

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 96 entitled “An act relating to establishing a Clean Water
4 Assessment to fund State water quality programs” respectfully reports that it
5 has considered the same and recommends that the bill be amended by striking
6 out all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. chapter 37, subchapter 5 is amended to read:

8 Subchapter 5. ~~Aquatic Nuisance Control~~ Water Quality Restoration and
9 Improvement

10 § 921. DEFINITIONS

11 As used in this subchapter:

12 (1) “Basin” means a watershed basin designated by the Secretary for use
13 as a planning unit under subsection 1253(d) of this title.

14 (2) “Best management practice” or “BMP” means a schedule of
15 activities, prohibitions, practices, maintenance procedures, green infrastructure,
16 or other management practices to prevent or reduce water pollution.

17 (3) “Clean water project” means a best management practice or other
18 program designed to improve water quality to achieve a target established
19 under section 922 of this title that:

20 (A) is not subject to a permit under chapter 47 of this title, is not
21 subject to the requirements of 6 V.S.A. chapter 215, exceeds the requirements

1 of a permit issued under chapter 47 of this title, or exceeds the requirements of
2 6 V.S.A chapter 215; and

3 (B) is within the activities identified in subsection 924(b) of this title.

4 (4) “Design life” means the period of time that a clean water project is
5 designed to operate according to its intended purpose.

6 (5) “Maintenance” means ensuring that a clean water project continues
7 to achieve its designed pollution reduction value for its design life.

8 (6) “Standard cost” means the projected cost of achieving a pollutant
9 load reduction per unit or per best management practice in a basin.

10 § 922. WATER QUALITY IMPLEMENTATION PLANNING AND

11 TARGETS

12 (a) After listing a water as impaired on the list of waters required by
13 33 U.S.C. § 1313(d), the Secretary shall include the following in any plan to
14 implement the requirements of any total maximum daily load adopted for an
15 impaired water:

16 (1) An evaluation of whether implementation of existing regulatory
17 programs will achieve water quality standards in the impaired water. If the
18 Secretary determines that existing regulatory programs will not achieve water
19 quality standards, the Secretary shall determine the amount of additional
20 pollutant reduction necessary to achieve water quality standards in that water.

21 When making this determination, the Secretary may express the pollutant

1 reduction in a numeric reduction or through defining a clean water project that
2 must be implemented to achieve water quality standards.

3 (2) An allocation of the pollutant reduction identified under subdivision
4 (a)(1) of this section to each basin and the clean water service provider
5 assigned to that basin pursuant to subsection 924(a) of this title. When making
6 this allocation, the Secretary shall consider the sectors contributing to the water
7 quality impairment in the impaired water’s boundaries and the contribution of
8 the pollutant from regulated and nonregulated sources within the basin. Those
9 allocations shall be expressed in annual pollution reduction goals and five-year
10 pollution reduction targets.

11 (3) A determination of the standard cost per unit of pollutant reduction.
12 The Secretary shall publish a methodology for determining standard cost
13 pollutant reductions. The standard cost shall include the costs of project
14 identification, project design, and project construction.

15 (b)(1) The Secretary shall conduct the analysis required by subsection (a)
16 of this section for previously listed waters as follows:

17 (A) For phosphorous in the Lake Champlain watershed, not later than
18 November 1, 2021.

19 (B) For phosphorous in the Lake Memphremagog watershed, not
20 later than November 1, 2022.

1 (C) For all other waters impaired by phosphorous, nutrients, or
2 sediment, not later than November 1, 2024.

3 (2) By not later than November 1, 2020, the Secretary shall adopt a
4 schedule for implementing the requirements of this chapter in all other
5 previously listed impaired waters not set forth in subdivision (1) of this
6 subsection.

7 (c) When implementing the requirements of this section, the Secretary shall
8 follow the type 3 notice process established in section 7714 of this title.

9 § 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN

10 WATER PROJECTS

11 (a) After listing a water as impaired on the list of waters required by
12 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for calculating
13 pollution reduction values associated with a clean water project in that water.
14 Pollution reduction values established by the Secretary shall be the exclusive
15 method for determining the pollutant reduction value of a clean water project.

16 (b) After listing a water as impaired on the list of waters required by
17 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for
18 establishing a design life associated with a clean water project. The design life
19 of a clean water project shall be determined based on a review of values
20 established in other jurisdictions, values recommended by organizations that
21 regularly estimate the design life of clean water projects, actual data

1 documenting the design life of a practice, or a comparison to other similar
2 practices if no other data exists. A design life adopted by the Secretary shall
3 be the exclusive method for determining the design life of a best management
4 practice or other control.

5 (c)(1) If a person is proposing a clean water project for which no pollution
6 reduction value or design life exists for a listed water, the Secretary shall
7 establish a pollution reduction value or design life for that clean water project
8 within 14 days of a request from the person proposing the clean water project.
9 A pollution reduction value or design life established under this subdivision
10 shall be based on a review of: pollution reduction values established in the
11 TMDL; pollution reduction values or design lives established by other
12 jurisdictions; pollution reduction values or design lives recommended by
13 organizations that develop pollutant reduction values or design lives for a clean
14 water project; applicable monitored data with respect to a clean water project,
15 if available; modeled data, if available; actual data documenting the design life
16 of a clean water project; or a comparison to other similar projects or programs
17 if no other data on a pollution reduction value or design life exists. Any
18 estimate developed under this subsection by the Secretary shall be posted on
19 the Agency of Natural Resources' website.

20 (2) Upon the request of a clean water service provider, the Secretary
21 shall evaluate a proposed clean water project and issue a determination as to

1 whether the proposed clean water project is eligible to receive funding as a part
2 of a Water Quality Restoration Grant awarded by the State pursuant to
3 subsection 925(a) of this title.

4 (d)(1) The Secretary shall conduct the analysis required by subsections (a)
5 and (b) of this section as follows:

6 (A) For clean water projects and design lives related to phosphorous,
7 not later than November 1, 2021.

8 (B) For clean water projects and design lives related to nutrients or
9 sediment, not later than November 1, 2024.

10 (2) By not later than November 1, 2020, the Secretary shall adopt a
11 schedule for implementing the requirements of subsections (a) and (b) of this
12 section for clean water projects and design lives related to all other
13 impairments not listed under subdivision (1) of this subsection.

14 (e)(1) When implementing the requirements of subsections (a) and (b) of
15 this section, the Secretary shall follow the type 3 notice process established in
16 section 7714 of this title.

17 (2) When implementing the requirements of subsection (c) of this
18 section, the Secretary shall follow the type 4 notice process in section 7715 of
19 this title.

20 § 924. CLEAN WATER SERVICE PROVIDER; RESPONSIBILITY FOR

21 CLEAN WATER PROJECTS

1 (a) Clean water service providers; establishment. On or before March 1,
2 2020, the Secretary shall adopt rules that assign a clean water service provider
3 to each basin for the purposes of achieving pollutant reduction values
4 established by the Secretary for the basin and for identification, design,
5 construction, operation, and maintenance of clean water projects within a
6 basin. The rulemaking shall be done in consultation with regional planning
7 commissions, natural resource conservation districts, watershed organizations,
8 and municipalities located within each basin. The Secretary shall assign a
9 regional planning commission as the clean water service provider for a basin
10 unless the Secretary, by rule, designates an alternate entity to be accountable
11 for a basin in lieu of a regional planning commission. If the Secretary assigns
12 an alternate entity to serve as the clean water service provider in a basin, the
13 Secretary shall ensure that the entity has the authority and capacity to fulfill the
14 duties set forth under 24 V.S.A. § 4345a(20). An alternate entity assigned as a
15 clean water service provider shall establish a basin water quality advisory
16 council that meets the requirements of 24 V.S.A. § 4353. An alternate entity
17 assigned as a clean water service provider shall receive assistance from the
18 Secretary under section 926 of this title.

19 (b) Project identification, prioritization, selection. When identifying,
20 prioritizing, and selecting an activity to meet a pollution reduction value, the

1 clean water service provider may consider, in no particular order of priority,
2 funding clean water projects in the following sectors:

3 (1) developed lands, including municipal separate storm sewers,
4 operational stormwater discharges, municipal roads, and other developed lands
5 discharges;

6 (2) natural resource protection and restoration, including river corridor
7 protection, wetland protection and restoration, and riparian corridor protection
8 and restoration;

9 (3) forestry; and

10 (4) agriculture.

11 (c) Maintenance responsibility. A clean water service provider shall be
12 responsible for maintaining a clean water project or ensuring the maintenance
13 for the entirety of the design life of that clean water project.

14 (d) Water quality improvement work. If a clean water service provider
15 achieves a greater level of pollutant reduction than a pollution reduction goal
16 or five-year target established by the Secretary, the clean water service
17 provider may carry those reductions forward into a future year. If a clean
18 water service provider achieves its pollutant reduction goal or five-year target
19 and has excess grant funding available, a clean water service provider may use
20 those funds towards other eligible projects, operation and maintenance
21 responsibilities for existing constructed projects, projects within the basin that

1 are required by federal or State law, or other work that improves water quality
2 within the geographic area of the basin, including protecting river corridors,
3 aquatic species passage, and other similar projects.

4 (e) Reporting. A clean water service provider shall report annually to the
5 Secretary. The report shall contain the following:

6 (1) a summary of all clean water projects completed that year in the
7 basin;

8 (2) a summary of any inspections of previously implemented clean
9 water projects and whether those clean water projects continue to operate in
10 accordance with their design;

11 (3) all indirect and administrative costs incurred by the clean water
12 service provider;

13 (4) a list of all of the subgrants awarded by the clean water service
14 provider in the basin; and

15 (5) all data necessary for the Secretary to determine the pollutant
16 reduction achieved by the clean water service provider during the prior year.

17 (f) Accountability for pollution reduction goals. If a clean water service
18 provider fails to meet its allocated pollution reduction goals or its five-year
19 target or fails to maintain previously implemented clean water projects the
20 Secretary shall take appropriate steps to hold the clean water service provider

1 accountable for the failure to meet pollution reduction goals or its five-year
2 target. The Secretary may take the following steps:

3 (1) Enter a plan to ensure that the clean water service provider meets
4 current and future year pollution reduction goals and five-year targets;

5 (2) Initiate an enforcement action pursuant to chapter 201 or 211 of this
6 title for the failure of a clean water service provider to meet its obligations; or

7 (3) Initiate rulemaking to designate an alternate entity as accountable for
8 the basin.

9 § 925. WATER QUALITY GRANT PROGRAMS

10 (a) The Secretary shall administer a Water Quality Restoration Formula
11 Grant Program to award grants to clean water service providers to meet the
12 pollution reduction requirements under this subchapter. The grant amount
13 shall be based on the annual pollutant reduction goal established for the clean
14 water service provider multiplied by the standard cost for pollutant reduction
15 including the costs of administration and reporting. No more than 15 percent
16 of the total grant amount awarded to a clean water service provider shall be
17 used for administrative costs.

18 (b) The Secretary shall administer a Water Quality Enhancement Grant
19 Program. This program shall be a competitive grant program to fund projects
20 that protect high quality waters, create resilient communities, and promote the
21 public's use and enjoyment of the State's waters. When making awards under

1 this program, the Secretary shall consider the cost-effectiveness of an award
2 and the funding needs of each basin. No more than 15 percent of the total
3 grant amount awarded to a clean water service provider shall be used for
4 administrative costs.

5 (c) The Secretary shall administer a Stormwater Implementation Grant
6 Program to provide grants to persons who are required to obtain a permit to
7 implement regulatory requirements that are necessary to achieve water quality
8 standards. The grant program shall only be available in basins where a clean
9 water service provider has met its annual goals or is making sufficient
10 progress, as determined by the Secretary, towards those goals. This grant
11 program may fund projects related to the permitting of impervious surface of
12 three acres or more under subdivision 1264(g)(3) of this title. No more than 15
13 percent of the total grant amount awarded to a clean water service provider
14 shall be used for administrative costs.

15 (d) The Secretary shall administer a Municipal Stormwater Assistance
16 Grant Program to provide grants to any municipality required to obtain a
17 permit pursuant to section 1264 of this title. The grant program shall only be
18 available in basins where a clean water service provider has met its annual
19 goals or is making sufficient progress, as determined by the Secretary, towards
20 those goals. No more than 15 percent of the total grant amount awarded to a
21 clean water service provider shall be used for administrative costs.

1 § 926. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

2 The Secretary shall provide technical assistance upon the request of any
3 person who, under this chapter, receives a grant or is a subgrantee of funds to
4 implement a clean water project.

5 § 927. RULEMAKING

6 The Secretary may adopt rules to implement the requirements of this
7 subchapter.

8 Sec. 2. 10 V.S.A. § 1253(d)(2) is amended to read:

9 (2) In developing a basin plan under this subsection, the Secretary shall:

10 (A) identify waters that should be reclassified outstanding resource
11 waters or that should have one or more uses reclassified under section 1252 of
12 this title;

13 (B) identify wetlands that should be reclassified as Class I wetlands;

14 (C) identify projects or activities within a basin that will result in the
15 protection and enhancement of water quality;

16 (D) review the evaluations performed by the Secretary under
17 subdivisions 922(a)(1) and (2) of this title and update those findings based on
18 any new data collected as part of a basin plan;

19 (E) for projects in the basin that will result in enhancement of
20 resources, including those that protect high quality waters of significant natural

1 resources, the Secretary shall identify the funding needs beyond those currently
2 funded by the Clean Water Fund;

3 (F) ensure that municipal officials, citizens, natural resources
4 conservation districts, watershed groups, and other interested groups and
5 individuals are involved in the basin planning process;

6 ~~(E)~~(G) ensure regional and local input in State water quality policy
7 development and planning processes;

8 ~~(F)~~(H) provide education to municipal officials and citizens regarding
9 the basin planning process;

10 ~~(G)~~(I) develop, in consultation with the regional planning
11 commission, an analysis and formal recommendation on conformance with the
12 goals and objectives of applicable regional plans;

13 ~~(H)~~(J) provide for public notice of a draft basin plan; and

14 ~~(I)~~(K) provide for the opportunity of public comment on a draft basin
15 plan.

16 Sec. 3. 10 V.S.A. § 1387 is amended to read:

17 § 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

18 (a)(1) The State has committed to implementing a long-term Clean Water
19 Initiative to provide mechanisms, staffing, and financing necessary to achieve
20 and maintain compliance with the Vermont Water Quality Standards for all
21 State waters.

1 (2) Success in implementing the Clean Water Initiative will depend
2 largely on providing sustained and adequate funding to support the
3 implementation of all of the following:

4 (A) the requirements of 2015 Acts and Resolves No. 64;

5 (B) federal or State required cleanup plans for individual waters or
6 water segments, such as total maximum daily load plans;

7 (C) the Agency of Natural Resources' Combined Sewer
8 Overflow Rule; and

9 (D) the operations of clean water service providers under chapter 37,
10 subchapter 5 of this title.

11 (3) To ensure success in implementing the Clean Water Initiative, the
12 State should commit to an annual appropriation over the duration of the
13 Initiative of not less than \$57,811,342.00, beginning in fiscal year 2020 and
14 adjusted thereafter to ensure maintenance of effort.

15 (b) The General Assembly establishes in this subchapter a Vermont Clean
16 Water Fund as a mechanism for financing the improvement of water quality in
17 the State. The Clean Water Fund shall be used to:

18 (1) assist the State in ~~complying with water quality requirements and~~
19 ~~construction or implementation of water quality projects or programs~~ the
20 implementation of the Clean Water Initiative;

1 (2) fund staff positions at the Agency of Natural Resources, Agency of
2 Agriculture, Food and Markets, or Agency of Transportation when the
3 positions are necessary to achieve or maintain compliance with water quality
4 requirements and existing revenue sources are inadequate to fund the necessary
5 positions; and

6 (3) provide funding to ~~nonprofit organizations, regional associations,~~
7 ~~and other entities for implementation and administration of community-based~~
8 ~~water quality programs or projects~~ clean water service providers to meet the
9 obligations of chapter 37, subchapter 5 of this title.

10 Sec. 4. 10 V.S.A. § 1389 is amended to read:

11 § 1389. CLEAN WATER BOARD

12 (a) Creation.

13 (1) There is created the Clean Water Board that shall:

14 (A) be responsible and accountable for planning, coordinating, and
15 financing of the remediation, improvement, and protection of the quality of
16 State waters;

17 (B) recommend to the Secretary of Administration expenditures:

18 (i) appropriations from the Clean Water Fund; and

19 (ii) clean water projects to be funded by capital appropriations.

20 (2) The Clean Water Board shall be attached to the Agency of
21 Administration for administrative purposes.

1 (b) Organization of the Board. The Clean Water Board shall be composed
2 of:
3 (1) the Secretary of Administration or designee;
4 (2) the Secretary of Natural Resources or designee;
5 (3) the Secretary of Agriculture, Food and Markets or designee;
6 (4) the Secretary of Commerce and Community Development or
7 designee;
8 (5) the Secretary of Transportation or designee; and
9 (6) four members of the public, who are not legislators, with expertise in
10 one or more of the following subject matters: public management, civil
11 engineering, agriculture, ecology, wetlands, stormwater system management,
12 forestry, transportation, law, banking, finance, and investment, to be appointed
13 by the Governor.

14 * * *

15 (d) Powers and duties of the Clean Water Board. The Clean Water Board
16 shall have the following powers and authority:

17 * * *

18 (3) The Clean Water Board shall:

19 (A) ~~establish a process by which watershed organizations, State~~
20 ~~agencies, and other interested parties may propose water quality projects or~~
21 ~~programs for financing from the Clean Water Fund;~~

1 ~~(B)~~ develop an annual revenue estimate and proposed budget for the
2 Clean Water Fund;

3 ~~(C)~~(B) establish measures for determining progress and effectiveness
4 of expenditures for clean water restoration efforts;

5 (C) if the Board determines that there are insufficient funds in the
6 Clean Water Fund to issue all grants required by section 925(a) of this title,
7 conduct all of the following:

8 (i) Direct the Secretary of Natural Resources to prioritize the work
9 needed in every basin, adjust pollution allocations assigned to clean water
10 service providers, and issue grants based on available funding.

11 (ii) Make recommendations to the Governor and General
12 Assembly on additional revenue to address unmet needs.

13 (iii) Notify the Secretary of Natural Resources that there are
14 insufficient funds in the Fund. The Secretary of Natural Resources shall
15 consider additional regulatory controls to address water quality improvements
16 that could not be funded.

17 (D) issue the annual Clean Water Investment Report required under
18 section 1389a of this title; and

19 (E) solicit, consult with, and accept public comment from
20 organizations interested in improving water quality in Vermont regarding

1 recommendations under this subsection (d) for the allocation of funds from the
2 Clean Water Fund; and

3 ~~(F) establish a process under which a watershed organization, State~~
4 ~~agency, or other interested party may propose that a water quality project or~~
5 ~~program identified in a watershed basin plan receive funding from the Clean~~
6 ~~Water Fund.~~

7 (e) Priorities.

8 ~~(4)~~ In making recommendations under subsection (d) of this section
9 regarding the appropriate allocation of funds from the Clean Water Fund, the
10 Board shall prioritize recommend:

11 ~~(A) funding to programs and projects that address sources of water~~
12 ~~pollution in waters listed as impaired on the list of waters established by 33~~
13 ~~U.S.C. § 1313(d);~~

14 ~~(B) funding to projects that address sources of water pollution~~
15 ~~identified as a significant contributor of water quality pollution, including~~
16 ~~financial assistance to grant recipients at the initiation of a funded project;~~

17 (1) funding for the following grants and programs:

18 (A) grants to clean water service providers to fund the reasonable
19 costs associated with the monitoring, operation, and maintenance of clean
20 water projects in a basin;

1 (B) the Water Quality Enhancement Grant Program as provided
2 under subsection 925(b) of this title;

3 (C) the Agency of Agriculture, Food, and Markets' Conservation
4 Reserve Enhancement Program, Farm Agronomic Practice Program, and Clean
5 Water Initiative Partner Grant Program; and

6 (D) the Water Quality Restoration Grants as provided in subsection
7 925(b) of this title, provided funding shall be at least \$1,500,000.00;

8 (2) to the extent that funding is available after funding grants and
9 programs identified under subdivision (1) of this subsection:

10 (A) investment in watershed planning;

11 ~~(C)~~(B) funding to programs or projects that address or repair riparian
12 conditions that increase the risk of flooding or pose a threat to life or property;

13 ~~(D)~~ assistance required for State and municipal compliance with
14 stormwater requirements for highways and roads;

15 ~~(E)~~(C) funding for education and outreach regarding the
16 implementation of water quality requirements, including funding for education,
17 outreach, demonstration, and access to tools for the implementation of the
18 Acceptable Management Practices for Maintaining Water Quality on Logging
19 Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and
20 Recreation;

1 ~~(F)~~(D) funding **for** education, outreach, demonstration, and
2 implementation for required agricultural practices and any required best
3 management practices on agricultural land;

4 (E) funding for the Municipal Stormwater Assistance Grant as
5 provided in subsection 925(d) of this title;

6 (F) funding for education and outreach regarding implementation of
7 water quality requirements;

8 (G) funding for innovative or alternative technologies or practices
9 designed to improve water quality or reduce sources of pollution to surface
10 waters, including funding for innovative nutrient removal technologies and
11 community-based methane digesters that utilize manure, wastewater, and food
12 residuals to produce energy; and

13 (H) funding for the Stormwater Implementation Grant Program as
14 provided in subsection 925(c) of this title

15 ~~(G) funding to purchase agricultural land in order to take that land out~~
16 ~~of practice when the State water quality requirements cannot be remediated~~
17 ~~through agricultural Best Management Practices;~~

18 ~~(H) funding to municipalities for the establishment and operation of~~
19 ~~stormwater utilities; and~~

1 ~~(f) investment in watershed basin planning, water quality project~~
2 ~~identification screening, water quality project evaluation, and conceptual plan~~
3 ~~development of water quality projects.~~

4 ~~(2) In developing its recommendations under subsection (d) of this~~
5 ~~section regarding the appropriate allocation of funds from the Clean Water~~
6 ~~Fund, the Clean Water Board shall, during the first three years of its existence~~
7 ~~and within the priorities established under subdivision (1) of this subsection~~
8 ~~(e), prioritize awards or assistance to municipalities for municipal compliance~~
9 ~~with water quality requirements and to municipalities for the establishment and~~
10 ~~operation of stormwater utilities.~~

11 ~~(3) In developing its recommendations under subsection (d) of this~~
12 ~~section regarding the appropriate allocation of funds from the Clean Water~~
13 ~~Fund, the Board shall, after satisfaction of the priorities established under~~
14 ~~subdivision (1) of this subsection (e), attempt to provide investment in all~~
15 ~~watersheds of the State based on the needs identified in watershed basin plans.~~

16 (f) Assistance. The Clean Water Board shall have the administrative,
17 technical, and legal assistance of the Agency of Administration, the Agency of
18 Natural Resources, the Agency of Agriculture, Food and Markets, the Agency
19 of Transportation, and the Agency of Commerce and Community
20 Development for those issues or services within the jurisdiction of the

1 respective agency. The cost of the services provided by agency staff shall be
2 paid from the budget of the agency providing the staff services.

3 Sec. 5. 10 V.S.A. § 8003(a) is amended to read

4 (a) The Secretary may take action under this chapter to enforce the
5 following statutes and rules, permits, assurances, or orders implementing the
6 following statutes, and the Board may take such action with respect to
7 subdivision (10) of this subsection:

8 * * *

9 (5) 10 V.S.A. chapter 37, relating to wetlands protection, water
10 restoration goals and targets, and water resources management;

11 * * *

12 Sec. 6. 24 V.S.A. § 4345a is amended to read:

13 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

14 A regional planning commission created under this chapter shall:

15 * * *

16 (20)(A) If designated as a clean water service provider under 10 V.S.A.
17 § 924, provide for the identification, prioritization, development, construction,
18 monitoring, operation, and maintenance of clean water projects in the basin
19 assigned to the regional planning commission in accordance with the
20 requirements of 10 V.S.A. chapter 37, subchapter 5 and in consultation with
21 the basin water quality advisory council established under section 4353 of this

1 title. In carrying out these duties, the regional planning commission shall
2 adopt guidance for subgrants that establishes a policy for how the commission
3 will issue subgrants to other organizations in the basin giving due
4 consideration to the expertise of those organizations and other requirements for
5 the administration of the grant program. The subgrant guidance shall be
6 subject to the approval of the basin water quality advisory council.

7 (B) When selecting projects, a regional planning commission shall
8 prioritize projects identified in the basin plan for the area where the project is
9 located and consider the pollutant targets provided by the Secretary and the
10 recommendations of the basin water quality advisory council.

11 (21) As used in this section, “clean water project” means a best
12 management practice or other program designed to improve water quality to
13 achieve a target established under 10 V.S.A. § 922 that:

14 (A) is not subject to a permit under 10 V.S.A. chapter 47, is not
15 subject to the requirements of 6 V.S.A. chapter 215, exceeds the requirements
16 of a permit issued under 10 V.S.A. chapter 47, or exceeds the requirements of
17 6 V.S.A chapter 215; and

18 (B) is within the activities identified 10 V.S.A. § 924(c).

1 Sec. 7. 24 V.S.A. § 4353 is added to read:

2 § 4353. BASIN WATER QUALITY ADVISORY COUNCIL

3 (a) A regional planning commission designated as a clean water service
4 provider under 10 V.S.A. § 924 shall establish a basin water quality advisory
5 council for each basin assigned to it pursuant to 10 V.S.A. § 924(a). The
6 purpose of basin water quality advisory council is to make recommendations to
7 the regional planning commission on identifying the most significant water
8 quality impairments that exist in the basin and prioritizing the projects that will
9 address those impairments.

10 (b) A basin water quality advisory council shall include, at a minimum, the
11 following:

12 (1) representatives from each natural resource conservation district in
13 that basin, selected by the applicable natural resource conservation district;

14 (2) representatives from each local watershed protection organization
15 operating in that basin, selected by the applicable watershed protection
16 organization;

17 (3) representatives from applicable local or statewide land conservation
18 organizations selected by the conservation organization in consultation with
19 the regional planning commission; and

20 (4) representatives from each municipality within the basin, selected by
21 the municipality.

1 (c) The regional planning commission and the basin planner from the
2 Agency of Natural Resources shall provide staff support to the council. The
3 regional planning commission may invite support from persons with
4 specialized expertise to address matter before a basin water quality advisory
5 council, including support from the University of Vermont Extension, staff of
6 the Agency of Natural Resources, and staff of the Agency of Agriculture,
7 Food, and Markets.

8 Sec. 8. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

9 On or before July 1, 2022, the Secretary of Natural Resources, after
10 consultation with the Clean Water Board, shall submit to the Senate
11 Committees on Appropriations, on Natural Resources and Energy, and on
12 Finance and the House Committees on Appropriations, on Natural Resources,
13 Fish, and Wildlife, and on Ways and Means recommendations regarding
14 implementation of a market-based mechanism that allows the purchase of
15 water quality credits by permittees under 10 V.S.A. Chapter 47, and other
16 entities.

17 Sec. 9. EFFECTIVE DATE

18 This act shall take effect on July 1, 2019.

19 and that after passage the bill be amended to read: “An act relating to the
20 provision of water quality services”

21

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE