Safety, and of Public Service, in consultation with the Environmental Justice Advisory Council, shall adopt or amend policies and procedures, plans, guidance, and rules, where applicable, to implement this chapter.

(c)(1) Prior to drafting new rules required by this chapter, agencies shall consult with the Environmental Justice Advisory Council to discuss the scope and proposed content of rules to be developed. Agencies shall also submit draft rulemaking concepts to the Advisory Council for review and comment. Any proposed rule and draft Administrative Procedure Act filing forms shall be provided to the Advisory Council not less than 45 days prior to submitting the proposed rule or rules to the Interagency Committee on Administrative Rules (ICAR).

(2) The Advisory Council shall vote and record individual members' support or objection to any proposed rule before it is submitted to ICAR. The Advisory Council shall submit the results of their vote to both ICAR and the Legislative Committee on Administrative Rules (LCAR).

§ 6004. ENVIRONMENTAL JUSTICE ADVISORY COUNCIL AND INTERAGENCY ENVIRONMENTAL JUSTICE COMMITTEE

(a) Advisory Council and Interagency Committee.

(1) There is created:

(A) the Environmental Justice Advisory Council (Advisory Council) to provide independent advice and recommendations to State agencies and the

General Assembly on matters relating to environmental justice, including the integration of environmental justice principles into State programs, policies, regulations, legislation, and activities; and

(B) the Interagency Environmental Justice Committee (Interagency Committee) to guide and coordinate State agency implementation of the Environmental Justice State Policy and provide recommendations to the General Assembly for amending the definitions and protections set forth in this chapter.

(2) Appointments to the groups created in this subsection shall be made on or before December 15, 2022.

(3) Both the Advisory Council and the Interagency Committee shall consider and incorporate the Guiding Principles for a Just Transition developed by the Just Transitions Subcommittee of the Vermont Climate Council in their work.

(b) Meetings. The Advisory Council and Interagency Committee shall each meet at least nine times per year; with at least four meetings occurring jointly.

(c) Duties.

(1) The Advisory Council and the Interagency Committee shall jointly:

(A) consider and recommend to the General Assembly, on or before December 1, 2023, amendments to the terminology, thresholds, and criteria of the definition of environmental justice populations, including whether to include populations more likely to be at higher risk for poor health outcomes in response to environmental burdens; and

(B) examine existing data and studies on environmental justice and consult with State, federal, and local agencies and affected communities regarding the impact of current statutes, regulations, and policies on the achievement of environmental justice.

(2) The Advisory Council shall:

(A) advise State agencies on environmental justice issues and on how to incorporate environmental justice into agency procedures and decision making as required under subsection 6002(b) of this title and evaluate the potential for environmental burdens or disproportionate impacts on environmental justice populations as a result of State actions and the potential for environmental benefits to environmental justice populations;

(B) advise State agencies in the development of community engagement plans;



(C) advise State agencies on the use of the environmental justice mapping tool established pursuant to section 6005 of this title and on the enhancement of meaningful participation, reduction of environmental burdens, and equitable distribution of environmental benefits;

(D) review and provide feedback to the relevant State agency, pursuant to subsection 6003(c) of this title, on any proposed rules for implementing this chapter;

(E) receive and review annual State agency summaries of complaints alleging environmental justice issues, including Title VI complaints, and suggest options or alternatives to State agencies for the resolution of systemic issues raised in or by the complaints; and

(F) have the ability to accept funds from the federal government, a political subdivision of the State, an individual, a foundation, or a corporation and may use the funds for purposes that are consistent with this chapter, including reimbursing members for their time.

(3) The Interagency Committee shall:

(A) consult with the Agency of Natural Resources in the development of the guidance document required by in subsection 6002(f) of this title on how to determine which investments provide environmental benefits to environmental justice populations; and

(B) on or before July 1, 2023, develop, in consultation with the Agency of Natural Resources and the Environmental Justice Advisory Council, a set of core principles to guide and coordinate the development of the State agency community engagement plans required under subsection 6002(c) of this title.

(d) Membership.

(1) Advisory Council. Each member of the Advisory Council shall be well informed regarding environmental justice principles and committed to achieving environmental justice in Vermont and working collaboratively with other members of the Council. To the greatest extent practicable, Advisory Council members shall represent diversity in race, ethnicity, age, gender, urban and rural areas, and different regions of the State. The Advisory Council shall consist of the following 17 members, with more than 50 percent residing in environmental justice populations:

(A) the Director of Racial Equity or designee;

(B) one representative of municipal government, appointed by the Committee on Committees;

(C) two representatives who reside in a census block group that is designated as an environmental justice population, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(D) two representatives of social justice organizations, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(E) two representatives of organizations working on food security issues, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(F) two representatives of mobile home park issues, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(G) two representatives of a State-recognized Native American Indian tribe, recommended and appointed by the Vermont Commission on Native American Affairs;

(H) two representatives of immigrant communities in Vermont, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(I) one representative of a statewide environmental organization, appointed by the Speaker of the House;

(J) the Executive Director of the Vermont Housing and Conservation Board or designee; and

(K) the Chair of the Natural Resources Conservation Council or designee.

(2) Interagency Committee. The Interagency Committee shall consist of the following 12 members:

(A) the Secretary of Administration or designee;

(B) the Secretary of Natural Resources or designee;

(C) the Secretary of Transportation or designee;

(D) the Commissioner of Housing and Community Development or designee;

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

(F) the Secretary of Education or designee;

(G) the Commissioner of Health or designee;

(H) the Director of Emergency Management or designee;

(I) the Commissioner of Public Service or designee;

(J) the Chair of Public Utility Commission or designee;

(K) the Chair of the Natural Resources Board or designee; and

(L) the Director of Racial Equity or designee.

(3) The Advisory Council and the Interagency Committee may each elect two co-chairs and may hold public hearings.

(4) After initial appointments, all appointed members of the Advisory Council shall serve six-year terms and serve until a successor is appointed. The initial terms shall be staggered so that a third of the appointed members shall serve a two-year term, another third of the appointed members shall serve a four-year term, and the remaining members shall be appointed to a six-year term.

(5) Vacancies of the Advisory Council shall be appointed in the same manner as original appointments.

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

(7) Members of the Advisory Council who are neither State nor municipal employees shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. Members may accept funds from the federal government, a political subdivision of the State, or a 501(c)(3) charitable organization and may expend funds for purposes that are consistent with this chapter. Any Council member who receives funds pursuant to this subdivision shall report to the Secretary of Natural Resources and disclose the source of the funds, the amount received, and the general purpose for which they were used. The Secretary shall post this disclosure information on its website or on the Advisory Council's own website if such a website exists.

#### § 6005. ENVIRONMENTAL JUSTICE MAPPING TOOL

(a) In consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, the Agency of Natural Resources shall determine indices and criteria to be included in a State mapping tool to depict environmental justice populations and measure environmental burdens at the smallest geographic level practicable. The Agency of Natural Resources shall maintain the mapping tool.

(b) The Agency of Natural Resources may cooperate and contract with other states or private organizations when developing the mapping tool. The mapping tool may incorporate federal environmental justice mapping tools,

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

(c) On or before January 1, 2024, the mapping tool shall be available for use by the public as well as by the State government.

*Sec. 3. ANNUAL REPORT*

Beginning on January 15, 2024, the agencies, departments, and bodies listed in 3 V.S.A. § 6002(b) shall issue and publicly post an annual report summarizing all actions taken to incorporate environmental justice into the Agency's or Department's policies or determinations, rulemaking, permit proceedings, or project review.

*Sec. 4. APPROPRIATIONS*

(a) There is appropriated the sum of \$500,000.00 in fiscal year 2023 from the General Fund to the Agency of Natural Resources for the cost of developing the mapping tool required in 3 V.S.A. § 6005.

(b) There is appropriated the sum of \$200,000.00 in fiscal year 2023 from the General Fund to the Agency of Natural Resources to fund two positions to assist in the development of the environmental justice policy and support the Environmental Justice Advisory Council. This shall fund an existing position in the Agency and a second position which the Agency is authorized to repurpose from an existing vacant position.

*Sec. 5. EFFECTIVE DATE*

This act shall take effect on passage.