

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Environment and Energy to which was referred House  
3 Bill No. 687 entitled “An act relating to community resilience and biodiversity  
4 protection through land use” respectfully reports that it has considered the  
5 same and recommends that the bill be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 \* \* \* Act 250 \* \* \*

8 Sec. 1. PURPOSE

9 The purpose of this act is to further assist the State in achieving the  
10 conservation vision and goals for the State established in 10 V.S.A. § 2802  
11 and 24 V.S.A. § 4302. It provides a regulatory framework that supports the  
12 vision for Vermont of human and natural community resilience and  
13 biodiversity protection in the face of climate change, as described in 2023 Acts  
14 and Resolves No. 59. It would strengthen the administration of the Act 250  
15 program by changing the structure, function, and name of the Natural  
16 Resources Board. It requires that appeals of Act 250 permit decisions be heard  
17 by a five-member board called the Environmental Review Board. The  
18 Environmental Division of the Superior Court would continue to hear the other  
19 types of cases within its jurisdiction. The Environmental Review Board would  
20 retain the current duties of the Natural Resources Board in addition to hearing  
21 appeals, reviewing applications for the planned growth area designation,

1 review the future land use maps of regional plans, and review the maps that  
2 establish the rural and working lands areas. The Board would provide  
3 oversight, management, and training to the Act 250 program staff and District  
4 Commissions and develop Act 250 program policy through permit decisions  
5 and rulemaking. This change would allow the Act 250 program to be a more  
6 citizen-friendly process. **The** structure established under this act would be  
7 used to guide State financial investment in infrastructure.

8 Sec. 2. 10 V.S.A. § 6000 is added to read:

9 § 6000. PURPOSE; CONSTRUCTION

10 The purposes of this chapter are to protect and conserve the environment of  
11 the State and to support the achievement of the goals of the Capability and  
12 Development Plan, of 24 V.S.A. § 4302(c), and of the conservation vision and  
13 goals for the State established in section 2802 of this title, while supporting  
14 equitable access to infrastructure.

15 Sec. 3. 10 V.S.A. § 6021 is amended to read:

16 § 6021. BOARD; VACANCY; REMOVAL

17 (a) ~~A Natural Resources~~ Board established. The Environmental Review  
18 Board is created to administer the Act 250 program and hear appeals.

19 (1) The Board shall consist of five members appointed by the Governor,  
20 after review and approval by the Environmental Review Board Nominating  
21 Committee in accordance with subdivision (2) of this subsection and

1 confirmed with the advice and consent of the Senate, so that one appointment  
2 expires in each year. The Chair shall be a full-time position, and the other four  
3 members shall be half-time positions. In making these appointments, the  
4 Governor and the Senate shall give consideration to candidates who have  
5 experience, expertise, or skills relating to ~~the environment or land use~~ one or  
6 more of the following areas: environmental science, natural resources law and  
7 policy, land use planning, community planning, or environmental justice.

8 (A) The Governor shall appoint a chair of the Board, a position that  
9 shall be a full-time position. The Governor shall ensure Board membership  
10 reflects, to the extent possible, the racial, ethnic, gender, and geographic  
11 diversity of the State. The Board shall not contain two members who reside in  
12 the same county.

13 (B) Following initial appointments, the members, ~~except for the~~  
14 ~~Chair,~~ shall be appointed for terms of ~~four~~ five years. All terms shall begin on  
15 July 1 and expire on June 30. A member may continue serving until a  
16 successor is appointed. The initial appointments shall be for staggered terms  
17 of one year, two years, three years, four years, and five years.

18 (2) ~~The Governor shall appoint up to five persons, with preference given~~  
19 ~~to former Environmental Board, Natural Resources Board, or District~~  
20 ~~Commission members, with the advice and consent of the Senate, to serve as~~  
21 ~~alternates for Board members.~~

1           (A) ~~Alternates shall be appointed for terms of four years, with initial~~  
2 ~~appointments being staggered~~ The Environmental Review Board Nominating  
3 Committee shall advertise the position when a vacancy will occur on the  
4 Environmental Review Board.

5           (B) ~~The Chair of the Board may assign alternates to sit on specific~~  
6 ~~matters before the Board in situations where fewer than five members are~~  
7 ~~available to serve~~ The Nominating Committee shall review the applicants to  
8 determine which are well qualified for appointment to the Board and shall  
9 recommend those candidates to the Governor. The names of candidates shall  
10 be confidential.

11           (C) The Governor shall appoint, with the advice and consent of the  
12 Senate, a chair and four members of the Board from the list of well-qualified  
13 candidates sent to the Governor by the Committee.

14           (b) ~~Any vacancy occurring in the membership of the Board shall be filled~~  
15 ~~by the Governor for the unexpired portion of the term~~ Terms; vacancy;  
16 succession. The term of each appointment subsequent to the initial  
17 appointments described in subsection (a) of this section shall be five years.  
18 Any appointment to fill a vacancy shall be for the unexpired portion of the  
19 term vacated. A member may seek reappointment by informing the Governor.  
20 If the Governor decides not to reappoint the member, the Nominating  
21 Committee shall advertise the vacancy.

1           (c) Removal. Notwithstanding the provisions of 3 V.S.A. § 2004, members  
2 shall only be removable for cause ~~only, except the Chair, who shall serve at the~~  
3 ~~pleasure of the Governor~~ by the remaining members of the Board in  
4 accordance with the Vermont Administrative Procedures Act. The Board shall  
5 adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for  
6 removal.

7           (d) Disqualified members. The Chair of the Board, upon request of the  
8 Chair of a District Commission, may appoint and assign former Commission  
9 members to sit on specific Commission cases when some or all of the regular  
10 members and alternates of the District Commission are disqualified or  
11 otherwise unable to serve. If necessary to achieve a quorum, the Chair of the  
12 Board may appoint a member of a District Commission **who has not work on**  
13 **the case** to sit on a specific case before the Board.

14           (e) Retirement from office. When a Board member who hears all or a  
15 substantial part of a case retires from office before the case is completed, the  
16 member may remain a member of the Board, at the member's discretion, for  
17 the purpose of concluding and deciding that case and signing the findings and  
18 judgments involved. A retiring chair shall also remain a member for the  
19 purpose of certifying questions of law if a party appeals to the Supreme Court.  
20 For the service, the member shall receive a reasonable compensation to be

1 fixed by the remaining members of the Board and necessary expenses while on  
2 official business.

3 Sec. 4. 10 V.S.A. § 6032 is added to read:

4 § 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING

5 COMMITTEE

6 (a) Creation. The Environmental Review Board Nominating Committee is  
7 created for the purpose of assessing the qualifications of applicants for  
8 appointment to the Environmental Review Board in accordance with section  
9 6021 of this title.

10 (b) Members. The Committee shall consist of six members who shall be  
11 appointed as follows:

12 (1) The Governor shall appoint two members from the Executive  
13 Branch, with at least one being an employee of the Department of Human  
14 Resources.

15 (2) The Speaker of the House of Representatives shall appoint two  
16 members from the House of Representatives.

17 (3) The Senate Committee on Committees shall appoint two members  
18 from the Senate.

19 (c) Terms. The members of the Committee shall serve for terms of two  
20 years. Members shall serve until their successors are appointed. Members  
21 shall serve not more than three consecutive terms. A legislative member who

1 is appointed as a member of the Committee shall retain the position for the  
2 term appointed to the Committee even if the member is subsequently not  
3 reelected to the General Assembly during the member’s term on the  
4 Committee.

5 (d) Chair. The members shall elect their own chair.

6 (e) Quorum. A quorum of the Committee shall consist of four members.

7 (f) Staff and services. The Committee is authorized to use the staff and  
8 services of appropriate State Agencies and Departments as necessary to  
9 conduct investigations of applicants.

10 (g) Confidentiality. Except as provided in subsection (h) of this section,  
11 proceedings of the Committee, including the names of candidates considered  
12 by the Committee and information about any candidate submitted to the  
13 Governor, shall be confidential. The provisions of 1 V.S.A. § 317(e)  
14 (expiration of Public Records Act exemptions) shall not apply to the  
15 exemptions or confidentiality provisions in this subsection.

16 (h) Public information. The following shall be public:

17 (1) operating procedures of the Committee;

18 (2) standard application forms and any other forms used by the  
19 Committee, provided they do not contain personal information about a  
20 candidate or confidential proceedings;

1           (3) all proceedings of the Committee prior to the receipt of the first  
2           candidate’s completed application; and

3           (4) at the time the Committee sends the names of the candidates to the  
4           Governor, the total number of applicants for the vacancies and the total number  
5           of candidates sent to the Governor.

6           (i) Reimbursement. Legislative members of the Committee shall be  
7           entitled to per diem compensation and reimbursement for expenses in  
8           accordance with 2 V.S.A. § 23. Compensation and reimbursement shall be  
9           paid from the legislative appropriation.

10          (j) Duties.

11           (1) When a vacancy occurs, the Committee shall review applicants to  
12           determine which are well qualified for the Board and submit those names to  
13           the Governor. The Committee shall submit to the Governor a summary of the  
14           qualifications and experience of each candidate whose name is submitted to the  
15           Governor together with any further information relevant to the matter.

16           (2) An applicant for the position of member of the Environmental  
17           Review Board shall not be required to be an attorney. If the candidate is  
18           admitted to practice law in Vermont or practices a profession requiring  
19           licensure, certification, or other professional regulation by the State, the  
20           Committee shall submit the candidate’s name to the Court Administrator or the  
21           applicable State professional regulatory entity, and that entity shall disclose to



1 the Committee any professional disciplinary action taken or pending  
2 concerning the candidate.

3 (3) Candidates shall be sought who have experience, expertise, or skills  
4 relating to one or more of the following areas: environmental science, natural  
5 resources law and policy, land use planning, community planning, or  
6 environmental justice.

7 (4) The Committee shall ensure a candidate possesses the following  
8 attributes:

9 (A) Integrity. A candidate shall possess a record and reputation for  
10 excellent character and integrity.

11 (B) Impartiality. A candidate shall exhibit an ability to make judicial  
12 determinations in a manner free of bias.

13 (C) Work ethic. A candidate shall demonstrate diligence.

14 (D) Availability. A candidate shall have adequate time to dedicate to  
15 the position.

16 Sec. 5. 10 V.S.A. § 6025 is amended to read:

17 § 6025. RULES

18 (a) The Board may adopt rules of procedure for itself and the District  
19 Commissions. The Board shall adopt rules of procedure that govern appeals  
20 and other contested cases before it that are consistent with this chapter. The  
21 Board's procedure for approving regional plans and regional plan maps, which

1 may be adopted as rules or issued as guidance, shall ensure that the maps are  
2 consistent with legislative intent.

3 \* \* \*

4 Sec. 6. 10 V.S.A. § 6027 is amended to read:

5 § 6027. POWERS

6 (a) The Board and District Commissions ~~each~~ shall have supervisory  
7 authority in environmental matters respecting projects within their jurisdiction  
8 and shall apply their independent judgment in determining facts and  
9 interpreting law. Each shall have the power, with respect to any matter within  
10 its jurisdiction, to:

11 (1) administer oaths, take depositions, subpoena and compel the  
12 attendance of witnesses, and require the production of evidence;

13 (2) allow parties to enter upon lands of other parties for the purposes of  
14 inspecting and investigating conditions related to the matter before the Board  
15 or Commission;

16 (3) enter upon lands for the purpose of conducting inspections,  
17 investigations, examinations, tests, and site evaluations as it deems necessary  
18 to verify information presented in any matter within its jurisdiction; and

19 (4) apply for and receive grants from the federal government and from  
20 other sources.

1 (b) The powers granted under this chapter are additional to any other  
2 powers ~~which~~ that may be granted by other legislation.

3 (c) The ~~Natural Resources~~ Board may designate or establish ~~such~~ regional  
4 offices as it deems necessary to implement the provisions of this chapter and  
5 the rules adopted ~~hereunder~~. The ~~Natural Resources~~ Board may designate or  
6 require a regional planning commission to receive applications, provide  
7 administrative assistance, perform investigations, and make recommendations.

8 (d) At the request of a District Commission, if the Board Chair determines  
9 that the workload in the requesting district is likely to result in unreasonable  
10 delays or that the requesting District Commission is disqualified to hear a case,  
11 the Chair may authorize the District Commission of another district to sit in the  
12 requesting district to consider one or more applications.

13 (e) The ~~Natural Resources~~ Board may by rule allow joint hearings to be  
14 conducted with specified State agencies or specified municipalities.

15 (f) The Board shall publish its decisions online. The Board may publish  
16 online or contract to publish annotations and indices of its decisions, the  
17 decisions of the Environmental Division of the Superior Court and the  
18 Supreme Court, and the text of those decisions. The published product shall be  
19 available at a reasonable rate to the general public and at a reduced rate to  
20 libraries and governmental bodies within the State.

1           (g) The ~~Natural Resources~~ Board shall manage the process by which land  
2 use permits are issued under section 6086 of this title, may initiate enforcement  
3 on related matters under the provisions of chapters 201 and 211 of this title,  
4 and may ~~petition the Environmental Division~~ initiate and hear petitions for  
5 revocation of land use permits issued under this chapter. Grounds for  
6 revocation are:

7           (1) noncompliance with this chapter, rules adopted under this chapter, or  
8 an order that is issued that relates to this chapter;

9           (2) noncompliance with any permit or permit condition;

10           (3) failure to disclose all relevant and material facts in the application or  
11 during the permitting process;

12           (4) misrepresentation of any relevant and material fact at any time;

13           (5) failure to pay a penalty or other sums owed pursuant to, or other  
14 failure to comply with, court order, stipulation agreement, schedule of  
15 compliance, or other order issued under Vermont statutes and related to the  
16 permit; or

17           (6) failure to provide certification of construction costs, as required  
18 under subsection 6083a(a) of this title, or failure to pay supplemental fees as  
19 required under that section.

1 (h) ~~The Natural Resources Board may~~ shall hear appeals of decisions made  
2 by District Commissions and district coordinators, including fee refund  
3 requests under section 6083a of this title.

4 (i) The Chair, subject to the direction of the Board, shall have general  
5 charge of the offices and employees of the Board and the offices and  
6 employees of the District Commissions.

7 ~~The Natural Resources Board may participate as a party in all matters~~  
8 ~~before the Environmental Division that relate to land use permits issued under~~  
9 ~~this chapter~~ The Board shall review for compliance regional plans and the  
10 future land use maps developed by the regional planning commissions  
11 pursuant to 24 V.S.A. § 4348a.

12 (k) The Board shall review applications for planned growth areas and  
13 critical resource areas and approve or disapprove based on whether a municipal  
14 application demonstrates compliance with the requirements of section 6033 of  
15 this title. The Board shall produce guidelines for municipalities seeking to  
16 obtain the planned growth area designation.

17 \* \* \*

18 Sec. 7. 10 V.S.A. § 6022 is amended to read:

19 § 6022. PERSONNEL

20 (a) Regular personnel. The Board may appoint legal counsel, scientists,  
21 engineers, experts, investigators, temporary employees, and administrative

1 personnel as it finds necessary in carrying out its duties, ~~unless the Governor~~  
2 ~~shall otherwise provide~~ in providing personnel to assist the District  
3 Commissions and in investigating matters within its jurisdiction.

4 (b) Executive Director. The Board shall appoint an Executive Director.  
5 The Director shall be a full-time State employee, shall be exempt from the  
6 State classified system, and shall serve at the pleasure of the Board. The  
7 Director shall be responsible for:

8 (1) supervising and administering the operation and implementation of  
9 this chapter and the rules adopted by the Board as directed by the Board;

10 (2) assisting the Board in its duties and administering the requirements  
11 of this chapter;

12 (3) employing any staff as may be required to carry out the functions of  
13 the Board; and

14 (4) preparing an annual budget for submission to the Board.

15 Sec. 8. 10 V.S.A. § 6084 is amended to read:

16 § 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF  
17 REVIEW

18 (a) ~~On or before the date of~~ Upon the filing of an application with the  
19 District Commission, the ~~applicant~~ District Commission shall send, by  
20 electronic means, notice ~~and a copy~~ of the ~~initial~~ application to the owner of  
21 the land if the applicant is not the owner; the municipality in which the land is

1 located; the municipal and regional planning commissions for the municipality  
2 in which the land is located; the Vermont Agency of Natural Resources; and  
3 any adjacent Vermont municipality and municipal and regional planning  
4 commission if the land is located on a municipal or regional boundary. The  
5 ~~applicant shall furnish to the District Commission the names of those furnished~~  
6 ~~notice by affidavit, and shall post~~ send by electronic means a copy of the notice  
7 ~~in to~~ the town clerk's office of the town or towns in which the project lies. The  
8 town clerk shall post the notice in the town office. The applicant shall also  
9 provide a list of adjoining landowners to the District Commission. Upon  
10 request and for good cause, the District Commission may authorize the  
11 applicant to provide a partial list of adjoining landowners in accordance with  
12 Board rules.

13 \* \* \*

14 (e) Any notice for a major or minor application, as required by this section,  
15 shall also be published by the District Commission in a local newspaper  
16 generally circulating in the area where the development or subdivision is  
17 located and on the Board's website not more than ~~ten~~ 10 days after receipt of a  
18 complete application.

19 \* \* \*

20 Sec. 9. 10 V.S.A. § 6086(f) is amended to read:

21 (f) Prior to any appeal of a permit issued by a District Commission, any

1 aggrieved party may file a request for a stay of construction with the District  
2 Commission together with a declaration of intent to appeal the permit. The  
3 stay request shall be automatically granted for seven days upon receipt and  
4 notice to all parties and pending a ruling on the merits of the stay request  
5 pursuant to Board rules. The automatic stay shall not extend beyond the 30-  
6 day appeal period unless a valid appeal has been filed with the ~~Environmental~~  
7 ~~Division~~ Board. The automatic stay may be granted only once under this  
8 subsection during the 30-day appeal period. Following appeal of the District  
9 Commission decision, any stay request must be filed with the ~~Environmental~~  
10 ~~Division pursuant to the provisions of chapter 220 of this title~~ Board. A  
11 District Commission shall not stay construction authorized by a permit  
12 processed under the Board's minor application procedures.

13 Sec. 10. 10 V.S.A. § 6089 is amended to read:

14 § 6089. APPEALS

15 ~~Appeals of any act or decision of a District Commission under this chapter~~  
16 ~~or a district coordinator under subsection 6007(c) of this title shall be made to~~  
17 ~~the Environmental Division in accordance with chapter 220 of this title. For~~  
18 ~~the purpose of this section, a decision of the Chair of a District Commission~~  
19 ~~under section 6001e of this title on whether action has been taken to~~  
20 ~~circumvent the requirements of this chapter shall be considered an act or~~  
21 ~~decision of the District Commission.~~



1       (a)(1) Appeals to the Board. An appeal of any act or decision of a District  
2       Commission shall be to the Board and shall be accompanied by a fee  
3       prescribed by section 6083a of this title.

4       (2) Participation before District Commission. A person shall not appeal  
5       an act or decision that was made by a District Commission unless the person  
6       was granted party status by the District Commission pursuant to subdivision  
7       6085(c)(1)(E) of this title, participated in the proceedings before the District  
8       Commission, and retained party status at the end of the District Commission  
9       proceedings. In addition, the person may only appeal those issues under the  
10       criteria with respect to which the person was granted party status. However,  
11       notwithstanding these limitations, a person may appeal an act or decision of the  
12       District Commission if the Board determines that:

13               (A) there was a procedural defect that prevented the person from  
14       obtaining party status or participating in the proceeding;

15               (B) the decision being appealed is the grant or denial of party status;

16       or

17               (C) some other condition exists that would result in manifest injustice  
18       if the person's right to appeal was disallowed.

19       (3) Filing the appeal. An appellant to the Board, under this section,  
20       shall file with the notice of appeal a statement of the issues to be addressed in

1 the appeal, a summary of the evidence that will be presented, and a preliminary  
2 list of witnesses who will testify on behalf of the appellant.

3 (4) De novo hearing. The Board shall hold a de novo hearing on all  
4 findings requested by any party that files an appeal or cross appeal, according  
5 to the rules of the Board. The hearing shall be held in the municipality where  
6 the project subject to the appeal is located, if possible, or as close as possible.

7 (5) Notice of appeal. Notice of appeal shall be filed with the Board  
8 within 30 days following the act or decision by the District Commission. The  
9 Board shall notify the parties who had party status before the District  
10 Commission of the filing of any appeal.

11 (6) Prehearing discovery.

12 (A) A party may obtain discovery of expert witnesses who may  
13 provide testimony relevant to the appeal. Expert witness prefiled testimony  
14 shall be in accordance with the Vermont Rules of Evidence. The use of  
15 discovery for experts shall comply with the requirements in the Vermont Rules  
16 of Civil Procedure 26–37.

17 (B) Interrogatories served on nonexpert witnesses shall be limited to  
18 discovery of the identity of witnesses and a summary of each witness'  
19 testimony, except by order of the Board for cause shown. Interrogatories  
20 served on expert witnesses shall be in accordance with the Vermont Rules of  
21 Civil Procedure.

1           (C) Parties may submit requests to produce and requests to enter  
2           upon land pursuant to the Vermont Rule of Civil Procedure 34.

3           (D) Parties may not take depositions of witnesses, except by order of  
4           the Board for cause shown.

5           (E) The Board may require a party to supplement, as necessary, any  
6           prehearing testimony that is provided.

7           (b) Prior decisions. Prior decisions of the former Environmental Board, the  
8           Water Resources Board, the Waste Facilities Panel, and the Environmental  
9           Division of the Superior Court shall be given the same weight and  
10           consideration as prior decisions of the Environmental Review Board.

11           (c) Appeals to Supreme Court. An appeal from a decision of the Board  
12           under subsection (a) of this section shall be to the Supreme Court by a party as  
13           set forth in subsection 6085(c) of this title.

14           (d) Objections. No objection that has not been raised before the Board may  
15           be considered by the Supreme Court, unless the failure or neglect to urge such  
16           objection shall be excused because of extraordinary circumstances.

17           (e) Appeals of decisions. An appeal of a decision by the Board shall be  
18           allowed pursuant to 3 V.S.A. § 815, including the unreasonableness or  
19           insufficiency of the conditions attached to a permit. An appeal from the  
20           District Commission shall be allowed for any reason, except no appeal shall be  
21           allowed when an application has been granted and no hearing was requested.

1        (f) Precedent. Precedent from the former Environmental Board and of the  
2        Environmental Review Board that interpret this chapter shall be provided the  
3        same deference by the Supreme Court as precedents accorded to other  
4        Executive Branch agencies charged with administering their enabling act. On  
5        appeal to the Supreme Court from the Environmental Review Board, decisions  
6        of the Environmental Review Board interpreting this act also shall be accorded  
7        that deference.

8        (g) Clearly erroneous. Upon appeal to the Supreme Court, the Board’s  
9        findings of fact shall be accepted unless clearly erroneous.

10       (h) Completion of case. A case shall be deemed completed when the Board  
11       enters a final decision even though that decision is appealed to the Supreme  
12       Court and remanded by that Court.

13       (i) Court of record; jurisdiction. The Board shall have the powers of a  
14       court of record in the determination and adjudication of all matters within its  
15       jurisdiction. It may initiate proceedings on any matter within its jurisdiction.  
16       It may render judgments and enforce the same by any suitable process issuable  
17       by courts in this State. An order issued by the Board on any matter within its  
18       jurisdiction shall have the effect of a judicial order. The Board’s jurisdiction  
19       shall include:

20       (1) the issuance of declaratory rulings on the applicability of this chapter  
21       and rules or orders issued under this chapter, pursuant to 3 V.S.A. § 808; and



1 demonstrate a particularized interest protected by this chapter that may be  
2 affected by an act or decision by a District Commission.

3 (d) A person who seeks review of a jurisdictional opinion issued by a  
4 district coordinator shall bring to the Board an appeal of issues addressed in the  
5 opinion.

6 (1) The appellant shall provide notice of the filing of an appeal to each  
7 person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this  
8 title and to each person on an approved subdivision 6085(c)(1)(E) list.

9 (2) Failure to appeal within 30 days following the issuance of the  
10 jurisdictional opinion shall render the decision of the district coordinator under  
11 subsection (c) of this section the final determination regarding jurisdiction  
12 unless the underlying jurisdictional opinion was not properly served on persons  
13 listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on  
14 a subdivision 6085(c)(1)(E) list approved under subsection (c) of this section.

15 Sec. 12. 10 V.S.A. § 6083a is amended to read:

16 § 6083a. ACT 250 FEES

17 \* \* \*

18 (i) All persons filing an appeal, cross appeal, or petition from a District  
19 Commission decision or jurisdictional opinion shall pay a fee of \$295.00, plus  
20 publication costs.

1           (j) Any municipality filing an application for a planned growth area  
2           designation shall pay a fee of \$295.00.

3           (k) Any regional planning commission filing a regional plan or future land  
4           use map to be reviewed by the Board shall pay a fee of \$295.00.

5   \* \* \* Appeals \* \* \*

6           Sec. 13. 10 V.S.A. chapter 220 is amended to read:

7           CHAPTER 220. CONSOLIDATED ENVIRONMENTAL APPEALS

8           § 8501. PURPOSE

9           It is the purpose of this chapter to:

10                   (1) consolidate existing appeal routes for municipal zoning and  
11                   subdivision decisions and acts or decisions of the Secretary of Natural  
12                   Resources, ~~district environmental coordinators, and District Commissions,~~  
13                   excluding enforcement actions brought pursuant to chapters 201 and 211 of  
14                   this title and the adoption of rules under 3 V.S.A. chapter 25;

15                   (2) standardize the appeal periods, the parties who may appeal these acts  
16                   or decisions, and the ability to stay any act or decision upon appeal, taking into  
17                   account the nature of the different programs affected;

18                   (3) ~~encourage people to get involved in the Act 250 permitting process~~  
19                   ~~at the initial stages of review by a District Commission by requiring~~  
20                   ~~participation as a prerequisite for an appeal of a District Commission decision~~  
21                   ~~to the Environmental Division;~~

1           ~~(4)~~ ensure that clear appeal routes exist for acts and decisions of  
2           the Secretary of Natural Resources; and

3           ~~(5)~~(4) consolidate appeals of decisions related to renewable energy  
4           generation plants and telecommunications facilities with review under,  
5           respectively, 30 V.S.A. §§ 248 and 248a, with appeals and consolidation of  
6           proceedings pertaining to telecommunications facilities occurring only while  
7           30 V.S.A. § 248a remains in effect.

8           § 8502. DEFINITIONS

9           As used in this chapter:

10           (1) ~~“District Commission” means a District Environmental Commission~~  
11           ~~established under chapter 151 of this title. [Repealed.]~~

12           (2) ~~“District coordinator” means a district environmental coordinator~~  
13           ~~attached to a District Commission established under chapter 151 of this title.~~  
14           ~~[Repealed.]~~

15           (3) “Environmental Court” or “Environmental Division” means the  
16           Environmental Division of the Superior Court established by 4 V.S.A. § 30.

17           (4) ~~“Natural Resources~~ Environmental Review Board” or “Board”  
18           means the Board established under chapter 151 of this title.

19           (5) “Party by right” means the following:

20           (A) the applicant;

21           (B) the landowner, if the applicant is not the landowner;



1 (C) the municipality in which the project site is located and the  
2 municipal and regional planning commissions for that municipality;

3 (D) if the project site is located on a boundary, any Vermont  
4 municipality adjacent to that border and the municipal and regional planning  
5 commissions for that municipality;

6 (E) the solid waste management district in which the land is located,  
7 if the development or subdivision constitutes a facility pursuant to subdivision  
8 6602(10) of this title; and

9 (F) any State agency affected by the proposed project.

10 (6) “Person” means any individual; partnership; company; corporation;  
11 association; joint venture; trust; municipality; the State of Vermont or any  
12 agency, department, or subdivision of the State; any federal agency; or any  
13 other legal or commercial entity.

14 (7) “Person aggrieved” means a person who alleges an injury to a  
15 particularized interest protected by the provisions of law listed in section 8503  
16 of this title, attributable to an act or decision by ~~a district coordinator, District~~  
17 ~~Commissioner~~, the Secretary, or the Environmental Division that can be  
18 redressed by the Environmental Division or the Supreme Court.

19 (8) “Secretary” means the Secretary of Natural Resources or the  
20 Secretary’s duly authorized representative. As used in this chapter,  
21 “Secretary” ~~shall also mean~~ means the Commissioner of Environmental

1 Conservation; the Commissioner of Forests, Parks and Recreation; and the  
2 Commissioner of Fish and Wildlife; with respect to those statutes that refer to  
3 the authority of that commissioner or department.

4 § 8503. APPLICABILITY

5 (a) This chapter shall govern all appeals of an act or decision of the  
6 Secretary, excluding enforcement actions under chapters 201 and 211 of this  
7 title and rulemaking, under the following authorities and under the rules  
8 adopted under those authorities:

9 \* \* \*

10 (b) ~~This chapter shall govern:~~

11 ~~(1) all appeals from an act or decision of a District Commission under~~  
12 ~~chapter 151 of this title, excluding appeals of application fee refund requests;~~

13 ~~(2) appeals from an act or decision of a district coordinator under~~  
14 ~~subsection 6007(e) of this title;~~

15 ~~(3) appeals from findings of fact and conclusions of law issued by the~~  
16 ~~Natural Resources Board in its review of a designated growth center for~~  
17 ~~conformance with the criteria of subsection 6086(a) of this title, pursuant to~~  
18 ~~authority granted at 24 V.S.A. § 2793e(f). [Repealed.]~~

19 (c) This chapter shall govern all appeals arising under 24 V.S.A.  
20 chapter 117, the planning and zoning chapter.

1 (d) This chapter shall govern all appeals from an act or decision of the  
2 Environmental Division under this chapter.

3 (e) This chapter shall not govern appeals from rulemaking decisions by the  
4 ~~Natural Resources~~ Environmental Review Board under chapter 151 of this title  
5 or enforcement actions under chapters 201 and 211 of this title.

6 (f) This chapter shall govern all appeals of acts or decisions of the  
7 legislative body of a municipality arising under 24 V.S.A. chapter 61,  
8 subchapter 10, relating to the municipal certificate of approved location for  
9 salvage yards.

10 (g) This chapter shall govern all appeals of an act or decision of the  
11 Secretary of Natural Resources that a solid waste implementation plan for a  
12 municipality proposed under 24 V.S.A. § 2202a conforms with the State Solid  
13 Waste Implementation Plan adopted pursuant to section 6604 of this title.

14 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

15 (a) ~~Act 250 and~~ Agency appeals. Within 30 days of the date of following  
16 the act or decision, any person aggrieved by an act or decision of the Secretary,  
17 ~~a District Commission, or a district coordinator~~ under the provisions of law  
18 listed in section 8503 of this title, or any party by right, may appeal to the  
19 Environmental Division, except for an act or decision of the Secretary under  
20 subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

21

\* \* \*

1 (c) Notice of the filing of an appeal.

2 (1) ~~Upon filing an appeal from an act or decision of the District~~  
3 ~~Commission, the appellant shall notify all parties who had party status as of the~~  
4 ~~end of the District Commission proceeding, all friends of the Commission, and~~  
5 ~~the Natural Resources Board that an appeal is being filed. In addition, the~~  
6 ~~appellant shall publish notice not more than 10 days after providing notice as~~  
7 ~~required under this subsection, at the appellant's expense, in a newspaper of~~  
8 ~~general circulation in the area of the project that is the subject of the decision.~~

9 [Repealed.]

10 \* \* \*

11 (d) Requirement to participate before ~~the District Commission or the~~  
12 Secretary.

13 (1) ~~Participation before District Commission. An aggrieved person shall~~  
14 ~~not appeal an act or decision that was made by a District Commission unless~~  
15 ~~the person was granted party status by the District Commission pursuant to~~  
16 ~~subdivision 6085(c)(1)(E) of this title, participated in the proceedings before~~  
17 ~~the District Commission, and retained party status at the end of the District~~  
18 ~~Commission proceedings. In addition, the person may only appeal those issues~~  
19 ~~under the criteria with respect to which the person was granted party status.~~  
20 ~~However, notwithstanding these limitations, an aggrieved person may appeal~~

1 ~~an act or decision of the District Commission if the Environmental judge~~  
2 ~~determines that:~~

3 ~~(A) there was a procedural defect that prevented the person from~~  
4 ~~obtaining party status or participating in the proceeding;~~

5 ~~(B) the decision being appealed is the grant or denial of party status;~~  
6 ~~or~~

7 ~~(C) some other condition exists that would result in manifest injustice~~  
8 ~~if the person's right to appeal was disallowed. [Repealed.]~~

9 (2) Participation before the Secretary.

10 \* \* \*

11 (e) ~~Act 250 jurisdictional determinations by a district coordinator.~~

12 ~~(1) The appellant shall provide notice of the filing of an appeal to each~~  
13 ~~person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this~~  
14 ~~title, to each person on an approved subdivision 6085(c)(1)(E) list, and to the~~  
15 ~~Natural Resources Board.~~

16 ~~(2) Failure to appeal within the time required under subsection (a) of~~  
17 ~~this section shall render the decision of the district coordinator under~~  
18 ~~subsection 6007(c) of this title the final determination regarding jurisdiction~~  
19 ~~under chapter 151 of this title unless the underlying jurisdictional opinion was~~  
20 ~~not properly served on persons listed in subdivisions 6085(c)(1)(A) through~~

1 ~~(D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved~~  
2 ~~under subsection 6007(c) of this title. [Repealed.]~~

3 \* \* \*

4 (g) Consolidated appeals. The Environmental Division may consolidate or  
5 coordinate different appeals where those appeals all relate to the same project.

6 \* \* \*

7 ~~(i) Deference to Agency technical determinations. In the adjudication of~~  
8 ~~appeals relating to land use permits under chapter 151 of this title, technical~~  
9 ~~determinations of the Secretary shall be accorded the same deference as they~~  
10 ~~are accorded by a District Commission under subsection 6086(d) of this title.~~  
11 ~~[Repealed.]~~

12 \* \* \*

13 (k) Limitations on appeals. Notwithstanding any other provision of this  
14 section;

15 ~~(1) there shall be no appeal from a District Commission decision when~~  
16 ~~the Commission has issued a permit and no hearing was requested or held, or~~  
17 ~~no motion to alter was filed following the issuance of an administrative~~  
18 ~~amendment;~~

19 ~~(2) a municipal decision regarding whether a particular application~~  
20 ~~qualifies for a recorded hearing under 24 V.S.A. § 4471(b) shall not be subject~~  
21 ~~to appeal;~~

1           ~~(3) if a District Commission issues a partial decision under subsection~~  
2           ~~6086(b) of this title, any appeal of that decision must be taken within 30 days~~  
3           ~~of the date of that decision.~~

4           (1) Representation. The Secretary may represent the Agency of Natural  
5           Resources in all appeals under this section. ~~The Chair of the Natural~~  
6           ~~Resources Board may represent the Board in any appeal under this section,~~  
7           ~~unless the Board directs otherwise.~~ If more than one State agency, ~~other than~~  
8           ~~the Board,~~ either appeals or seeks to intervene in an appeal under this section,  
9           only the Attorney General may represent the interests of those agencies of the  
10          State in the appeal.

11          (m) Precedent. Prior decisions of the Environmental Board, Water  
12          Resources Board, and Waste Facilities Panel shall be given the same weight  
13          and consideration as prior decisions of the Environmental Division.

14          (n) Intervention. Any person may intervene in a pending appeal if that  
15          person:

16               (1) appeared as a party in the action appealed from and retained party  
17          status;

18               (2) is a party by right;

19               (3) ~~is the Natural Resources Board;~~ [Repealed.]

20               (4) is a person aggrieved, as defined in this chapter;

1 (5) qualifies as an “interested person,” as established in 24 V.S.A.

2 § 4465, with respect to appeals under 24 V.S.A. chapter 117; or

3 (6) meets the standard for intervention established in the Vermont Rules  
4 of Civil Procedure.

5 (o) With respect to review of an act or decision of the Secretary pursuant to  
6 3 V.S.A. § 2809, the Division may reverse the act or decision or amend an  
7 allocation of costs to an applicant only if the Division determines that the act,  
8 decision, or allocation was arbitrary, capricious, or an abuse of discretion. In  
9 the absence of such a determination, the Division shall require the applicant to  
10 pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

11 (p) Administrative record. The Secretary shall certify the administrative  
12 record as defined in chapter 170 of this title and shall transfer a certified copy  
13 of that record to the Environmental Division when:

14 (1) there is an appeal of an act or decision of the Secretary that is based  
15 on that record; or

16 (2) there is an appeal of a decision of a District Commission, and the  
17 applicant used a decision of the Secretary based on that record to create a  
18 presumption under a criterion of subsection 6086(a) of this title that is at issue  
19 in the appeal.



1 § 8505. APPEALS TO THE SUPREME COURT

2 (a) Any person aggrieved by a decision of the Environmental Division  
3 pursuant to this subchapter, any party by right, or any person aggrieved by a  
4 decision of the Environmental Review Board may appeal to the Supreme Court  
5 within 30 days ~~of~~ following the date of the entry of the order or judgment  
6 appealed from, provided that:

7 (1) the person was a party to the proceeding before the Environmental  
8 Division; ~~or~~

9 (2) the decision being appealed is the denial of party status; or

10 (3) the Supreme Court determines that:

11 (A) there was a procedural defect that prevented the person from  
12 participating in the proceeding; or

13 (B) some other condition exists that would result in manifest injustice  
14 if the person's right to appeal were disallowed.

15 \* \* \*

16 \* \* \* Environmental Division \* \* \*

17 Sec. 14. 4 V.S.A. § 34 is amended to read:

18 § 34. JURISDICTION; ENVIRONMENTAL DIVISION

19 The Environmental Division shall have:

20 (1) jurisdiction of matters arising under 10 V.S.A. chapters 201 and 220;  
21 and

- 1           (2) jurisdiction of matters arising under 24 V.S.A. chapter 61,  
2           subchapter 12 and 24 V.S.A. chapter 117; ~~and~~  
3           ~~(3) original jurisdiction to revoke permits under 10 V.S.A. chapter 151.~~

4                           \* \* \* Transition; Revision Authority \* \* \*

5           Sec. 15. ENVIRONMENTAL REVIEW BOARD POSITIONS;

6                           APPROPRIATION

7           (a) The following new positions are created at the Environmental Review  
8           Board for the purposes of carrying out this act:

9                           (1) two Staff Attorneys; and

10                          (2) four half-time Environmental Review Board members.

11           (b) The sum of \$484,000.00 is appropriated to the Environmental Review  
12           Board from the General Fund in fiscal year 2025 for the positions established  
13           in subsection (a) of this section and for additional operating costs required to  
14           implement the appeals process established in this act.

15           Sec. 16. NATURAL RESOURCES BOARD TRANSITION

16           (a) The Governor shall appoint the members of Environmental Review  
17           Board on or before July 1, 2025, and the terms of any Natural Resources Board  
18           member not appointed consistent with the requirements of 10 V.S.A.  
19           § 6021(a)(1)(A) or (B) shall expire on that day.

20           (b) As of July 1, 2025, all appropriations and employee positions of the  
21           Natural Resources Board are transferred to the Environmental Review Board.



1           (45) “Habitat connector” means land or water, or both, that links patches  
2           of habitat within a landscape, allowing the movement, migration, and dispersal  
3           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           (46) “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          (47) “Fragmentation” means the division or conversion of a forest block  
12          or connecting habitat by the separation of a parcel into two or more parcels; the  
13          construction, conversion, relocation, or enlargement of any building or other  
14          structure, or of any mining, excavation, or landfill; and any change in the use  
15          of any building or other structure, or land, or extension of use of land.

16          However, fragmentation does not include the division or conversion of a forest  
17          block or connecting habitat by a recreational trail or by improvements  
18          constructed for farming, logging, or forestry purposes below the elevation of  
19          2,500 feet.

20          (48) “Habitat” means the physical and biological environment in which  
21          a particular species of plant or wildlife lives.

1           (49) As used in subdivisions (45), (46), and (47) of this section,  
2           “recreational trail” means a corridor that is not paved and that is used for  
3           recreational purposes, including hiking, walking, bicycling, cross-country  
4           skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

5           Sec. 20. 10 V.S.A. § 6086(a)(8) is amended to read:

6           (8) Ecosystem protection; scenic beauty; historic sites. Will not have an  
7           undue adverse effect on the scenic or natural beauty of the area, aesthetics,  
8           historic sites, or rare and irreplaceable natural areas.

9           (A) Necessary wildlife habitat and endangered species. A permit will  
10          not be granted if it is demonstrated by any party opposing the applicant that a  
11          development or subdivision will destroy or significantly imperil necessary  
12          wildlife habitat or any endangered species; and

13          (i) the economic, social, cultural, recreational, or other benefit to  
14          the public from the development or subdivision will not outweigh the  
15          economic, environmental, or recreational loss to the public from the  
16          destruction or imperilment of the habitat or species; or

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

1 (iii) a reasonably acceptable alternative site is owned or controlled  
2 by the applicant which would allow the development or subdivision to fulfill  
3 its intended purpose.

4 (B) Forest blocks.

5 (i) A permit will not be granted for a development or subdivision  
6 within or partially within a forest block unless the applicant demonstrates that:

7 (I) the development or subdivision will avoid fragmentation of  
8 the forest block through the design of the project or the location of project  
9 improvements, or both;

10 (II) it is not feasible to avoid fragmentation of the forest block  
11 and the design of the development or subdivision minimizes fragmentation of  
12 the forest block; or

13 (III) it is not feasible to avoid or minimize fragmentation of the  
14 forest block and the applicant will mitigate the fragmentation in accordance  
15 with section 6094 of this title.

16 (ii) Methods for avoiding or minimizing the fragmentation of a  
17 forest block may include:

18 (I) Locating buildings and other improvements and operating  
19 the project in a manner that avoids or minimizes incursion into and disturbance  
20 of the forest block, including clustering of buildings and associated  
21 improvements.

1                    (II) Designing roads, driveways, and utilities that serve the  
2                    development or subdivision to avoid or minimize fragmentation of the forest  
3                    block. Such design may be accomplished by following or sharing existing  
4                    features on the land such as roads, tree lines, stone walls, and fence lines.

5                    (C) Habitat connector.

6                    (i) A permit will not be granted for a development or subdivision  
7                    unless the applicant demonstrates that:

8                    (I) the development or subdivision will avoid fragmentation of  
9                    habitat connector through the design of the project or the location of project  
10                   improvements, or both; or

11                   (II) it is not feasible to avoid fragmentation of the habitat  
12                   connector and the design of the development or subdivision minimizes  
13                   fragmentation of the connector;

14                   (ii) Methods for avoiding or minimizing the fragmentation of a  
15                   habitat connector may include:

16                   (I) locating buildings and other improvements at the farthest  
17                   feasible location from the center of the connector;

18                   (II) designing the location of buildings and other improvements  
19                   to leave the greatest contiguous portion of the area undisturbed in order to  
20                   facilitate wildlife travel through the connector; or

1                    (III) when there is no feasible site for construction of buildings  
2                    and other improvements outside the connector, designing the buildings and  
3                    improvements to facilitate the continued viability of the connector for use by  
4                    wildlife.

5                    Sec. 21. CRITERION 8(B) AND (C) RULEMAKING

6                    On or before June 15, 2025, the Natural Resources Board shall file a final  
7                    proposed rule with the Secretary of State and Legislative Committee on  
8                    Administrative Rules to implement the requirements for the administration of  
9                    10 V.S.A. § 6086(a)(8)(B) and (C), which shall at a minimum address the  
10                   minimum size required for a forest block or habitat connector.

11                   Sec. 22. 10 V.S.A. § 6094 is added to read:

12                   § 6094. MITIGATION OF FOREST BLOCKS

13                   (a) A District Commission may consider a proposal to mitigate, through  
14                   compensation, the fragmentation of a forest block if the applicant demonstrates  
15                   that it is not feasible to avoid or minimize fragmentation of the block in  
16                   accordance with the requirements of subdivision 6086(a)(8)(B) of this chapter.  
17                   A District Commission may approve the proposal only if it finds that the  
18                   proposal will meet the requirements of the rules adopted under this section and  
19                   will preserve a forest block of similar quality and character to the block  
20                   affected by the development or subdivision.



1       (b) The Board, in consultation with the Secretary of Natural Resources,  
2       shall adopt rules governing mitigation under this section.

3           (1) The rules shall state the acreage ratio of forest block to be preserved  
4       in relation to the block affected by the development or subdivision.

5           (2) Compensation measures to be allowed under the rules shall be based  
6       on the ratio of land developed pursuant to subdivision (1) of this subsection  
7       and shall include:

8           (A) Preservation of a forest block of similar quality and character to  
9       the block that the development or subdivision will affect.

10          (B) Deposit of an off-site mitigation fee into the Vermont Housing  
11       and Conservation Trust Fund under section 312 of this title.

12           (i) This mitigation fee shall be derived as follows:

13            (I) Determine the number of acres of forest block affected by  
14       the proposed development or subdivision.

15            (II) Multiply this number of affected acres by three.

16            (III) Multiply the resulting product by a “price-per-acre” value,  
17       which shall be based on the amount that the Commissioner of Forests, Parks  
18       and Recreation determines to be the recent, per-acre cost to acquire  
19       conservation easements for forest blocks of similar quality and character in the  
20       same geographic region as the proposed development or subdivision.

1                   (ii) The Vermont Housing Conservation Board shall use such a fee  
2                   to preserve a forest block of similar quality and character to the affected by the  
3                   development or subdivision.

4                   (C) Any other compensation measures as the rules may authorize.

5                   (c) The mitigation of impact on a forest block shall be structured also to  
6                   mitigate the impacts, under the criteria of subsection 6086(a) of this title other  
7                   than subdivisions (8)(B) to land or resources within the block.

8                   (d) All forest blocks preserved pursuant to this section shall be protected by  
9                   permanent conservation easements that grant development rights and include  
10                  conservation restrictions and are conveyed to a qualified holder, as defined in  
11                  section 821 of this title, with the ability to monitor and enforce easements in  
12                  perpetuity.

13                  Sec. 23. 10 V.S.A. § 127 is amended to read:

14                  § 127. RESOURCE MAPPING

15                  (a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources  
16                  shall complete and maintain resource mapping based on the Geographic  
17                  Information System (GIS) or other technology. The mapping shall identify  
18                  natural resources throughout the State, including forest blocks and habitat  
19                  connectors, that may be relevant to the consideration of energy projects and  
20                  projects subject to chapter 151 of this title. The Center for Geographic

1 Information shall be available to provide assistance to the Secretary in carrying  
2 out the ~~GIS-based~~ resource mapping.

3 (b) The Secretary ~~of Natural Resources~~ shall consider the ~~GIS-based~~  
4 resource maps developed under subsection (a) of this section when providing  
5 evidence and recommendations to the Public Utility Commission under  
6 30 V.S.A. § 248(b)(5) and when commenting on or providing  
7 recommendations under chapter 151 of this title to District Commissions on  
8 other projects.

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

14 \* \* \* Location-Based Jurisdiction \* \* \*

15 Sec. 24. 10 V.S.A. § 6001 is amended to read:

16 § 6001. DEFINITIONS

17 As used in this chapter:

18 \* \* \*

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

20 (i) The construction of improvements on a tract or tracts of land,  
21 owned or controlled by a person, involving more than 10 acres of land within a

1 radius of five miles of any point on any involved land, for commercial or  
2 industrial purposes in a municipality that has adopted permanent zoning and  
3 subdivision bylaws.

4 (ii) The construction of improvements on a tract or tracts of land,  
5 owned or controlled by a person, involving more than one acre of land within a  
6 radius of five miles of any point on any involved land, for commercial or  
7 industrial purposes in a municipality that has not adopted permanent zoning  
8 and subdivision bylaws.

9 (iii) The construction of improvements for commercial or  
10 industrial purposes on a tract or tracts of land, owned or controlled by a person,  
11 involving more than one acre of land within a municipality that has adopted  
12 permanent zoning and subdivision bylaws, if the municipality in which the  
13 proposed project is located has elected by ordinance, adopted under 24 V.S.A.  
14 chapter 59, to have this jurisdiction apply.

15 (iv) The construction of housing projects such as cooperatives,  
16 condominiums, or dwellings, or construction or maintenance of mobile homes  
17 or mobile home parks, with 10 or more units, constructed or maintained on a  
18 tract or tracts of land, owned or controlled by a person, within a radius of five  
19 miles of any point on any involved land and within any continuous period of  
20 five years. However:

21 \* \* \*

1           (vi) The construction of improvements for commercial, industrial,  
2 or residential use at or above the elevation of 2,500 feet or in or within 25 feet  
3 of a critical resource area.

4                           \* \* \*

5           (xii) The construction of improvements for commercial, industrial,  
6 or residential use on a tract or tracts of land more than 500 feet from the center  
7 line of a State or town highway located in a rural and working lands area. This  
8 shall not include existing residential buildings or the construction of a garage  
9 or other buildings incidental to residential use.

10          (xiii) The construction of a road, roads, driveway, or driveways,  
11 which in combination is greater than 2,000 feet or the construction of any  
12 single road or driveway greater than 800 feet, to provide access to or within a  
13 tract or tracts of land of more than one acre owned or controlled by a person.  
14 The intent of this subdivision is to minimize fragmentation of the landscape  
15 and encourage the clustering of buildings.

16               (I) For the purposes of determining jurisdiction under this  
17 subdivision (xiii), any tract or tracts of land that will be provided access by the  
18 road or driveway is involved land.

19               (II) As used in this subdivision (xiii), “road” shall include any  
20 new road or upgrade of a Class 4 highway by a person other than a  
21 municipality, including a road that will be transferred to or maintained by a

1 municipality after its construction or upgrade. For the purposes of this  
2 subdivision (II), routine maintenance of a Class 4 highway or stormwater  
3 improvement required pursuant to section 1264 of this title shall not constitute  
4 an “upgrade.”

5 (aa) Routine maintenance shall include replacing a culvert  
6 or ditch, applying new stone, grading, or making repairs after adverse weather.

7 (bb) Routine maintenance shall not include changing the  
8 size of the road, changing the location or layout of the road, or adding  
9 pavement.

10 (III) For the purpose of determining the length under this  
11 subdivision, the length of all roads and driveways within the tract or tracts of  
12 land shall be included, including those previously constructed.

13 (IV) This subdivision (xiii) shall not apply to:

14 (aa) a road constructed for a municipal, county, or State  
15 purpose; a utility corridor of an electric transmission or distribution company;  
16 or a road located entirely within in a Tier 1A or Tier 1B area.

17 (bb) a road used primarily for farming or forestry purposes  
18 unless used for residential purpose.

19 \* \* \*

20 (19)(A) “Subdivision” means each of the following:

1                   (i) A tract or tracts of land, owned or controlled by a person, that  
2                   the person has partitioned or divided for the purpose of resale into ~~10~~ four or  
3                   more lots within a radius of five miles of any point on any lot, or within the  
4                   jurisdictional area of the same District Commission, within any continuous  
5                   period of five years located within a rural and working lands area. In  
6                   determining the number of lots, a lot shall be counted if any portion is within  
7                   an area and within five miles or within the jurisdictional area of the same  
8                   District Commission.

9                   (ii) A tract or tracts of land, owned or controlled by a person, that  
10                  the person has partitioned or divided for the purpose of resale into six or more  
11                  lots, within a continuous period of five years, in a municipality that does not  
12                  have duly adopted permanent zoning and subdivision bylaws.

13                  (iii) A tract or tracts of land, owned or controlled by a person, that  
14                  have been partitioned or divided for the purpose of resale into five or more  
15                  separate parcels of any size within a radius of five miles of any point on any  
16                  such parcel, and within any period of ~~ten~~ 10 years, by public auction.

17                       (I) ~~In~~ As used in this subdivision (iii), “public auction” means  
18                       any auction advertised or publicized in any manner or to which more than ~~ten~~  
19                       10 persons have been invited.

20                       (II) If sales described under this subdivision (iii) are of interests  
21                       that, when sold by means other than public auction, are exempt from the

1 provisions of this chapter under the provisions of subsection 6081(b) of this  
2 title, the fact that these interests are sold by means of a public auction shall not,  
3 in itself, create a requirement for a permit under this chapter.

4 \* \* \*

5 (50) “Critical resource area” means a river corridor, a significant  
6 wetland as defined under section 902 of this title, land characterized by slopes  
7 greater than 15 percent and shallow depth to bedrock, an area with any amount  
8 of prime agricultural soil, and a parcel containing all or part of a **habitat**  
9 **connector.**

10 (51) “Rural and working lands area” means an area that is not a **Tier 1**  
11 area or a critical resource area.

12 \* \* \* **Tier 1 Areas** \* \* \*

13 Sec. 25. 10 V.S.A. § 6033 is added to read:

14 § **6033.** REGIONAL PLAN FUTURE LAND USE MAP REVIEW;

15 TIERS 1B AND 3

16 (a) The Board shall review requests from regional planning commissions to  
17 approve or disapprove portions of future land use maps for the purposes of  
18 changing jurisdictional thresholds under this chapter **and to approve**  
19 **designations pursuant to 24 V.S.A. chapter 139.** The Board may produce  
20 guidelines for regional planning commissions seeking **to obtain** these **statuses.**



1 If requested by the regional planning commission, the Board shall complete  
2 this review concurrently with regional plan approval.

3 (b) The Board shall review the portions of future land use maps that  
4 include downtowns or village centers, planned growth areas, and **village areas**  
5 to ensure they meet the requirements under 24 V.S.A. § 5803 and § 5804 for  
6 designation as downtown and village centers and neighborhood areas.

7 (c) To obtain a Tier 1B area **status** under this section, **a municipality shall**  
8 **request the status and** the regional planning commission shall demonstrate to  
9 the Board that the municipalities with Tier 1B areas meet the following  
10 requirements as included in subsection 24 V.S.A. § 4348a(a)(12)(C):

11 (A) The municipality has a duly adopted and approved plan and a  
12 planning process that is confirmed in accordance with 24 V.S.A. § 4350.

13 (B) The municipality has adopted permanent zoning and subdivision  
14 bylaws in accordance with 24 V.S.A. §§ 4414, 4418, and 4442.

15 (C) **The area excludes identified flood hazard and fluvial erosion**  
16 **areas, except those areas containing preexisting development in areas suitable**  
17 **for infill development as defined in § 29-201 of the Vermont Flood Hazard**  
18 **Area and River Corridor Rule** unless the municipality has adopted flood hazard  
19 and river corridor bylaws applicable to the entire municipality that are  
20 consistent with the standards established pursuant to subsection 755(b) of this  
21 title (flood hazard) and subsection 1428(b) of this title (river corridor).

1            (D) The municipality has water or wastewater infrastructure in the  
2 area proposed for Tier 1B.

3            (E) Municipal staff adequate to support coordinated comprehensive  
4 and capital planning, development review, and zoning administration in the  
5 Tier 1B area.

6            (d) The Board shall review the portions of future land use maps that  
7 include rural-conservation areas to ensure they meet the definition of  
8 critical resource areas in section 6001 of this title. These portions of the  
9 future land use maps shall be referred to as Tier 3 for the purpose of  
10 jurisdiction under this chapter.

11            Sec. 26. 10 V.S.A. § 6034 is added to read:

12            § 6034. TIER 1A STATUS

13            (a) Application and approval.

14            (1) Beginning on January 1, 2027, a municipality, by resolution of its  
15 legislative body, may apply to the Environmental Review Board for Tier 1A  
16 status for the area of the municipality that is suitable for dense development  
17 and meets the requirements of subsection (b) of this section.

18            (2) The Board shall issue an affirmative determination on finding that  
19 the municipality meets the requirements of subsection (b) of this section within  
20 45 days after the application is received.

21            (b) Tier 1A status requirements.

1           (1) To obtain a Tier 1A area **status** under this section, a municipality  
2           shall demonstrate to the Board that it has each of the following:

3                   (A) A municipal plan that is approved in accordance with 24 V.S.A.  
4                   § 4350.

5                   (B) Municipal flood hazard planning, applicable to the entire  
6                   municipality, in accordance with 24 V.S.A. V.S.A. § 4382(12) and the  
7                   guidelines issued by the Department pursuant to 24 V.S.A. **chapter 139**.

8                   (C) Flood hazard and river corridor bylaws, applicable to the entire  
9                   municipality, that are consistent with the standards established pursuant to  
10                   subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this  
11                   title (river corridor) or the proposed planned growth area excludes the flood  
12                   hazard areas and river corridor.

13                   (D) A capital budget and program pursuant to 24 V.S.A. § 4430 that  
14                   make substantial investments in the ongoing development of the planned  
15                   growth area, are consistent with the plan's implementation program, and are  
16                   consistent with the smart growth principles defined in **24 V.S.A. chapter 139**

17                   (E) Permanent zoning and subdivision bylaws that do not include  
18                   broad exemptions that exclude significant private or public land development  
19                   from requiring a municipal land use permit.

20                   (F) Urban form bylaws for the planned growth area that further the  
21                   smart growth principles of 24 V.S.A. chapter 117, adequately regulate the

1 physical form and scale of development, with provision of for buildings in  
2 areas with sewer and water to have at least six stories, and conform to the  
3 guidelines established by the Board.

4 (G) Historic preservation bylaws for established design review  
5 districts, historic districts, or historic landmarks pursuant to 24 V.S.A.  
6 § 4414(1)(E) and (F) for the planned growth area that meet State historic  
7 preservation guidelines issued by the Department of Housing and Community  
8 Development pursuant to 24 V.S.A. **chapter 139.**

9 (H) Wildlife habitat planning bylaws for the planned growth area that  
10 protect Significant Natural Communities, Rare, Threatened, and Endangered  
11 Species, and river corridors or exclude these areas from the proposed planned  
12 growth area.

13 (I) Permitted water and wastewater systems with the capacity to  
14 support additional development within the planned growth area. The  
15 municipality shall have adopted consistent policies, by municipal plan and  
16 ordinance, on the allocation, connection, and extension of water and  
17 wastewater lines that include a defined and mapped service area to support the  
18 planned growth area.

19 (J) Municipal staff adequate to support coordinated comprehensive  
20 and capital planning, development review, and zoning administration in the  
21 planned growth area.

1           (K) The applicable regional plan has been approved by the Board.

2           (2) If any party entitled to notice under subdivision (c)(4)(A) of this  
3 section or any resident of the municipality raises concerns about the  
4 municipality’s compliance with the requirements, those concerns shall be  
5 addressed as part of the municipality’s application.

6           (c) Process for issuing determinations of planned growth area designation.

7           (1) A preapplication meeting shall be held with the Board staff,  
8 municipal staff, and staff of the relevant regional planning commission (RPC)  
9 to review the requirements of subsection (b) of this section. The meeting shall  
10 be held in the municipality or electronically unless another location is agreed  
11 to by the municipality.

12           (2) An application by the municipality shall include the information and  
13 analysis required by the Board’s guidelines on how to meet the requirements of  
14 subsection (b) of this section.

15           (3) The RPC shall issue a preapplication memorandum incorporating the  
16 comments to the applicant after receipt of a draft preliminary application and a  
17 preliminary approval or denial of the application. A municipality shall not  
18 submit an application to the Environmental Review Board unless it has been  
19 approved the RPC.

20           (4) After receipt of a complete final application, the Environmental  
21 Review Board shall convene a public hearing in the municipality to consider

1 whether to issue a determination of planned growth area designation under this  
2 section.

3 (A) Notice.

4 (i) At least 35 days in advance of the Board’s meeting, the  
5 regional planning commission shall post it on its website.

6 (ii) The municipality shall publish notice of the meeting at least 30  
7 days and 15 days in advance of the Board’s meeting in a newspaper of general  
8 circulation in the municipality, and deliver physically or electronically, with  
9 proof of receipt or by certified mail, return receipt requested to the Agency of  
10 Natural Resources, the Division for Historic Preservation, the Agency of  
11 Agriculture, Food and Markets, the Agency of Transportation, the regional  
12 planning commission, the regional development corporations, and the entities  
13 providing educational, police, and fire services to the municipality.

14 (iii) The notice shall also be posted by the municipality in or near  
15 the municipal clerk’s office and in at least two other designated public places  
16 in the municipality, and on the websites of the municipality and the regional  
17 planning commission.

18 (iv) The municipality shall also certify in writing that the notice  
19 required by this subsection (c) has been published, delivered, and posted within  
20 the specified time.

1           (B) No defect in the form or substance of any requirements of this  
2           subsection (c) shall invalidate the action of the Board where reasonable efforts  
3           are made to provide adequate posting and notice. However, the action shall be  
4           invalid when the defective posting or notice was materially misleading in  
5           content. If an action is ruled to be invalid by the Superior Court or by the  
6           Board itself, the municipality shall issue new posting and notice, and the Board  
7           shall hold a new hearing and take a new action.

8           (5) The Board may recess the proceedings on any application pending  
9           submission of additional information. The Board shall close the proceedings  
10           promptly after all parties have submitted the requested information.

11           (6) The Board shall issue its determination in writing. The  
12           determination shall include explicit findings on each of the requirements in  
13           subsection (b) of this section.

14           (d) Review of designation status.

15           (1) Length of designation. Initial determination of designation status  
16           may be made at any time. Thereafter, review of a designation shall occur  
17           every eight years with a check-in after four years.

18           (2) The Board, on its motion, may review compliance with the planned  
19           growth area requirements at more frequent intervals.

1           (3) If at any time the Board determines that the planned growth area no  
2           longer meets the standards for the designation, it shall take one of the  
3           following actions:

4                   (A) require corrective action within a reasonable time frame; or

5                   (B) terminate the designation.

6           (e) Appeal.

7                   (1) An interested person may appeal any act or decision of the Board  
8                   under this section to the Supreme Court within 30 days following the act or  
9                   decision.

10                  (2) As used in this section, an “interested person” means any one of the  
11                  following:

12                    (A) A person owning title to or occupying property within or abutting  
13                    the designated area.

14                    (B) The municipality making the application or a municipality that  
15                    adjoins the municipality making the application.

16                    (C) The regional planning commission for the region that includes  
17                    the designated area or a regional planning commission whose region adjoins  
18                    the municipality in which the designated area is located.

19                    (D) Any 20 persons who, by signed petition, allege that the decision  
20                    is not in accord with the requirements of this chapter, and who own or occupy  
21                    real property located within the municipality in which the designated area is



1 located or an adjoining municipality. The petition must designate one person  
2 to serve as the representative of the petitioners regarding all matters related to  
3 the appeal. The designated representative must have participated in the public  
4 hearing described in subdivision (c)(4) of this section.

5 Sec. 27. TIER 1A AREA GUIDELINES

6 On or before January 1, 2026, the Environmental Review Board shall  
7 publish guidelines to direct municipalities seeking to obtain the Tier 1A area  
8 status.

9 Sec. 28. 24 V.S.A. § 4382 is amended to read:

10 § 4382. THE PLAN FOR A MUNICIPALITY

11 (a) A plan for a municipality shall be consistent with the goals established  
12 in section 4302 of this title and compatible with approved plans of other  
13 municipalities in the region and with the regional plan and shall include the  
14 following:

15 \* \* \*

16 (2) A land use plan, which shall consist of a map and statement of  
17 present and prospective land uses, that:

18 \* \* \*

19 (C) Identifies those areas, if any, proposed for designation under  
20 chapter ~~76A~~ 139 of this title and 10 V.S.A. §§ 6033 and 6034, together with,  
21 for each area proposed for designation, an explanation of how the designation

1 would further the plan’s goals and the goals of section 4302 of this title; and  
2 how the area meets the requirements for the type of designation to be sought.

3 \* \* \*

4 Sec. 29. 10 V.S.A. § 6081 is amended to read:

5 § 6081. PERMITS REQUIRED; EXEMPTIONS

6 \* \* \*

7 (z)(i) Notwithstanding any other provision of this chapter to the contrary,  
8 no permit or permit amendment is required for any subdivision, development,  
9 or change to an existing project that is located entirely within a Tier 1A area  
10 under section 6034 of this chapter.

11 (ii) Notwithstanding any other provision of this chapter to the contrary, no  
12 permit or permit amendment is required for 50 units or fewer of housing on 10  
13 acres or less located entirely within a Tier 1B area approved by the Board  
14 under section 6033 of this chapter.

15 (iii) Upon receiving notice and a copy of the permit issued by an  
16 appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a previously  
17 issued permit for a development or subdivision located in a planned growth  
18 area shall remain attached to the property. However, neither the Board nor the  
19 Agency of Natural Resources shall enforce the permit or assert amendment  
20 jurisdiction on the tract or tracts of land unless the designation is revoked or

1 the municipality has not taken any action to enforce the conditions of the  
2 permit.

3 Sec. 30. 24 V.S.A. § 4460 is amended to read:

4 § 4460. APPROPRIATE MUNICIPAL PANELS

5 \* \* \*

6 (g)(1) This subsection shall apply to a subdivision or development that:

7 (A) was previously permitted pursuant to 10 V.S.A. chapter 151;

8 (B) is located in a Tier 1A or Tier 1B area pursuant to 10 V.S.A.

9 §§ 6033 and 6034; and

10 (C) has applied for a permit or permit amendment required by zoning  
11 regulations or bylaws adopted pursuant to this subchapter.

12 (2) The appropriate municipal panel reviewing a municipal permit or  
13 permit amendment pursuant to this subsection shall include conditions  
14 contained within a permit previously issued pursuant to 10 V.S.A. chapter 151  
15 unless the panel determines that the permit condition pertains to any of the  
16 following:

17 (A) the construction phase of the project that has already been  
18 constructed;

19 (B) compliance with another State permit that has independent  
20 jurisdiction;

21 (C) federal or State law that is no longer in effect or applicable;

1           (D) an issue that is addressed by municipal regulation and the project  
2           will meet the municipal standards; or

3           (E) a physical or use condition that is no longer in effect or  
4           applicable or that will no longer be in effect or applicable once the new project  
5           is approved.

6           (3) After issuing or amending a permit containing conditions pursuant to  
7           this subsection, the appropriate municipal panel shall provide notice and a  
8           copy of the permit to the Environmental Review Board.

9           (4) The appropriate municipal panel shall comply with the notice and  
10          hearing requirements provided in subdivision 4464(a)(1) of this title. In  
11          addition, notice shall be provided to those persons requiring notice under  
12          10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

13          (5) The appropriate municipal panel’s decision shall be issued in  
14          accordance with subsection 4464(b) of this title and shall include specific  
15          findings with respect to its determinations pursuant to subdivision (2) of this  
16          subsection.

17          (6) Any final action by the appropriate municipal panel affecting a  
18          condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall  
19          be recorded in the municipal land records.

1        **(h) Within a designated Tier 1A area or Tier 1B area, the appropriate**  
2        **municipal panel shall enforce any existing permits issued under 10 V.S.A.**  
3        **chapter 151.**

4    \* \* \* Future Land Use Maps \* \* \*

5        Sec. 31. 24 V.S.A. § 4302 is amended to read:

6        §4302. PURPOSE; GOALS

7    \* \* \*

8        (c) In addition, this chapter shall be used to further the following specific  
9        goals:

10        (1) To plan development so as to maintain the historic settlement pattern  
11        of compact village and urban centers separated by rural countryside.

12        (A) Intensive residential development should be encouraged  
13        primarily in ~~areas related to community centers~~ Downtowns, Village Centers,  
14        Planned Growth Areas and Village Areas as described in section 4348a of this  
15        title, and strip development along highways ~~should be discouraged~~ should be  
16        avoided. These areas should be planned so as to accommodate the majority of  
17        housing needed to reach the housing targets in developed for each region  
18        pursuant to section 4348a(a)(9) of this title.

19        (B) Economic growth should be encouraged in locally and regionally  
20        designated growth areas, employed to revitalize existing village and urban

1 centers, or both, ~~and should be encouraged in growth centers designated under~~  
2 ~~chapter 76A of this title.~~

3 (C) Public investments, including the construction or expansion of  
4 infrastructure, should reinforce the ~~general character and~~ planned growth  
5 patterns of the area.

6 (D) Development should be undertaken in accordance with smart  
7 growth principles as defined in subdivision **2791(13)** of this title.

8 \* \* \*

9 (5) To identify, protect, and preserve important natural and historic  
10 features of the Vermont landscape, including:

11 (A) significant natural and fragile areas;

12 (B) outstanding water resources, including lakes, rivers, aquifers,  
13 shorelands, and wetlands;

14 (C) significant scenic roads, waterways, and views;

15 (D) important historic structures, sites, or districts, archaeological  
16 sites, and archaeologically sensitive areas.

17 (6) To maintain and improve the quality of air, water, wildlife, forests,  
18 and other land resources.

19 (A) Vermont's air, water, wildlife, mineral, and land resources  
20 should be planned for use and development according to the principles set  
21 forth in 10 V.S.A. § 6086(a).

1 (B) Vermont’s water quality should be maintained and improved  
2 according to the policies and actions developed in the basin plans established  
3 by the Secretary of Natural Resources under 10 V.S.A. § 1253.

4 (C) Vermont’s forestlands should be managed so as to maintain and  
5 improve forest blocks and habitat connectors.

6 \* \* \*

7 (11) To ensure the availability of safe and affordable housing for all  
8 Vermonters.

9 (A) Housing should be encouraged to meet the needs of a diversity of  
10 social and income groups in each Vermont community, particularly for those  
11 citizens of low and moderate income, and consistent with housing targets  
12 provided for in section 4348a(a)(9) of this title.

13 (B) New and rehabilitated housing should be safe, sanitary, located  
14 conveniently to employment and commercial centers, and coordinated with the  
15 provision of necessary public facilities and utilities.

16 (C) Sites for multi-family and manufactured housing should be  
17 readily available in locations similar to those generally used for single-family  
18 ~~conventional~~ dwellings.

19 (D) Accessory ~~apartments~~ dwellling units within or attached to single-  
20 family residences which provide affordable housing in close proximity to cost-

1 effective care and supervision for relatives, elders, or persons who have a  
2 disability should be allowed.

3 \* \* \*

4 (14) To encourage flood resilient communities.

5 (A) New development in identified flood hazard, ~~fluvial erosion~~, and  
6 river corridor protection areas should be avoided. If new development is to be  
7 built in such areas, it should not exacerbate flooding and fluvial erosion.

8 (B) The protection and restoration of floodplains and upland forested  
9 areas that attenuate and moderate flooding and fluvial erosion should be  
10 encouraged.

11 (C) Flood emergency preparedness and response planning should be  
12 encouraged.

13 \* \* \*

14 Sec. 32. 24 V.S.A. § 4345a is amended to read:

15 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

16 A regional planning commission created under this chapter shall:

17 \* \* \*

18 (5) Prepare a regional plan and amendments that are consistent with  
19 the goals established in section 4302 of this title, and compatible with  
20 approved municipal and adjoining regional plans. When preparing a regional  
21 plan, the regional planning commission shall:



1 (A) develop and carry out a process that will encourage and enable  
2 widespread citizen involvement and meaningful participation, as defined in 3  
3 V.S.A. § 6002;

4 (B) develop a regional data base that is compatible with, useful to,  
5 and shared with the geographic information system established under 3 V.S.A.  
6 § 20;

7 (C) conduct capacity studies;

8 (D) identify areas of regional significance. Such areas may be, but  
9 are not limited to, historic sites, earth resources, rare and irreplaceable natural  
10 areas, recreation areas and scenic areas;

11 ~~(E) use a land evaluation and site assessment system, that shall at a~~  
12 ~~minimum use the criteria established by the Secretary of Agriculture, Food and~~  
13 ~~Markets under 6 V.S.A. § 8, to identify viable agricultural lands consider the~~  
14 ~~potential environmental benefits and environmental burdens, as defined in 3~~  
15 ~~V.S.A. §6002, of the proposed plan;~~

16 (F) consider the probable social and economic benefits and  
17 consequences of the proposed plan; and

18 (G) prepare a report explaining how the regional plan is consistent  
19 with the goals established in section 4302 of this title.

20 \* \* \*

1           (11) Review proposed State capital expenditures prepared pursuant to  
2           32 V.S.A. chapter 5 and the Transportation Program prepared pursuant to 19  
3           V.S.A. chapter 1 for compatibility and consistency with regional plans and  
4           submit comments to the Secretaries of Transportation and Administration and  
5           the legislative committees of jurisdiction.

6   \* \* \*

7           (17) As part of its regional plan, define a substantial regional impact,  
8           as the term may be used with respect to its region. This definition shall be  
9           given ~~due consideration~~ substantial deference, where relevant, in State  
10          regulatory proceedings.

11   \* \* \*

12          Sec. 33. 24 V.S.A. § 4347 is amended to read:

13          § 4347. PURPOSES OF REGIONAL PLAN

14          A regional plan shall be made with the general purpose of guiding and  
15          accomplishing a coordinated, efficient, equitable and economic development  
16          of the region which will, in accordance with the present and future needs and  
17          resources, best promote the health, safety, order, convenience, prosperity, and  
18          welfare of ~~the~~ current and future inhabitants as well as efficiency and economy  
19          in the process of development. This general purpose includes recommending a  
20          distribution of population and of the uses of the land for urbanization, trade,

1 industry, habitation, recreation, agriculture, forestry, and other uses as will tend  
2 to:

3 (1) create conditions favorable to transportation, health, safety, civic  
4 activities, and educational and cultural opportunities;

5 (2) reduce the wastes of financial, energy, and human resources which  
6 result from either excessive congestion or excessive scattering of population;

7 (3) promote an efficient and economic utilization of drainage, energy,  
8 sanitary, and other facilities and resources;

9 (4) promote the conservation of the supply of food, water, energy, and  
10 minerals;

11 (5) promote the production of food and fiber resources and the  
12 reasonable use of mineral, water, and renewable energy resources; ~~and~~

13 (6) promote the development of housing suitable to the needs of the  
14 region and its communities; and

15 (7) ensure that communities equitably build resilience to address the  
16 effects of climate change through mitigation and adaptation consistent with the  
17 Vermont Climate Action Plan adopted pursuant to 10 V.S.A. § 592.

18 Sec. 34. 24 V.S.A. § 4348 is amended to read:

19 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

20 (a) A regional planning commission shall adopt a regional plan. Any plan  
21 for a region, and any amendment ~~thereof~~, shall be prepared by the regional

1 planning commission. At the outset of the planning process and throughout  
2 the process, regional planning commissions shall solicit the participation of  
3 local citizens and organizations by holding informal working sessions that suit  
4 the needs of local people.

5 (b) 60 days prior to holding the first public hearing on a regional plan, a  
6 regional planning commission shall submit a draft regional plan to the  
7 Environmental Review Board and Agency of Commerce and Community  
8 Development for preliminary review and comments related to conformance of  
9 the draft with sections 4302 and 4348a of this title, chapter 139 of this title, and  
10 10 V.S.A. § 6001 with regards to critical resource areas. The Agency shall  
11 coordinate with other State agencies and respond within 60 days unless more  
12 time is granted by the regional planning commission.

13 (c) The regional planning commission shall hold two or more public  
14 hearings within the region after public notice on any proposed plan or  
15 amendment. The minimum number of required public hearings may be  
16 specified within the bylaws of the regional planning commission.

17 ~~(e)~~(d) At least 30 days prior to the first hearing, a copy of the proposed plan  
18 or amendment, a report documenting conformance with the goals established  
19 in section 4302 of this chapter and the plan elements established in section  
20 4348a of this chapter, a description of any changes to the Regional Future  
21 Land Use Map, and the definition of substantial regional impact with a request

1 for general comments and for specific comments with respect to the extent to  
2 which the plan or amendment is consistent with the goals established in section  
3 4302 of this title, shall be delivered physically or electronically with proof of  
4 receipt or sent by certified mail, return receipt requested, to each of the  
5 following:

6 (1) the chair of the legislative body of each municipality within the  
7 region;

8 (2) the executive director of each abutting regional planning  
9 commission;

10 (3) the Department of Housing and Community Development within the  
11 Agency of Commerce and Community Development and the Community  
12 Investment Board for a formal review and recommendation;

13 (4) business, conservation, low-income advocacy, and other community  
14 or interest groups or organizations that have requested notice in writing prior to  
15 the date the hearing is warned; and

16 (5) the Agency of Natural Resources ~~and~~, the Agency of Agriculture,  
17 Food and Markets, the Agency of Transportation, the Department of Public  
18 Service, the Department of Public Safety's Division of Emergency  
19 Management; and the Environmental Review Board.

20 ~~(d)~~(e) Any of the foregoing bodies, or their representatives, may submit  
21 comments on the proposed regional plan or amendment to the regional

1 planning commission and may appear and be heard in any proceeding with  
2 respect to the adoption of the proposed plan or amendment.

3 ~~(e)~~(f) The regional planning commission may make revisions to the  
4 proposed plan or amendment at any time not less than 30 days prior to the final  
5 public hearing held under this section. If the proposal is changed, a copy of the  
6 proposed change shall be delivered physically ~~or~~<sub>2</sub> electronically with proof of  
7 receipt<sub>2</sub> or by certified mail, return receipt requested, to the chair of the  
8 legislative body of each municipality within the region, and to any individual  
9 or organization requesting a copy, at least 30 days prior to the final hearing.

10 ~~(f)~~(g) A regional plan or amendment shall be adopted by not less than a 60  
11 percent vote of the commissioners representing municipalities, in accordance  
12 with the bylaws of the regional planning commission, ~~and immediately~~  
13 ~~submitted to the legislative bodies of the municipalities that comprise the~~  
14 ~~region. The plan or amendment shall be considered duly adopted and shall~~  
15 ~~take effect 35 days after the date of adoption, unless, within 35 days of the date~~  
16 ~~of adoption, the regional planning commission receives certification from the~~  
17 ~~legislative bodies of a majority of the municipalities in the region vetoing the~~  
18 ~~proposed plan or amendment. In case of such a veto, the plan or amendment~~  
19 ~~shall be deemed rejected.~~

20 (h)(1) A regional planning commission shall submit its regionally adopted  
21 regional plan to the Environmental Review Board for a determination of

1 regional plan compliance with the following: a report documenting  
2 conformance with the goals established in section 4302 of this chapter and the  
3 plan elements established in section 4348a of this chapter, how the rural:  
4 conservation area meets the definition of critical resource area established in  
5 10 V.S.A. § 6001, a description of any changes to the regional plan future land  
6 use map, the definition of substantial regional **impact**.

7 (2) Within 30 days after submittal of the plan, Environmental Review  
8 Board staff shall provide a recommendation. The Environmental Review  
9 Board shall **hold** a public hearing **and provide notice of it** at least 15 days in  
10 advance by direct mail or electronically with proof of receipt to the requesting  
11 regional planning commission, posting on the website of the Environmental  
12 Review Board, and publication in a newspaper of general circulation in the  
13 region affected. The regional planning commission shall notify their  
14 municipalities and post on their website the public hearing notice.

15 **(3)** The Environmental Review Board shall issue the determination in  
16 writing within 45 days after the receipt of a request for a determination. If the  
17 determination is affirmative, a copy of the determination shall be provided to  
18 the regional planning commission and the Environmental Review Board. If  
19 the determination is negative, the Environmental Review Board shall state the  
20 reasons for denial in writing and, if appropriate, suggest acceptable

1 modifications. Submissions for a new determination that follow a negative  
2 determination shall receive a new determination within 45 days.

3 (4) The Environmental Review Board’s affirmative determination shall be  
4 based upon finding the regional plan meets the following requirements:

5 (A) Consistency with the State planning goals as described in section  
6 4302 of this chapter with consistency determined in the manner described  
7 under subdivision 4302(f)(1) of this chapter.

8 (B) Consistency with the purposes of the regional plan established in  
9 section 4347 of chapter.

10 (C) Consistency with the regional plan elements as described in  
11 section 4348a of this chapter, except that the requirements of section 4352 of  
12 this chapter related to enhanced energy planning shall be the under the sole  
13 authority of the Department of Public Service.

14 (D) Compatibility with adjacent regional planning areas in the  
15 manner described under subdivision 4302(f)(2) of this chapter.

16 (i) Objections of interested parties.

17 (1) An interested party who has participated in the regional plan  
18 adoption process may object to the approval of the plan or approval of the  
19 future land use maps by the Environmental Review Board within 15 days  
20 following plan adoption by the regional planning commission. Participation is  
21 defined as providing written or oral comments for consideration at a public



1 hearing held by the regional planning commission. Objections shall be  
2 submitted using a form provided by the Environmental Review Board.

3 (2) As used in this section, an “interested party” means any one of the  
4 following:

5 (A) Any 20 persons by signed petition who own property or reside  
6 within the region. The petition must designate one person to serve as the  
7 representative of the petitioners regarding all matters related to the objection.  
8 The designated representative must have participated in the regional plan  
9 adoption process as described in subdivision (e)(1) of this section.

10 (B) A party entitled to notice under subsection (d) of this section.

11 (3) Any objection under this section shall be limited to the question of  
12 whether the regional plan is consistent with the regional plan elements and  
13 future land use areas as described in section 4348a of this title. The  
14 requirements of subdivision 4352 of this title related to enhanced energy  
15 planning shall be under the sole authority of the Department of Public Service  
16 and shall not be reviewed by the Environmental Review Board.

17 (4) The Environmental Review Board shall hear any objections of  
18 regional plan adoption concurrently with regional plan review under 4348(h)  
19 of this section and 10 V.S.A. § 6027. The Environmental Review Board  
20 decision of approval of a regional plan shall expressly evaluate any objections

1 and state the reasons for their decisions in writing. If applicable, the decision  
2 to uphold an objection shall suggest modifications to the regional plan.

3 (j) Minor Amendments to **Regional Plan Future Land Use Map**. A  
4 regional planning commission and a municipality may submit a joint request  
5 for a minor amendment to boundaries of a future land use area for  
6 consideration by the Environmental Review Board. The joint request may  
7 only be submitted after an affirmative vote of the municipal legislative body  
8 and the regional planning commission board. The Environmental Review  
9 Board, after consultation with the Community **Investment** Board and the  
10 regional planning commissions, shall provide guidance about what constitutes  
11 a minor amendment. Minor amendments may include any change to a future  
12 land use **area** consisting of less than 10 acres. A minor amendment to a  
13 **Designated Area** plan shall not require an amendment to a regional plan as  
14 outlined in section 4348 of this chapter. **The Board may adopt rules to**  
15 **implement this section.**

16 (k) An affirmative determination of regional plan compliance issued  
17 pursuant to this section shall remain in effect until the end of the period for  
18 expiration or readoption of the plan to which it applies.

19 (l) Regional planning commissions shall be provided up to 18 months from  
20 a negative determination by the Environmental Review Board to obtain an  
21 affirmative determination of regional plan compliance. If a regional planning

1 commission is unable to obtain affirmative determination of regional plan  
2 compliance, member municipalities shall lose benefits related to Designations,  
3 Act 250, or State infrastructure investments.

4 (m) Upon approval by the Environmental Review Board, the plan shall be  
5 considered duly adopted, shall take effect, and is not appealable. The plan  
6 shall be immediately submitted to the entities listed in subsection (d) of this  
7 section.

8 ~~(g)~~(n) Regional plans may be reviewed from time to time and may be  
9 amended in the light of new developments and changed conditions affecting  
10 the region. As specifically enabled in section 4348 of this title, minor  
11 amendments to the Designated Areas do not require the amendment of a  
12 regional plan. All minor amendments to future land use areas shall be  
13 compiled and included in the next iteration of the regional plan.

14 ~~(h)~~(o) In proceedings under 10 V.S.A. chapter 151, 10 V.S.A. chapter 159,  
15 and 30 V.S.A. § 248, in which the provisions of a regional plan or a municipal  
16 plan are relevant to the determination of any issue in those proceedings:

17 (1) the provisions of the regional plan shall be given effect to the extent  
18 that they are not in conflict with the provisions of a duly adopted municipal  
19 plan;

1 (2) to the extent that such a conflict exists, the regional plan shall be  
2 given effect if it is demonstrated that the project under consideration in the  
3 proceedings would have a substantial regional impact.

4 (o) Regional planning commissions shall adopt a regional plan in  
5 conformance this title by December 31, 2026.

6 Sec. 35. 24 V.S.A. § 4348a is amended to read:

7 §4348a. ELEMENTS OF A REGIONAL PLAN

8 (a) A regional plan shall be consistent with the goals established in section  
9 4302 of this title and shall include the following:

10 (1) A statement of basic policies of the region to guide the future growth  
11 and development of land and of public services and facilities, and to protect the  
12 environment.

13 (2) A ~~land-use~~ natural resources and working lands element, which shall  
14 consist of a map or maps and ~~statement of present and prospective land uses~~  
15 policies, based on ecosystem function, consistent with Vermont Conservation  
16 Design, supports compact centers surrounded by rural and working lands, and  
17 that:

18 (A) Indicates those areas of significant natural resources, including  
19 proposed for forests, wetlands, vernal pools, rare and irreplaceable natural  
20 areas, floodplains, river corridors, recreation, agriculture, ~~(using the~~  
21 agricultural lands identification process established in 6 V.S.A. § 8), residence,

1 commerce, industry, public, and semi-public uses, open spaces, areas reserved  
2 for flood plain, forest blocks, habitat connectors, recreation areas and  
3 recreational trails, and areas identified by the State, regional planning  
4 commissions, or municipalities that require special consideration for aquifer  
5 protection; for wetland protection; for the maintenance of forest blocks,  
6 wildlife habitat, and habitat connectors; or for other conservation purposes.

7 ~~(B) Indicates those areas within the region that are likely candidates~~  
8 ~~for designation under sections 2793 (downtown development districts), 2793a~~  
9 ~~(village centers), 2793b (new town centers), and 2793c (growth centers) of this~~  
10 ~~title.~~

11 ~~(C) Indicates locations proposed for developments with a potential~~  
12 ~~for regional impact, as determined by the regional planning commission,~~  
13 ~~including flood control projects, surface water supply projects, industrial parks,~~  
14 ~~office parks, shopping centers and shopping malls, airports, tourist attractions,~~  
15 ~~recreational facilities, private schools, public or private colleges, and~~  
16 ~~residential developments or subdivisions.~~

17 ~~(D) Sets forth the present and prospective location, amount, intensity,~~  
18 ~~and character of such land uses and the appropriate timing or sequence of land~~  
19 ~~development activities in relation to the provision of necessary community~~  
20 ~~facilities and services.~~

1           ~~(E)~~ Indicates those areas that have the potential to sustain agriculture  
2           and recommendations for maintaining them ~~which~~ that may include transfer of  
3           development rights, acquisition of development rights, or farmer assistance  
4           programs.

5           ~~(F)~~(C) Indicates those areas that are important as forest blocks and  
6           habitat connectors and plans for land development in those areas to minimize  
7           forest fragmentation and promote the health, viability, and ecological function  
8           of forests. A plan may include specific policies to encourage the active  
9           management of those areas for wildlife habitat, water quality, timber  
10          production, recreation, or other values or functions identified by the regional  
11          planning commission.

12          (D) preservation of rare and irreplaceable natural areas, scenic and  
13          historic features, and resources; and

14          (E) protection and improvement of the quality of waters of the State  
15          to be used in the development and furtherance of the applicable basin plans  
16          established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

17          (3) An energy element, ~~may include~~ including an analysis of resources,  
18          needs, scarcities, costs, and problems within the region across all energy  
19          sectors, including electric, thermal, and transportation; a statement of policy on  
20          the conservation and efficient use of energy and the development and siting of  
21          renewable energy resources; a statement of policy on patterns and densities of

1 land use likely to result in conservation of energy; and an identification of  
2 potential areas for the development and siting of renewable energy resources  
3 and areas that are unsuitable for siting those resources or particular categories  
4 or sizes of those resources.

5 (4) A transportation element, ~~which may consist~~ consisting of a  
6 statement of present and prospective transportation and circulation facilities,  
7 and a map showing existing and proposed highways, including limited access  
8 highways, and streets by type and character of improvement, and where  
9 pertinent, anticipated points of congestion, parking facilities, transit routes,  
10 terminals, bicycle paths and trails, scenic roads, airports, railroads and port  
11 facilities, and other similar facilities or uses, and recommendations to meet  
12 future needs for such facilities, with indications of priorities of need, costs, and  
13 method of financing.

14 (5) A utility and facility element, consisting of a map and statement of  
15 present and prospective local and regional community facilities and public  
16 utilities, whether publicly or privately owned, showing existing and proposed  
17 educational, recreational and other public sites, buildings and facilities,  
18 including public schools, State office buildings, hospitals, libraries, power  
19 generating plants and transmission lines, wireless telecommunications facilities  
20 and ancillary improvements, water supply, sewage disposal, refuse disposal,

1 storm drainage, and other similar facilities and activities, and recommendations  
2 to meet future needs for those facilities, with indications of priority of need.

3 (6) ~~A statement of policies on the:~~

4 ~~(A) preservation of rare and irreplaceable natural areas, scenic and~~  
5 ~~historic features, and resources; and~~

6 ~~(B) protection and improvement of the quality of waters of the State~~  
7 ~~to be used in the development and furtherance of the applicable basin plans~~  
8 ~~established by the Secretary of Natural Resources under 10 V.S.A. § 1253.~~

9 [Repealed.]

10 \* \* \*

11 (12) A future land use element, based upon the elements in this section,  
12 that sets forth the present and prospective location, amount, intensity, and  
13 character of such land uses in relation to the provision of necessary community  
14 facilities and services and that consists of a map delineating future land use  
15 area boundaries for the land uses in subdivisions (A)–(J) of this subdivision  
16 (12) as appropriate and any other special land use category the regional  
17 planning commission deems necessary; descriptions of intended future land  
18 uses; and policies intended to support the implementation of the future land use  
19 element using the following land use categories:

20 (A) **Downtown or Village Centers.** These areas are the vibrant,  
21 mixed-use centers bringing together community economic activity and civic



1 assets. They include downtowns, villages, and new town centers, previously  
2 designated under chapter 76A and downtowns and village centers seeking  
3 benefits under the State Designation Program under section 5804. The  
4 Downtown or Village Centers are the central business and civic centers within  
5 Planned Growth Areas, Village Areas, or may stand alone. Village centers are  
6 not required to have municipal water, wastewater, zoning, or subdivision  
7 bylaws.

8 (B) Planned Growth Areas. These areas include the densest existing  
9 settlement and future growth areas with the highest concentrations of  
10 population, housing, and employment in each region and town, as appropriate.  
11 They include a mix of commercial, residential, and civic or cultural sites with  
12 active streetscapes, supported by land development regulations, public water,  
13 wastewater, or both, and multi-modal transportation systems. These areas  
14 include new town centers, downtowns, village centers, growth centers, and  
15 neighborhood development areas previously designated under chapter 76A of  
16 this title. These areas should generally meet the smart growth principles  
17 definition in chapter 139 and the following criteria:

18 (i) The municipality has a duly adopted and approved plan and a  
19 planning process that is confirmed in accordance with section 4350 of this title  
20 and has adopted bylaws and regulations in accordance with sections 4414,  
21 4418, and 4442 of this title.

1                   (ii) This area is served by municipal water or wastewater  
2 infrastructure as defined in section 4303 of this title.

3                   (iii) The area is generally within walking distance from the  
4 municipality’s or an adjacent municipality’s downtown, village center, new  
5 town center or growth center.

6                   (iv) The area excludes identified flood hazard and fluvial erosion  
7 areas, except those areas containing preexisting development in areas suitable  
8 for infill development as defined in section 29-201 of the Vermont Flood  
9 Hazard Area and River Corridor Rule.

10                  (v) The municipal plan indicates that this area is intended for  
11 higher density residential and mixed-use development.

12                  (vi) The area provides for housing that meets the needs of a  
13 diversity of social and income groups in the community.

14                  (vii) The area is served by planned or existing transportation  
15 infrastructure that conforms with “complete streets” principles as described  
16 under 19 V.S.A. § 309d and establishes pedestrian access directly to the  
17 downtown, village center, or new town center. Planned transportation  
18 infrastructure includes those investments included in the municipality’s capital  
19 improvement program.

20                  (C) **Village Areas.** These areas include the traditional settlement  
21 area or a proposed new settlement area, typically comprised of a cohesive mix

1 of residential, civic, religious, commercial, and mixed-use buildings, arranged  
2 along a main street and intersecting streets that are within walking distance for  
3 residents who live within and surrounding the core. Village Areas shall have  
4 one of the following: municipal water, wastewater, or land development  
5 regulations. If no municipal wastewater is available, the area must have soils  
6 that are adequate for wastewater disposal. They provide some opportunity for  
7 infill development or new development areas where the village can grow and  
8 be flood resilient. These areas include existing village center designations and  
9 similar areas statewide, but this area is larger than the Village Center  
10 designation. Village areas must meet the following criteria:

11 (i) The municipality has a duly adopted and approved plan and a  
12 planning process that is confirmed in accordance with section 4350 of this title.

13 (ii) The municipality has adopted bylaws and regulations in  
14 accordance with sections 4414, 4418, and 4442 of this title.

15 (iii) Unless the municipality has adopted flood hazard and river  
16 corridor bylaws, applicable to the entire municipality, that are consistent with  
17 the standards established pursuant to subsection 755(b) of title 10 (flood  
18 hazard) and subsection 1428(b) of title 10 (river corridor), the area excludes  
19 identified flood hazard and fluvial erosion areas, except those areas containing  
20 preexisting development in areas suitable for infill development as defined in §  
21 29-201 of the Vermont Flood Hazard Area and River Corridor Rule.

1           (D) Transition/Infill Area. These areas include areas of existing or  
2           planned commercial, office, mixed-use development, or residential uses either  
3           adjacent to a Planned Growth or Village Area or a new stand-alone Transition  
4           Area and served by, or planned for, municipal water or wastewater, or both.  
5           The intent of this land use category is to transform these areas into higher-  
6           density, mixed-use settlements, or residential neighborhoods through infill and  
7           redevelopment or new development. New commercial strip auto-oriented  
8           development is not allowed as to prevent negatively impacting the economic  
9           vitality of commercial areas in the adjacent or nearby Planned Growth or  
10           Village Area. This area could also include adjacent greenfields safer from  
11           flooding and planned for future growth.

12           (E) Resource-Based Recreation Areas. These areas include large-  
13           scale resource-based, recreational facilities, often concentrated around ski  
14           resorts, lakeshores, or concentrated trail networks, that may provide  
15           infrastructure, jobs, or housing to support recreational activities.

16           (F) Enterprise Areas. These areas include locations of high economic  
17           activity and employment that are not adjacent to Planned Growth Areas. These  
18           include industrial parks, areas of natural resource extraction, or other  
19           commercial uses that involve larger land areas. Enterprise areas typically have  
20           ready access to water supply, sewage disposal, electricity, and freight  
21           transportation networks.

1           (G) Hamlet. Small historic clusters of homes and perhaps a school,  
2           church, store, or other public buildings not planned for significant growth; no  
3           public water supply or wastewater systems; and mostly focused along one or  
4           two roads. These may be depicted as points on the future land use map.

5           (H) Rural; General. These areas include areas that promote the  
6           preservation of Vermont’s traditional working landscape and natural area  
7           features. They allow for low-density residential and sometimes limited  
8           commercial development that is compatible with productive lands and natural  
9           areas. This could also include an area that a municipality is planning to make  
10           more rural than it is currently.

11           (I) Rural; Agricultural and Forestry. These areas include blocks of  
12           forest or farmland that sustain resource industries, provide critical wildlife  
13           habitat and movement, outdoor recreation, flood storage, aquifer recharge, and  
14           scenic beauty, and contribute to economic well-being and quality of life.  
15           Development in these areas should be carefully managed to promote the  
16           working landscape and rural economy, and address regional goals, while  
17           protecting the agricultural and forest resource value.

18           (J) Rural; Conservation. These are areas of significant natural  
19           resources, including proposed for forests, wetlands, vernal pools, rare and  
20           irreplaceable natural areas, floodplains, river corridors, recreation, agriculture,  
21           using the agricultural lands identification process established in 6 V.S.A. § 8,

1 residence, commerce, industry, public, and semi-public uses, open spaces,  
2 areas reserved for flood plain, forest blocks, habitat connectors, recreation  
3 areas and recreational trails, and areas identified by the State, regional planning  
4 commissions, or municipalities that require special consideration for aquifer  
5 protection; for wetland protection; for the maintenance of forest blocks,  
6 wildlife habitat, and habitat connectors; or for other conservation purposes.

7 (b) The various elements and statements shall be correlated with the land  
8 use element and with each other. The maps called for by this section may be  
9 incorporated on one or more maps; and may be referred to in each separate  
10 statement called for by this section.

11 (c) The regional plan future land use map shall delineate areas within the  
12 regional planning commission’s member municipalities that are eligible to  
13 receive designation benefits as Centers and Neighborhoods when the future  
14 land use map is approved by the ERB per 10 V.S.A. § 6033. The areas eligible  
15 for designation shall be identified on the regional plan future land use map as  
16 regional Downtown Centers, Village Centers, Planned Growth Area, and  
17 Village Areas in a manner consistent with section 4348a. This methodology  
18 shall include all approved designated downtowns, villages, new town centers,

1 neighborhood development areas, and growth centers existing on July 1, 2024,  
2 unless the subject member municipality requests otherwise.

3 (d) With the exception for preexisting, nonconforming designations  
4 approved prior to the establishment of the program under this chapter, the areas  
5 eligible for designation benefits upon the ERB approval of the regional plan  
6 future land use map for designation as a Center shall not include development  
7 that is disconnected from a Center and that lacks a pedestrian connection to the  
8 Center via a complete street.

9 (e) On or before December 31, 2024, the VAPDA shall develop standard  
10 methodology and process for the mapping of areas eligible for designation  
11 under 10 V.S.A. § 6033 and 24 V.S.A. chapter 139 in consultation with the  
12 Department and Environmental Review Board that shall integrate elements in  
13 the regional plan and plan for a municipality. The methodology and process  
14 shall recommend a streamlined procedure for minor amendments by the ERB  
15 to the boundaries of the approved designated areas upon request by member  
16 municipalities to map eligible areas for designation under this chapter.

17 \*\*\* Municipal Bylaws \*\*\*

18 \*\*\* Resilience Planning \*\*\*

19 Sec. 36. 24 V.S.A. § 4306 is amended to read:

20 § 4306. MUNICIPAL AND REGIONAL PLANNING AND RESILIENCE

21 FUND

1 (a)(1) The Municipal and Regional Planning and Resilience Fund for the  
2 purpose of assisting municipal and regional planning commissions to carry out  
3 the intent of this chapter is hereby created in the State Treasury.

4 (2) The Fund shall be composed of 17 percent of the revenue from the  
5 property transfer tax under 32 V.S.A. chapter 231 and any monies from time to  
6 time appropriated to the Fund by the General Assembly or received from any  
7 other source, private or public. All balances at the end of any fiscal year shall  
8 be carried forward and remain in the Fund. Interest earned by the Fund shall  
9 be deposited in the Fund.

10 (3) Of the revenues in the Fund, each year:

11 (A) 10 percent shall be disbursed to the Vermont Center for  
12 Geographic Information;

13 (B) 70 percent shall be disbursed to the Secretary of Commerce and  
14 Community Development for performance contracts with regional planning  
15 commissions to provide regional planning services pursuant to section 4341a  
16 of this title; and

17 (C) 20 percent shall be disbursed to municipalities.

18 (b)(1) Allocations for performance contract funding to regional planning  
19 commissions shall be determined according to a formula to be adopted by rule  
20 under 3 V.S.A. chapter 25 by the Department for the assistance of the regional  
21 planning commissions. Disbursement of funding to regional planning



1 commissions shall be predicated upon meeting performance goals and targets  
2 pursuant to the terms of the performance contract.

3 (2) Disbursement to municipalities shall be awarded annually on or  
4 before December 31 through a competitive program administered by the  
5 Department providing the opportunity for any eligible municipality or  
6 municipalities to compete regardless of size, provided that to receive funds, a  
7 municipality:

8 (A) shall be confirmed under section 4350 of this title; or

9 (B)(i) shall use the funds for the purpose of developing a municipal  
10 plan to be submitted for approval by the regional planning commission, as  
11 required for municipal confirmation under section 4350 of this title; and

12 (ii) shall have voted at an annual or special meeting to provide  
13 local funds for municipal planning and resilience purposes and regional  
14 planning purposes.

15 (3) Of the annual disbursement to municipalities, an amount not to  
16 exceed 20 percent of the total may be disbursed to the Department to  
17 administer a program providing direct technical consulting assistance under  
18 retainer on a rolling basis to any eligible municipality to meet the requirements  
19 for designated neighborhood development area under chapter 76A of this title,  
20 provided that the municipality is eligible for funding under subdivision (2) of  
21 this subsection and meets funding guidelines established by the Department to

1 ensure accessibility for lower capacity communities, municipal readiness, and  
2 statewide coverage.

3 (4) Of the annual disbursement to municipalities, the Department may  
4 allocate funding as bylaw modernization grants under section 4307 of this title.

5 (c) Funds allocated to municipalities shall be used for the purposes of:

6 (1) funding the regional planning commission in undertaking capacity  
7 studies;

8 (2) carrying out the provisions of subchapters 5 through 10 of this  
9 chapter;

10 (3) acquiring development rights, conservation easements, or title to  
11 those lands, areas, and strictures identified in either regional or municipal plans  
12 as requiring special consideration for provision of needed housing, aquifer  
13 protection, flood protection, climate resilience, open space, farmland  
14 preservation, or other conservation purposes; and

15 (4) reasonable and necessary costs of administering the Fund by the  
16 Department of Housing and Community Development, not to exceed six  
17 percent of the municipality allocation.

18 Sec. 37. MUNICIPAL PLANNING AND RESILIENCE GRANT

19 PROGRAM

20 (a) The Agency of Commerce and Community Development shall rename  
21 the Municipal Planning Grant Program that the Agency administers under

1 24 V.S.A. § 4306(b)(2) as the Municipal Planning and Resilience Grant  
2 Program.

3 (b) In addition to other funds appropriated to the Agency of Commerce and  
4 Community Development for grants under 24 V.S.A. § 4306, \$1,500,000.00 is  
5 appropriated from the General Fund to the Municipal and Regional Planning  
6 and Resilience Fund for the grants from the Fund for the following purposes:

7 (1) assistance to municipalities to support resiliency planning and  
8 identify and plan for resiliency projects to reduce damages from flooding and  
9 other climate change-related hazards; and

10 (2) funding for regional planning commissions to increase staff in order  
11 to support municipalities in conducting climate resiliency planning; project  
12 development and implementation; and hazard mitigation locally, regionally,  
13 and on a watershed scale.

14 Sec. 38. CLIMATE RESILIENCY PLANNING POSITIONS

15 (a) In addition to other funds appropriated to the Agency of Commerce and  
16 Community Development in fiscal year 2025, \$125,000.00 is appropriated  
17 from the General Fund to the Agency for the purpose of creating a new  
18 permanent full-time position to staff the climate resiliency grants from the  
19 Municipal Planning and Resilience Grant Program.

20 (b) In addition to other funds appropriated to the Agency of Natural  
21 Resources in fiscal year 2025, \$125,000.00 is appropriated from the General

1 Fund to the Agency for the purposes of funding a new permanent full-time  
2 position in the Water Investment Division of the Department of Environmental  
3 Conservation for the purposes of assisting in the financing of climate resilience  
4 projects from the Special Environmental Revolving Funds under 24 V.S.A.  
5 chapter 120.

6 \* \* \* Designated Areas Update \* \* \*

7 Sec. 39 REPEAL

8 24 V.S.A. chapter 76A is repealed.

9 Sec. 40. 24 V.S.A. chapter 139 is added to read:

10 CHAPTER 139. STATE COMMUNITY **REVITALIZATION**

11 PROGRAM

12 § 5801. DEFINITIONS

13 As used in this chapter:

14 (1) “Community **Revitalization** Program” means the program  
15 established in this chapter, as adapted from the former Designated Areas  
16 Program formerly in chapter 76A of this title. Statutory references outside this  
17 chapter referring to the former State Designated Village Centers, Downtown,  
18 and New Town Centers shall mean Designated Center, once established.  
19 Statutory references outside this chapter referring to the former State  
20 Designated Growth Centers and Neighborhood Development areas shall mean  
21 Designated Neighborhood, once established.

1           (2) “Complete streets” or “Complete street principles” has the same  
2           meaning as in 19 V.S.A. chapter 24.

3           (3) “Department” means the Department of Housing and Community  
4           Development.

5           (4) “Downtown Center” or “Village Center” means areas on the regional  
6           plan future land use maps which may be designated as a Center **consistent**  
7           **with section 4348a of this title.**

8           (5) “ERB” refers to the Environmental Review Board established  
9           pursuant to 10 V.S.A. § 6021.

10           (6) “Infill” means the use of vacant land or property or the  
11           redevelopment of existing buildings within a built-up area for further  
12           construction or land development.

13           (7) “Local downtown organization” means either a nonprofit  
14           corporation, or a board, council, or commission created by the legislative body  
15           of the municipality, whose primary purpose is to administer and implement the  
16           community reinvestment agreement and other matters regarding the  
17           revitalization of the downtown.

18           (8) “**Planned Growth Area**” means an area on the regional plan future  
19           land use maps **required under** section 4348a of this title, which may encompass  
20           a Downtown Center or Village Center on the regional future land use map and  
21           may be designated as a Center or Neighborhood or both.

1           (9) “Regional plan future land use map” means the map prepared  
2           pursuant to 24 V.S.A. § 4348a.

3           (10) “Smart growth principles” means growth that:

4                   (A) Maintains the historic development pattern of compact village  
5                   and urban centers separated by rural countryside.

6                   (B) Develops compact mixed-use centers at a scale appropriate for  
7                   the community and the region.

8                   (C) Enables choice in modes of transportation.

9                   (D) Protects the State’s important environmental, natural, and historic  
10                  features, including natural areas, water quality, scenic resources, and historic  
11                  sites and districts.

12                  (E) Serves to strengthen agricultural and forest industries and  
13                  minimizes conflicts of development with these industries.

14                  (F) Balances growth with the availability of economic and efficient  
15                  public utilities and services.

16                  (G) Supports a diversity of viable businesses in downtowns and  
17                  villages.

18                  (H) Provides for housing that meets the needs of a diversity of social  
19                  and income groups in each community.

20                  (I) Reflects a settlement pattern that, at full build-out, is not  
21                  characterized by:

1                   (i) scattered development located outside compact urban and  
2 village centers that is excessively land consumptive and inefficient;

3                   (ii) development that limits transportation options, especially for  
4 pedestrians, bicyclists, transit users, and people with disabilities;

5                   (iii) the fragmentation of farmland and forestland;

6                   (iv) development that makes inefficient use of land, energy, roads,  
7 utilities, and other supporting infrastructure or that requires the extension of  
8 infrastructure across undeveloped lands outside compact, villages, downtowns,  
9 or urban centers; and

10                  (v) development that contributes to a pattern of strip linear  
11 development along well-traveled roads and highways that lacks depth, as  
12 measured from the highway.

13                  (11) “Sprawl repair” means the redevelopment of lands developed with  
14 buildings, traffic and circulation, parking, or other land coverage in pattern that  
15 is consistent with smart growth principles and is served by a complete street  
16 connecting to a proximate Center and served by water and sewer infrastructure.

17                  (12) “State Board” means the Vermont Community **Investment** Board  
18 established in section 5802 of this title.

19                  (13) “State Designated Downtown and Village Center” or “Center”  
20 means a contiguous Downtown or Village Area **approved as part of the**  
21 **Environmental Review Board review of regional plan future land use maps,**

1 which may include an approved pre-existing designated village center,  
2 designated downtown, or designated new town center established prior to the  
3 approval of the regional plan future land use maps. It shall encompass an area  
4 that extends access to benefits that sustain and revitalize existing buildings and  
5 maintain the basis of the program’s original focus on revitalizing historic  
6 downtowns and villages by promoting development patterns and historic  
7 preservation practices vital to Vermont’s economy, cultural landscape, equity  
8 of opportunity, and climate resilience.

9 (14) “State Designated Neighborhood” or “Neighborhood” means a  
10 contiguous geographic area approved as part of the Environmental Review  
11 Board review of regional plan future land use maps that is adjacent and  
12 contiguous to a Center, which may include an approved and pre-existing  
13 designated neighborhood development area or growth center established prior  
14 to approval of the regional plan future land use maps. It means an area that is  
15 compact, principally walkable to a Center, principally served by complete  
16 streets, primarily including historic areas, and may include areas transitioning  
17 to complete streets and smart growth through municipal capital planning,  
18 programming, and budgeting in complete streets accordance with section 4430  
19 of this title.

20 (15) “Vermont Downtown Program” means a program within the  
21 Department that coordinates with Main Street America that helps support



1 community revitalization and economic vitality while preserving the historic  
2 character of Vermont’s Downtown Cores. The Vermont Downtown Program  
3 provides downtowns with financial incentives, training and technical assistance  
4 supporting local efforts to restore historic buildings, improve housing, design  
5 walkable communities, and encourage economic development by incentivizing  
6 public and private investments.

7 (16) “Village Area” means an area on the regional plan future land use  
8 maps pursuant to section 4348a of this title, which may encompass a Village  
9 Center on the regional future land use map.

10 § 5802. VERMONT COMMUNITY INVESTMENT BOARD

11 (a) A Vermont Community Investment Board also referred to as the “State  
12 Board,” is created to administer the provisions of this chapter. The State Board  
13 shall be composed of the following members or their designees:

14 (1) the Secretary of Commerce and Community Development;

15 (2) the Secretary of Transportation;

16 (3) the Secretary of Natural Resources;

17 (4) the Commissioner of Public Safety;

18 (5) the State Historic Preservation Officer;

19 (6) a member of **the** community designated the Director of Racial

20 Equity;

1           (7) a person, appointed by the Governor from a list of three names  
2           submitted by the Vermont Natural Resources Council and the Preservation  
3           Trust of Vermont;

4           (8) a person, appointed by the Governor from a list of three names  
5           submitted by the Association of Chamber Executives;

6           (9) three public members representative of local government, one of  
7           whom shall be designated by the Vermont League of Cities and Towns and  
8           two of whom shall be appointed by the Governor;

9           (10) the Executive Director of the Vermont Bond Bank;

10          (11) the State Treasurer;

11          (12) a member of the Vermont Planners Association designated by the  
12          Association;

13          (13) a representative of a regional development corporation designated  
14          by the regional development corporations; and

15          (14) a representative of a regional planning commission designated by  
16          the Vermont Association of Planning and Development Agencies Region.

17          (b) The State Board shall elect a chair and vice chair from among its  
18          membership.

19          (c) The Department shall provide legal, staff, and administrative support to  
20          the State Board; shall produce guidelines to direct municipalities seeking to  
21          obtain designation under this chapter and for other purposes established by this

1 chapter; and shall pay per diem compensation for board members pursuant to  
2 32 V.S.A. § 1010(b).

3 (d) The State Board shall meet at least quarterly.

4 (e) The State Board shall have authority to adopt rules of procedure to use  
5 for appeal of its decisions and rules on handling conflicts of interest.

6 (f) In addition to any other duties confirmed by law, the State Board shall  
7 have the following duties:

8 (1) to serve as the funding and benefits coordination body for the State  
9 Community **Revitalization** Program;

10 (2) to review **and comment** on proposed regional plan future land use  
11 maps prepared by the regional planning commission and presented to the  
12 Environmental Review Board for Designated Center and Designated  
13 Neighborhood recognition under 10 V.S.A. § 6033;

14 (4) to award tax credits under the 32 V.S.A. § 5930aa et seq.;

15 (5) to manage the Downtown Transportation and Related Capital  
16 Improvement Fund Program established by section 5808 of this title; and

17 (6) to review and comment on Environmental Review Board guidelines,  
18 rules, or procedures **for the status process and regional plan future land use**  
19 **maps** as they relate to the designations under this chapter.

20 § 5803. DESIGNATION OF DOWNTOWN AND VILLAGE CENTERS

1        (a) Designation established. A regional planning commission may apply to  
2        the Environmental Review Board for approval and designation of all Centers  
3        by submitting the regional plan future land use map adopted by the regional  
4        planning commission. The regional plan future land use map shall identify  
5        Downtown Centers and Village Centers as the downtown and village areas  
6        eligible for designation as Centers. The Department and State Board shall  
7        provide comments to the Environmental Review on areas eligible for Center  
8        Designation as provided under this chapter.

9        (b) Inclusions. The areas mapped by the regional planning commissions as  
10       a center shall allow for the designation of preexisting, approved village centers,  
11       downtown centers, and new town centers in existence on or before December  
12       31, 2025.

13       (c) Approval. The Environmental Review Board shall conduct its review  
14       pursuant to 10 V.S.A. § 6033

15       (d) Transition. All designated village centers, new town centers, or  
16       downtowns existing as of December 31, 2025 will retain current benefits until  
17       June 30, 2026 or until approval of the regional future land use maps by the  
18       ERB, whichever comes first. All existing designations in effect December 31,  
19       2025 will expire June 30, 2026 if the regional planning commission does not  
20       receive State Board approval of the regional plan future land use maps under  
21       this chapter. All benefits for preexisting designated village centers,

1 downtowns, and new town centers that are removed under this chapter shall  
2 remain with the prior designations existing as of December 31, 2025 until July  
3 1, 2032. Prior to June 30, 2026, no renewal shall be required for the  
4 preexisting designations. New applications may be approved by the State  
5 Board prior to the approval of a regional future land use map under former  
6 chapter 76A of this title by the State Board until December 31, 2025. The last  
7 day to submit an application for designation prior to December 31, 2025 will  
8 be October 1, 2025.

9 (e) Benefits Steps. A Center may receive the benefits associated with the  
10 steps in this section by meeting the established requirements. The Department  
11 shall review applications from municipalities to advance from Step One to  
12 Two and from Step Two to Three and issue written decisions. The Department  
13 shall issue a written administrative decision within 30 days of regional future  
14 land use map approval. If a municipal application is rejected by the  
15 Department, the municipality may appeal the administrative decision to the  
16 State Board. To maintain an established Step 3 Center after the initial approval  
17 of regional plan future land use map by the ERB, the municipality shall apply  
18 for renewal and meet the program requirements **upon application for**  
19 **approval of a regional plan future land use map.** Step 3 designations that  
20 are not approved for renewal revert to Step 2. The municipality may appeal  
21 the administrative decision of the Department to the State Board. Appeals of

1 administrative decisions shall be heard by the State Board at the next meeting  
2 following a timely filing stating the reasons for the appeal. The State Board’s  
3 decision is final. The Department may issue guidelines to administer these  
4 steps.

5 (1) Step One.

6 (A) Requirements. Step One is established to create an accessible  
7 and low-barrier entry point for all villages throughout the State to access site-  
8 based improvement supports and conduct initial planning. All downtown and  
9 village centers shall automatically reach Step One upon approval of the  
10 regional plan future land use map by the Environmental Review Board.  
11 Regional plan future land use maps supersede preexisting designated areas that  
12 may already meet the Step One requirement.

13 (B) Benefits. A Center that reaches Step One is eligible for the  
14 following benefits:

15 (i) funding and technical assistance for site-based projects,  
16 including the Better Places Grant Program, access to the Downtown and  
17 Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.,  
18 and other programs identified in the Department’s guidelines; and

19 (ii) funding for developing or amending the municipal plan,  
20 visioning, and assessments.

21 (2) Step Two.

1           (A) Requirements. Step Two is established to create a mid-level  
2           entry point for emerging villages throughout the State to build planning and  
3           implementation capacity for community-scale projects. A Center reaches Step  
4           Two if it:

5                   (i) meets the requirements of Step One or if it has a **designated**  
6           village center or new town center under chapter 76A upon initial approval of  
7           the regional plan future land use map and prior to December 31, 2026;

8                   (ii) has a confirmed municipal planning process; and

9                   (iii) has a municipal plan with goals for investment in the Center.

10           (B) Benefits. In addition to the benefits of Step One, a Center that  
11           reaches Step Two is eligible for the following benefits:

12                   (i) general grant priority for bylaws and special-purpose plans,  
13           capital plans, and area improvement or reinvestment plans, including priority  
14           consideration for the Better Connections Program and other applicable  
15           programs identified by Department guidance.

16                   (ii) funding priority for infrastructure project scoping, design,  
17           engineering, and construction by the State Program;

18                   (iii) the authority to create a special taxing district pursuant to  
19           chapter 87 of this title for the purpose of financing both capital and operating  
20           costs of a project within the boundaries of a Center;

1                    (iv) priority consideration for State and Federal affordable housing  
2 funding;

3                    (v) authority for the municipal legislative body to lower speed  
4 limits to less than 25 mph within the Center under 23 V.S.A. § 1007(g).

5                    (vi) State wastewater permit fees capped at \$50.00 for residential  
6 development under 3 V.S.A. § 2822;

7                    (vii) exemption from the land gains tax under 32 V.S.A.  
8 § 10002(p); and

9                    (viii) assistance and guidance from the Department for establishing  
10 local historic preservation regulations.

11                    (3) Step Three.

12                    (A) Requirements. Step Three is established to create the higher-  
13 level entry point for downtowns throughout the State to create vibrant mixed-  
14 use centers. A Center reaches Step Three and maintains Step 3 as a Downtown  
15 if the Department finds that it meets the following requirements:

16                    (i) Meets the requirements of Step Two, or if it has an existing  
17 downtown designated under chapter 76A in effect upon initial approval of the  
18 regional future land use map and prior to December 31, 2026.

19                    (ii) Is listed or eligible for listing in the National Register of  
20 Historic Places.

21                    (iii) Has a downtown improvement plan.



1                   (iv) Has a downtown investment agreement.

2                   (v) Has a capital plan adopted under 4430 of this title that  
3 implements the downtown improvement plan.

4                   (vi) Has a Local Downtown Organization with an organizational  
5 structure necessary to sustain a comprehensive long-term downtown  
6 revitalization effort, including a local downtown organization that will  
7 collaborate with municipal departments, local businesses, and local nonprofit  
8 organizations. The Local Downtown Organization shall work to;

9                   (I) enhance the physical appearance and livability of the  
10 downtown district by implementing local policies that promote the use and  
11 rehabilitation of historic and existing buildings, by developing pedestrian-  
12 oriented design requirements, by encouraging new development and infill that  
13 satisfy such design requirements, and by supporting long-term planning that is  
14 consistent with the goals set forth in section 4302 of this title;

15                   (II) build consensus and cooperation among the many groups  
16 and individuals who have a role in the planning, development, and  
17 revitalization process;

18                   (III) market the assets of the downtown district to customers,  
19 potential investors, new businesses, local citizens, and visitors;

20                   (IV) strengthen, diversify, and increase the economic activity  
21 within the downtown; and

1                   (V) measure annually progress and achievements of the  
2                   revitalization efforts as required by Department guidelines.

3                   (vii) Has available public water and wastewater service and  
4                   capacity.

5                   (viii) Has permanent zoning and subdivision bylaws.

6                   (ix) Has adopted historic preservation regulations for the district  
7                   with a demonstrated a commitment to protect and enhance the historic  
8                   character of the downtown through the adoption of bylaws that adequately  
9                   meet the historic preservation requirements in subdivisions 4414(1)(E) and (F)  
10                  of this title, unless recognized by the program as a preexisting designated new  
11                  town center.

12                  (x) Has adopted design or form-based regulations that adequately  
13                  regulate the physical form and scale of development.

14                  (B) Benefits. In addition to the benefits of Steps One and Two, a  
15                  municipality that reaches Step Three is eligible for the following benefits:

16                  (i) Funding for the local downtown organization and technical  
17                  assistance from the Vermont Downtown Program for the Center.

18                  (ii) Tax Increment Financing location pursuant to 32 V.S.A.  
19                  § 5404a.

20                  (iii) A reallocation of receipts related to the tax imposed on sales  
21                  of construction materials as provided in 32 V.S.A. § 9819.

1                    (iv) Eligibility to receive National Main Street Accreditation from  
2                    Main Street America through the Vermont Downtown Program.

3                    (v) Signage options 10 V.S.A. § 494 (13) and (17).

4                    (vi) Certain housing appeal limitations pursuant to chapter 117 of  
5                    this title.

6                    (vii) Highest priority for locating proposed State functions by the  
7                    Commissioner of Buildings and General Services or other State officials, in  
8                    consultation with the municipality, Department, State Board, the General  
9                    Assembly committees of jurisdiction for the Capital Budget, and the regional  
10                   planning commission. When a downtown location is not suitable, the  
11                   Commissioner shall issue written findings to the consulted parties  
12                   demonstrating how the suitability of the State function to a downtown location  
13                   is not feasible.

14                   (viii) Funding for infrastructure project scoping, design,  
15                   engineering, including participation in the Downtown Transportation and  
16                   Related Capital Improvement Fund Program established by section 5808 of  
17                   this title.

18                   § 5804. DESIGNATED NEIGHBORHOOD

19                   (a) Designation established.

20                   (1) A regional planning commission may request approval from the  
21                   Environmental Review Board for designation of areas on the regional plan

1 future land use maps as a Designated Neighborhood under 10 V.S.A. § 6033.  
2 Areas eligible for designation include Planned Growth Area and Village Areas  
3 identified on the regional plan future land use map. This designation  
4 recognizes that the vitality of downtowns and villages and their adjacent  
5 neighborhoods, and that the benefits structure must ensure that any subsidy for  
6 sprawl repair or infill development locations within a Neighborhoods is  
7 secondary to a primary commitment to maintain the livability and maximize  
8 the climate resilience and flood-safe infill potential of these areas.

9 (2) Approval of planned growth areas and village areas as designated  
10 neighborhoods shall follow the same process as approval for designated  
11 centers per 10 V.S.A. § 6033 and consistent with sections 4348 and 4348a of  
12 this title.

13 (b) Transition. Any municipality with an existing designated growth center  
14 or neighborhood development area will retain current benefits until July 1,  
15 2029 or upon approval of the regional plan future land use maps, whichever  
16 comes first. All existing neighborhood development area and growth center  
17 designations in effect July 1, 2024 will expire July 1, 2029 if the regional **plan**  
18 **future land use map** does not gain approval. All benefits that are removed for  
19 neighborhood development areas and growth centers under this chapter shall  
20 remain active with prior designations existing as of July 1, 2024 until July 1,  
21 2032. During the period of transition, no renewal shall be required for the

1 existing designations. Prior to the approval of a regional plan future land use  
2 map by the ERB, **new** neighborhood development area designations may be  
3 approved by the State Board.

4 (e) Requirements. A Designated Neighborhood shall meet the  
5 requirements for planned growth area or village area as described in section  
6 4348a of this title.

7 (f) Benefits. A Designated Neighborhood is eligible for the following  
8 benefits:

9 (1) general grant priority for bylaws and special-purpose plans, capital  
10 plans area, and improvement or reinvestment plans, including the Better  
11 Connections Program and other programs identified in Department guidance;

12 (2) funding priority for infrastructure project scoping, design,  
13 engineering, and construction by State programs;

14 (3) access to the Downtown and Village Center Tax Credit Program  
15 described in 32 V.S.A. § 5930aa et seq.;

16 (4) priority consideration for State and federal affordable housing  
17 funding;

18 (5) **certain** housing appeal limitations under chapter 117 of this title;

19 (6) **authority** for the municipal legislative body to lower speed limits to  
20 less than 25 mph within the Neighborhood;

1           (7) State wastewater application fee capped at \$50.00 for residential  
2           development under 3 V.S.A. § 2822(j)(4)(D); and

3           (8) exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).  
4           § 5805. TRANSITION

5           On or before June 30, 2026, the regional planning commissions shall update  
6           the regional plan future land use maps to delineate Downtown or Village  
7           Centers, Planned Growth Areas, which may encompass a Downtown Center  
8           and Village Center, and Village Areas. Notwithstanding other provisions in  
9           this chapter, new applications for designation under the prior chapter 76A  
10           framework shall end upon approval of a regional plan future land use map by  
11           the ERB.

12           § 5806. DESIGNATION DATA CENTER

13           The Department shall maintain an online Municipal Planning Data Center  
14           publishing approved regional plan future land use maps and indicating the  
15           status of each approved designation within the region, and associated steps for  
16           Centers.

17           § 5807. MUNICIPAL TECHNICAL ASSISTANCE

18           (a) The Commissioner of Housing and Community Development shall  
19           develop a procedure for providing interagency technical assistance to  
20           municipalities participating in the programs under this chapter.

1        (b) The procedure shall include interagency assistance and address the  
2        following:

3            (1) general project advising and scoping services;

4            (2) physical improvement design services;

5            (3) regulatory and policy-making project services;

6            (4) programmatic and project management services; and

7            (5) legislative recommendations to the General Assembly to better align  
8        designation benefits with strategic priorities on or before December 15, 2026.

9        (c) Procedures and recommendations shall address statutory State agency  
10       plans with a focus on the following strategic priorities for municipal and  
11       community development assistance:

12           (1) housing development growth and equity;

13           (2) climate resilience;

14           (3) coordinated infrastructure investment;

15           (4) local administrative capacity;

16           (5) equity, diversity, and access;

17           (6) livability and social service; and

18           (7) historic preservation.

19        § 5808. DOWNTOWN TRANSPORTATION AND RELATED CAPITAL

20            IMPROVEMENT FUND

1       (a) There is created a Downtown Transportation and Related Capital  
2       Improvement Fund, which shall be a special fund created under 32 V.S.A.  
3       chapter 7, subchapter 5, to be administered by the State Board in accordance  
4       with this chapter to aid municipalities with designated Centers in financing  
5       capital transportation and related improvement projects to support economic  
6       development. This shall be the same Fund that was created under the prior  
7       section 2796 of this title.

8       (b) The Fund shall be composed of the following:

9           (1) State or federal funds as may be appropriated by the General  
10       Assembly;

11           (2) any gifts, grants, or other contributions to the Fund; and

12           (3) proceeds from the issuance of general obligation bonds.

13       (c) Any municipality with a designated Center may apply to the Board for  
14       financial assistance from the Fund for capital transportation and related  
15       improvement projects within or serving the district. The Board may award to  
16       any municipality grants in amounts not to exceed \$250,000.00 annually, loans,  
17       or loan guarantees for financing capital transportation projects, including  
18       construction or alteration of roads and highways, parking facilities, and rail or  
19       bus facilities or equipment, or for the underground relocation of electric utility,  
20       cable, and telecommunications lines, but shall not include assistance for  
21       operating costs. Grants awarded by the Board shall not exceed 80 percent of



1 the overall cost of the project. The approval of the Board may be conditioned  
2 upon the repayment to the Fund of some or all of the amount of a loan or other  
3 financial benefits and such repayment may be from local taxes, fees, or other  
4 local revenues sources. The Board shall consider geographical distribution in  
5 awarding the resources of the Fund.

6 (d) The Fund shall be available to the Department of Housing and  
7 Community Development for the reasonable and necessary costs of  
8 administering the Fund. The amount projected to be spent on administration  
9 shall be included in the Department’s fiscal year budget presentations to the  
10 General Assembly.

11 § 5809. PROPERTY ASSESSMENT FUND; BROWNFIELDS AND  
12 REDEVELOPMENT; COMPETITIVE PROGRAM

13 (a) There is created a Property Assessment Fund pursuant to 32 V.S.A.  
14 chapter 7, subchapter 5 to be administered by the Department of Housing and  
15 Community Development for the purpose of providing financing, on a  
16 competitive basis, to municipalities that demonstrate a financial need in order  
17 to determine and evaluate a full assessment of the extent and the cost of  
18 remediation of property, or in the case of an existing building, an assessment  
19 that supports a clear plan, including the associated costs of renovation to bring  
20 the building into compliance with State and local building codes. This shall be  
21 the same Fund that was created under the prior section 2797 of this title.

1        (b) The Fund shall be composed of the following:

2            (1) State or federal funds that may be appropriated by the General  
3        Assembly;

4            (2) any gifts, grants, or other contributions to the funds; and

5            (3) proceeds from the issuance of general obligation bonds.

6        (c) A municipality deemed financially eligible may apply to the Fund for  
7        the assessment of property and existing buildings proposed for redevelopment,  
8        provided the Department finds that the property or building:

9            (1) is not likely to be renovated or improved without the preliminary  
10        assessment; and

11           (2) when renovated or redeveloped, will integrate and be compatible  
12        with any applicable and approved regional development, capital, and municipal  
13        plans; is expected to create new property tax if developed by a taxable entity;  
14        and is expected to reduce pressure for development on open or undeveloped  
15        land in the local community or in the regional planning commission.

16        (d) The Department shall distribute funds under this section in a manner  
17        that provides funding for assessment projects of various sizes in as many  
18        geographical areas of the State as possible and may require matching funds  
19        from the municipality in which an assessment project is conducted.

20        § 5810. BETTER PLACES PROGRAM; CROWD GRANTING

1       (a)(1) There is created the Better Places Program within the Department of  
2       Housing and Community Development, and the Better Places Fund, which the  
3       Department shall manage pursuant to 32 V.S.A. chapter 7, subchapter 5. This  
4       shall be the same Fund created under the prior section 2799 of this title.

5               (2) The purpose of the Program is to utilize crowdfunding to spark  
6       community revitalization through collaborative grantmaking for projects that  
7       create, activate, or revitalize public spaces.

8               (3) The Department may administer the Program in coordination with  
9       and support from other State agencies and nonprofit and philanthropic partners.

10       (b) The Fund is composed of the following:

11               (1) State or federal funds appropriated by the General Assembly;

12               (2) gifts, grants, or other contributions to the Fund; and

13               (3) any interest earned by the Fund.

14       (c) As used in this section, “public space” means an area or place that is  
15       open and accessible to all people with no charge for admission and includes  
16       village greens, squares, parks, community centers, town halls, libraries, and  
17       other publicly accessible buildings and connecting spaces such as sidewalks,  
18       streets, alleys, and trails.

19       (d)(1) The Department of Housing and Community Development shall  
20       establish an application process, eligibility criteria, and criteria for prioritizing  
21       assistance for awarding grants through the Program.

1           (2) The Department may award a grant to a municipality, a nonprofit  
2           organization, or a community group with a fiscal sponsor for a project that is  
3           located in or serves an area designated under this chapter that will create a new  
4           public space or revitalize or activate an existing public space.

5           (3) The Department may award a grant to not more than three projects  
6           per calendar year within a municipality.

7           (4) The minimum amount of a grant award is \$5,000.00, and the  
8           maximum amount of a grant award is \$40,000.00.

9           (5) The Department shall develop matching grant eligibility  
10          requirements to ensure a broad base of community and financial support for  
11          the project, subject to the following:

12           (A) A project shall include in-kind support and matching funds raised  
13           through a crowdfunding approach that includes multiple donors.

14           (B) An applicant may not donate to its own crowdfunding campaign.

15           (C) A donor may not contribute more than \$10,000.00 or 35 percent  
16           of the campaign goal, whichever is less.

17           (D) An applicant shall provide matching funds raised through  
18           crowdfunding of not less than 33 percent of the grant award. The Department  
19           may require a higher percent of matching funds for certain project areas to  
20           ensure equitable distribution of resources across Vermont.

1       (e) The Department of Housing and Community Development, with the  
2       assistance of a fiscal agent, shall distribute funds under this section in a manner  
3       that provides funding for projects of various sizes in as many geographical  
4       areas of the State as possible.

5       (f) The Department of Housing and Community Development may use up  
6       to 15 percent of any appropriation to the Fund from the General Fund to assist  
7       with crowdfunding, administration, training, and technological needs of the  
8       Program.

9       Sec. 41. 32 V.S.A. § 5930aa is amended to read:

10      § 5930aa. DEFINITIONS

11      As used in this subchapter:

12                                   \* \* \*

13           (2) “Qualified building” means a building built at least 30 years before  
14      the date of application, located within a designated ~~downtown, village center,~~  
15      ~~or neighborhood development area~~ Center or Neighborhood, which, upon  
16      completion of the project supported by the tax credit, will be an income-  
17      producing building not used solely as a single-family residence. Churches and  
18      other buildings owned by religious organization may be qualified buildings,  
19      but in no event shall tax credits be used for religious worship.

20           (3) “Qualified code improvement project” means a project:

1 (A) to install or improve platform lifts suitable for transporting  
2 personal mobility devices, limited use or limited application elevators,  
3 elevators, sprinkler systems, and capital improvements in a qualified building,  
4 and the installations or improvements are required to bring the building into  
5 compliance with the statutory requirements and rules regarding fire prevention,  
6 life safety, and electrical, plumbing, and accessibility codes as determined by  
7 the Department of Public Safety;

8 (B) to abate lead paint conditions or other substances hazardous to  
9 human health or safety in a qualified building; or

10 (C) to redevelop a contaminated property in a designated ~~downtown,~~  
11 ~~village center, or neighborhood development area~~ Center or Neighborhood  
12 under a plan approved by the Secretary of Natural Resources pursuant to  
13 10 V.S.A. § 6615a.

14 \* \* \*

15 (5) “Qualified façade improvement project” means the rehabilitation of  
16 the façade of a qualified building that contributes to the integrity of the  
17 designated ~~downtown, designated village center, or neighborhood development~~  
18 ~~area~~ Center or Neighborhood. Façade improvements to qualified buildings  
19 listed, or eligible for listing, in the State or National Register of Historic Places  
20 must be consistent with the Secretary of the Interior Standards, as determined  
21 by the Vermont Division for Historic Preservation.

1 (6) “Qualified Flood Mitigation Project” means any combination of  
2 structural and nonstructural changes to a qualified building located within the  
3 ~~flood hazard area as mapped by the Federal Emergency Management Agency~~  
4 that reduces or eliminates flood damage to the building or its contents. This  
5 may include, relocation of HVAC, electrical, plumbing, and other building  
6 systems, and equipment above the flood level; repairs or reinforcement of  
7 foundation walls, including flood gates; or elevation of an entire eligible  
8 building above the flood level. Further eligible projects may be defined via  
9 program guidance. The project shall comply with the municipality’s adopted  
10 flood hazard bylaw, if applicable, and a certificate of completion shall be  
11 submitted by a registered engineer, architect, qualified contractor, or qualified  
12 local official to ~~the State Board~~ program staff. Improvements to qualified  
13 buildings listed, or eligible for listing, in the State or National Register of  
14 Historic Places shall be consistent with Secretary of the Interior’s Standards for  
15 Rehabilitation, as determined by the Vermont Division for Historic  
16 Preservation.

17 \* \* \*

18 (9) “State Board” means the Vermont ~~Downtown Development~~  
19 Community Investment Board established pursuant to 24 V.S.A. chapter ~~76A~~  
20 139.  
21 Sec. 42. 32 V.S.A. § 5930bb is amended to read:

1 § 5930bb. ELIGIBILITY AND ADMINISTRATION

2 (a) Qualified applicants may apply to the State Board to obtain the tax  
3 credits provided by this subchapter for a qualified project at any time before  
4 the completion of the qualified project.

5 (b) To qualify for any of the tax credits under this subchapter, expenditures  
6 for the qualified project must exceed \$5,000.00.

7 (c) Application shall be made in accordance with the guidelines set by the  
8 State Board.

9 ~~(d) Notwithstanding any other provision of this subchapter, qualified~~  
10 ~~applicants may apply to the State Board at any time prior to June 30, 2013, to~~  
11 ~~obtain a tax credit not otherwise available under subsections 5930cc(a)–(c) of~~  
12 ~~this title of 10 percent of qualified expenditures resulting from damage caused~~  
13 ~~by a federally declared disaster in Vermont in 2011. The credit shall only be~~  
14 ~~claimed against the taxpayer’s State individual income tax under section 5822~~  
15 ~~of this title. To the extent that any allocated tax credit exceeds the taxpayer’s~~  
16 ~~tax liability for the first tax year in which the qualified project is completed,~~  
17 ~~the taxpayer shall receive a refund equal to the unused portion of the tax credit.~~  
18 ~~If within two years after the date of the credit allocation no claim for a tax~~  
19 ~~credit or refund has been filed, the tax credit allocation shall be rescinded and~~  
20 ~~recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of~~  
21 ~~tax credits available under this subsection shall not be more than \$500,000.00~~



1 ~~and shall not be subject to the limitations contained in subdivision 5930cc(2)~~  
2 ~~of this subchapter.~~

3 (e) Beginning on July 1, 2025, under this subchapter no new tax credit may  
4 be allocated by the State Board to a qualified building located in a  
5 ~~neighborhood development area~~ Designated Neighborhood unless specific  
6 funds have been appropriated for that purpose.

7 Sec. 43. 32 V.S.A. § 5930cc is amended to read:

8 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

9 CREDITS

10 \* \* \*

11 (c) Code improvement tax credit. The qualified applicant of a qualified  
12 code improvement project shall be entitled, upon the approval of the State  
13 Board, to claim against the taxpayer's State individual income tax, State  
14 corporate income tax, or bank franchise or insurance premiums tax liability a  
15 credit of 50 percent of qualified expenditures up to a maximum tax credit of  
16 \$12,000.00 for installation or improvement of a platform lift, a maximum  
17 credit of \$60,000.00 for the installation or improvement of a limited use or  
18 limited application elevator, a maximum tax credit of \$75,000.00 for  
19 installation or improvement of an elevator, a maximum tax credit of  
20 \$50,000.00 for installation or improvement of a sprinkler system, and a

1 maximum tax credit of ~~\$50,000.00~~ \$100,000.00 for the combined costs of all  
2 other qualified code improvements.

3 (d) Flood Mitigation Tax Credit. The qualified applicant of a qualified  
4 flood mitigation project shall be entitled, upon the approval of the State Board,  
5 to claim against the taxpayer's State individual income tax, State corporate  
6 income tax, or bank franchise or insurance premiums tax liability a credit of  
7 50 percent of qualified expenditures up to a maximum tax credit of ~~\$75,000.00~~  
8 \$100,000.00.

9 Sec. 44. 32 V.S.A. § 5930ee is amended to read:

10 § 5930ee. LIMITATIONS

11 Beginning in fiscal year 2010 and thereafter, the State Board may award tax  
12 credits to all qualified applicants under this subchapter, provided that:

13 (1) the total amount of tax credits awarded annually, together with sales  
14 tax reallocated under section 9819 of this title, does not exceed ~~\$3,000,000.00~~  
15 \$5,000,000.00;

16 \* \* \*

17 Sec. 45. REGIONAL PLANNING COMMISSION STUDY

18 (a) The Vermont Association of Planning and Development Agencies shall  
19 study the strategic opportunities of regional planning commissions. This study  
20 will look to ensure that the regional planning commissions are statutorily  
21 enabled and strategically positioned to meet ongoing and emerging State and

1 municipal needs and will review the following: governance, funding,  
2 programs, service delivery, equity, accountability, and staffing.

3 (b) The study shall identify the gaps in statutory enabling language,  
4 structure, and local engagement and make recommendations on how to  
5 improve and ensure consistent and equitable Statewide programming and local  
6 input and engagement.

7 (c) The Vermont Association of Planning and Development Agencies shall  
8 share information with the study committee [placeholder for the  
9 county/regional governance bill if it passes].

10 (d) On or before December 31, 2024, the study report shall be submitted to  
11 the House Committees on Energy and Environment, Commerce and Economic  
12 Development, Government Operations and the Senate Committees on  
13 Economic Development, Housing and General Affairs, Natural Resources and  
14 Energy, and Government Operations.

15 Sec. 46. REVISION AUTHORITY

16 In preparing the Vermont Statutes Annotated for publication in 2024, the  
17 Office of Legislative Counsel shall replace all references to the “24 V.S.A.  
18 chapter 76A” with the “24 V.S.A. chapter 139.”

19 \* \* \* Effective Dates \* \* \*

20 Sec. 47. EFFECTIVE DATES

1        This act shall take effect on passage, except that Secs. 13 (10 V.S.A.  
2        chapter 220), 14 (4 V.S.A. § 34), 19 (10 V.S.A. § 6001), and 20 (10 V.S.A.  
3        § 6086) shall take effect on July 1, 2026 and Sec. 39 (repeal) shall take effect  
4        on January 1, 2027.

5

6

7        (Committee vote: \_\_\_\_\_)

8

\_\_\_\_\_

9

Representative \_\_\_\_\_

10

FOR THE COMMITTEE