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H.688

Introduced by Representatives Briglin of Thetford, Colburn of Burlington,
Copeland Hanzas of Bradford, Hooper of Montpelier, LaLonde
of South Burlington, Sibia of Dover, Ancel of Calais, Anthony
of Barre City, Austin of Colchester, Bartholomew of Hartland,
Birong of Vergennes, Bock of Chester, Brownell of Pownal,
Brumsted of Shelburne, Burke of Brattleboro, Campbell of St.
Johnsbury, Carroll of Bennington, Chase of Colchester,
Chesnut-Tangerman of Middletown Springs, Christensen of
Weathersfield, Christie of Hartford, Cina of Burlington, Coffey
of Guilford, Colston of Winooski, Cordes of Lincoln, Demrow
of Corinth, Dolan of Waitsfield, Donovan of Burlington, Durfee
of Shaftsbury, Elder of Starksboro, Gannon of Wilmington,
Gardner of Richmond, Gonzalez of Winooski, Grad of
Moretown, Haas of Rochester, Hashim of Dummerston, Hill of
Wolcott, Hooper of Randolph, Hooper of Burlington, Houghton
of Essex, Howard of Rutland City, James of Manchester,
Jerome of Brandon, Jessup of Middlesex, Killacky of South
Burlington, Kitzmiller of Montpelier, Kornheiser of
Brattleboro, Krowinski of Burlington, Lanpher of Vergennes,
Lippert of Hinesburg, Long of Newfane, Macaig of Williston,

1 Masland of Thetford, McCarthy of St. Albans City,
2 McCormack of Burlington, McCullough of Williston, Mrowicki
3 of Putney, Nicoll of Ludlow, Noyes of Wolcott, O'Brien of
4 Tunbridge, Ode of Burlington, O'Sullivan of Burlington, Pajala
5 of Londonderry, Patt of Worcester, Potter of Clarendon, Pugh of
6 South Burlington, Rachelson of Burlington, Ralph of Hartland,
7 Redmond of Essex, Reed of Braintree, Scheu of Middlebury,
8 Sheldon of Middlebury, Squirrel of Underhill, Stevens of
9 Waterbury, Sullivan of Burlington, Szott of Barnard, Till of
10 Jericho, Toleno of Brattleboro, Townsend of South Burlington,
11 Trieber of Rockingham, Troiano of Stannard, Walz of Barre
12 City, Webb of Shelburne, White of Hartford, Wood of
13 Waterbury, Yacovone of Morristown, and Yantachka of
14 Charlotte

15 Referred to Committee on

16 Date:

17 Subject: Air pollution control; greenhouse gas reductions; climate change

18 Statement of purpose of bill as introduced: This bill proposes to create a
19 legally enforceable system by which Vermont will reduce its statewide
20 greenhouse gas emissions and establish strategies to mitigate climate risks and
21 build resiliency to climate change.

1 An act relating to addressing climate change

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

3 ~~*** Title and Findings ***~~

4 Sec. 1. SHORT TITLE

5 This act may be cited as the Vermont Global Warming Solutions Act of
6 2020.

7 Sec. 2. LEGISLATIVE FINDINGS

8 The General Assembly finds that:

9 (1) According to the Intergovernmental Panel on Climate Change
10 (IPCC), the climate crisis is both caused and exacerbated by greenhouse gas
11 emissions that result from human activity. The IPCC has determined that
12 industrialized countries must cut their emissions to net zero by 2050, which is
13 necessary to achieve the Paris Agreement's goal of keeping the increase in
14 global average temperature to below 2°C. A climate emergency threatens our
15 communities, State, and region and poses a significant threat to human health
16 and safety, infrastructure, biodiversity, our common environment, and our
17 economy.

18 (2) The State of Vermont is part of the U.S. Climate Alliance, a
19 bipartisan coalition of 25 states that have committed to reducing greenhouse
20 gas emissions consistent with the goals of the Paris Agreement. Working in
21 parallel with other members of the U.S. Climate Alliance, the State of Vermont

1 ~~will help accelerate solutions that address the climate crisis in the absence of~~
2 federal action. By implementing climate mitigation, adaptation, and resilience
3 strategies, Vermont will also position its economy to benefit and thrive from
4 the global transition to carbon neutrality and national and international efforts
5 to address the crisis.

6 (3) According to the IPCC and the World Bank, a failure to substantially
7 reduce emissions over the next ten years will require even more substantial
8 reductions later and will increase the costs of decarbonization. Delaying
9 necessary policy action to address the climate crisis risks significant economic
10 damage to Vermont.

11 (4) According to the IPCC and the State of Vermont, adaptation and
12 resilience measures are necessary to address climate risks.

13 (5) According to the IPCC, the climate crisis disproportionately impacts
14 rural and marginalized, disenfranchised, and disinvested communities, which
15 already bear significant public health, environmental, socioeconomic, and
16 other burdens. Mitigation, adaptation, and resilience strategies must prioritize
17 the allocation of investment of public resources to these communities and
18 minimize, to the greatest extent practicable, potential regressive impacts.

19 (6) According to the Vermont Agency of Natural Resources, the adverse
20 impacts of climate change in Vermont include an increase in the severity and
21 frequency of extreme weather events, a rise in vector-borne diseases including

1 ~~Lyme disease, more frequent cyanobacteria blooms, adverse impacts to forest~~
2 ~~and agricultural soils, forest and crop damage, shorter and irregular sugaring~~
3 ~~seasons, a reduction in seasonal snow cover, and variable and rising average~~
4 ~~temperatures that result in uncertain and less snowfall.~~

5 (7) According to the Vermont Agency of Natural Resources, the
6 conservation and restoration of Vermont forests, floodplains, and wetlands and
7 the promotion of farming practices that sequester carbon are critical to achieve
8 climate mitigation, adaptation, and resilience.

9 (8) Moody's Investors Service is now analyzing the adaptation and
10 resilience strategies of issuers of state and municipal bonds and may apply a
11 negative credit factor for issuers with insufficient strategies. Establishing
12 robust adaptation and resilience strategies for Vermont will help protect the
13 State from a climate crisis-related credit downgrade.

14 * * * Greenhouse Gas Reduction Requirements * * *

15 Sec. 3. 10 V.S.A. § 578 is amended to read:

16 § 578. GREENHOUSE GAS REDUCTION GOALS ~~GOALS~~ REQUIREMENTS

17 (a) ~~General goal of greenhouse~~ Greenhouse gas reduction requirements. It
18 ~~is the goal of the State to~~ Vermont shall reduce emissions of greenhouse gases
19 from within the geographical boundaries of the State and those emissions
20 outside the boundaries of the State that are caused by the use of energy in
21 ~~Vermont in order to make an appropriate contribution to achieving the regional~~

1 ~~goals of reducing emissions of greenhouse gases from the 1990 baseline, as~~
2 ~~measured and inventoried pursuant to section 582 of this title, by:~~

3 ~~(1) 25 not less than 26 percent from 2005 greenhouse gas emissions by~~
4 ~~January 1, 2012 2025 pursuant to the State's membership in the United States~~
5 ~~Climate Alliance and commitment to implement policies to achieve the~~
6 ~~objectives of the 2016 Paris Agreement;~~

7 ~~(2) 50 not less than 40 percent from 1990 greenhouse gas emissions by~~
8 ~~January 1, 2028 2030 pursuant to the State's 2016 Comprehensive Energy~~
9 ~~Plan; and~~

10 ~~(3) if practicable using reasonable efforts, 75 not less than 80 percent~~
11 ~~from 1990 greenhouse gas emissions by January 1, 2050 pursuant to the~~
12 ~~State's 2016 Comprehensive Energy Plan.~~

13 * * *

14 (c) Implementation of State programs to reduce greenhouse gas emissions.
15 In order to facilitate the State's compliance with the goals established in this
16 section, all State agencies shall consider, ~~whenever practicable,~~ any increase or
17 decrease in greenhouse gas emissions in their decision-making procedures with
18 respect to the purchase and use of equipment and goods; the siting,
19 construction, and maintenance of buildings; the assignment of personnel; and
20 the planning, design and operation of programs, services, and infrastructure.

21

1 ~~(C) one member to represent the municipal governments;~~

2 ~~(D) one member to represent distribution utilities;~~

3 ~~(E) one member to represent a statewide environmental organization;~~

4 ~~(F) one member to represent the fuel sector; and~~

5 ~~(G) one member with expertise in climate change science;~~

6 ~~(9) the following members who shall be appointed by the Committee on~~

7 ~~Committees:~~

8 ~~(A) one member with expertise in the design and implementation of~~
9 ~~programs to increase resilience to and respond to natural disasters resulting~~
10 ~~from climate change;~~

11 ~~(B) one member to represent the clean energy sector;~~

12 ~~(C) one member to represent the small business community;~~

13 ~~(D) one member to represent the Vermont Community Action~~

14 ~~Partnership;~~

15 ~~(E) one member to represent the farm and forest sector;~~

16 ~~(F) one youth member; and~~

17 ~~(G) one member of a Vermont-based organization with expertise in~~
18 ~~energy and data analysis.~~

19 ~~(b) The Council shall:~~

20 ~~(1) Identify, analyze, and evaluate strategies and programs to reduce~~
21 ~~greenhouse gas emissions; achieve the State's reduction requirements pursuant~~

1 to section 578 of this title; and build resiliency to prepare the State's

2 communities, infrastructure, and economy to adapt to the current and

3 anticipated effects of climate change, including:

4 (A) evaluating and analyzing the technical feasibility and cost-
5 effectiveness of existing strategies and programs and identifying, evaluating,
6 and analyzing new strategies and programs that are based upon emerging
7 scientific and technical information;

8 (B) analyzing each source or category of sources of greenhouse gas
9 emissions and identifying which strategies and programs will result in the
10 largest greenhouse gas emissions reductions in the most cost-effective manner;
11 and

12 (C) identifying, analyzing, and evaluating financing strategies to
13 support the transition to a reduced greenhouse gas emissions economy and a
14 more resilient State.

15 (2) On or before July 1, 2021, adopt the Vermont Climate Action Plan
16 (Plan) and update the Plan on or before July 1 every four years thereafter. The
17 Plan shall set forth the specific initiatives, programs, and strategies that the
18 State shall pursue to reduce greenhouse gas emissions; achieve the State's
19 reduction requirements pursuant to section 578 of this title; and build
20 resiliency to prepare the State's communities, infrastructure, and economy to
21 adapt to the current and anticipated effects of climate change.

1 (3) Identify the means to accurately measure:

2 (A) the State's greenhouse gas emissions and progress towards
3 meeting the reduction requirements pursuant to section 578 of this title,
4 including publishing emissions data in a timely manner;

5 (B) the effectiveness of the specific initiatives, programs, and
6 strategies set forth in the Plan and updates to the Plan in reducing greenhouse
7 gas emissions; and

8 (C) the effect of climate change on the State's climate, wildlife, and
9 natural resources.

10 (4) Provide guidance to the Secretary of Natural Resources concerning
11 the form, content, and subject matter of rules to be adopted pursuant to
12 section 593 of this chapter.

13 (c) Subcommittees. The Council shall create the subcommittees listed in
14 this subsection and may also create other subcommittees to advise the Council,
15 assist in preparing the Plan, and carry out other duties. The Council may
16 appoint members of the Council to serve as members of subcommittees and
17 may also appoint individuals who are not members of the Council to serve as
18 members of subcommittees.

19 (1) Cross-Sector Mitigation Subcommittee. This subcommittee shall
20 focus on identifying the most scientifically and technologically feasible

1 ~~strategies and programs that will result in the largest possible greenhouse gas~~
2 ~~emissions reductions in the most cost-effective manner.~~

3 (2) Just Transitions Subcommittee. This subcommittee shall focus on
4 ensuring that strategies to reduce greenhouse gas emissions and to build
5 resiliency to adapt to the effects of climate change benefit and support all State
6 residents and communities and do not unfairly burden any groups or
7 communities or geographic locations.

8 (3) Rural Resiliency and Adaptation Subcommittee. The Rural
9 Resiliency and Adaptation Subcommittee shall focus on the pressures that
10 climate change will impose on rural transportation, electricity, housing,
11 emergency services, and communications infrastructure, and the difficulty of
12 rural communities in meeting the needs of its citizens. The Subcommittee
13 shall:

14 (A) develop a municipal vulnerability index to include factors
15 measuring a municipality's population, average age, employment, and grand
16 list trends; active public and civic organizations; and distance from emergency
17 services and shelter;

18 (B) develop best practice recommendations specific to rural
19 communities for reducing municipal, school district, and residential fossil fuel
20 consumption; fortifying critical transportation, electricity, and community
21 infrastructure; and creating a distributed, redundant, storage supported local

1 electrical system;

2 (C) recommend a means of securely sharing self-identified
3 vulnerable residents' information with State and local emergency responders
4 and utilities; and

5 (D) recommend tools for municipalities to assess their climate
6 emergency preparedness, evaluate their financial capacity to address
7 infrastructure resiliency, and prioritize investment in that infrastructure.

8 (d) The Council may recommend legislation to the General Assembly
9 concerning:

10 (1) adopting market-based or alternative compliance mechanisms as part
11 of the State's greenhouse gas emissions reduction strategies;

12 (2) changes to land use and development, including to chapter 151 of
13 this title and 30 V.S.A. § 248, to reduce greenhouse gas emissions and promote
14 resiliency in response to climate change; and

15 (3) any other matter the Council deems appropriate.

16 (e) The Council shall have the administrative, technical, and legal
17 assistance of the Agency of Natural Resources and the Department of Public
18 Service and may request the assistance of any Executive Branch Agency and
19 Department.

20 (f) On or before January 15, 2021 and every January 15 thereafter, the

21 Council shall submit a written report to the General Assembly concerning the

1 ~~Council's activities and the State's progress towards meeting the greenhouse~~
2 ~~gas reduction requirements pursuant to section 578 of this title. On or before~~
3 ~~July 1, 2023 and every third July 1 thereafter, each municipality in the State~~
4 ~~shall file a report with the Director of Vermont Emergency Management~~
5 ~~concerning municipal emergency preparedness, infrastructure resiliency, and~~
6 ~~infrastructure investment using evaluation tools recommended by the Rural~~
7 ~~Resiliency and Adaptation Subcommittee pursuant to subdivision (c)(3)(D) of~~
8 ~~this section.~~

9 § 592. THE VERMONT CLIMATE ACTION PLAN

10 (a) On or before July 1, 2021, the Vermont Climate Council (Council) shall
11 adopt the Vermont Climate Action Plan (Plan) and update the Plan on or
12 before July 1 every four years thereafter.

13 (b) The Plan shall set forth the specific initiatives, programs, and strategies,
14 including regulatory and legislative changes, necessary to achieve the State's
15 greenhouse gas emissions reduction requirements pursuant to section 578 of
16 this title and build resiliency to prepare the State's communities, infrastructure,
17 and economy to adapt to the current and anticipated effects of climate change.

18 The Plan shall include specific initiatives, programs, and strategies that will:

19 (1) reduce greenhouse gas emissions from the transportation, building,
20 regulated utility, industrial, commercial, and agricultural sectors;

21 ~~(2) encourage smart growth and related strategies;~~

1 ~~(3) achieve long-term sequestration and storage of carbon and promote~~
2 best management practices to achieve climate mitigation, adaption, and
3 resilience on natural working lands;

4 (4) achieve net zero emissions by 2050 across all sectors;

5 (5) reduce energy burdens for rural and marginalized communities;

6 (6) limit the use of chemicals, substances, or products that contribute to
7 climate change; and

8 (7) build and encourage climate adaptation and resiliency of Vermont
9 communities and natural systems.

10 (c) The analysis, development, and selection of the specific initiatives,
11 programs, and strategies contained in the Plan and updates to the Plan shall be
12 based upon:

13 (1) the Council's analysis and evaluation of strategies and programs
14 pursuant to subdivision 591(b)(1) of this chapter;

15 (2) reports, plans, and information pertaining to greenhouse gas
16 emissions reduction and climate resiliency strategies from the Agency of
17 Natural Resources, the Department of Public Service, other State agencies and
18 departments and, where appropriate, the State Comprehensive Energy Plan
19 prepared pursuant to 30 V.S.A. § 202b and the 2018 Vermont Climate Action
20 Commission Report to the Governor; and

21 ~~(3) other reports, plans, and information.~~

1 ~~(d) The specific initiatives, programs, and strategies contained in the Plan~~
2 and updates to the Plan shall further the following objectives:

3 (1) to prioritize the most cost-effective, technologically feasible, and
4 equitable greenhouse gas emissions reduction pathways and adaptation and
5 preparedness strategies informed by scientific and technical expertise;

6 (2) to provide for greenhouse gas emissions reductions that reflect the
7 relative contribution of each source or category of source of emissions;

8 (3) to minimize negative impacts on marginalized and rural
9 communities and upon individuals with low and moderate income;

10 (4) to ensure that all regions of the State benefit from greenhouse gas
11 emissions reductions, including sharing in the resulting economic, quality-of-
12 life, and public health benefits;

13 (5) to support economic sectors and regions of the State that face the
14 greatest barriers to emissions reductions, especially rural and economically
15 distressed regions and industries;

16 (6) to support industries, technology, and training that will allow
17 workers and businesses in the State to benefit from greenhouse gas emissions
18 reduction solutions;

19 (7) to support the use of natural solutions to reduce greenhouse gas
20 emissions and increase resiliency, including the use of working lands to

21 ~~sequester and store carbon and protect against severe weather events; and~~

1 ~~(8) to maximize the State's involvement in interstate and regional~~
2 ~~initiatives and programs designed to reduce regional greenhouse gas emissions~~
3 ~~and build upon state, national, and international partnerships and programs~~
4 ~~designed to mitigate climate change and its impacts.~~

5 ~~(e) The Plan shall form the basis for the rules adopted by the Secretary of~~
6 ~~Natural Resources pursuant to section 593 of this chapter. If the Council fails~~
7 ~~to adopt the Plan or update the Plan as required by this chapter, the Secretary~~
8 ~~shall proceed with adopting and implementing rules pursuant to subsection~~
9 ~~593(j) of this chapter to achieve the greenhouse gas emissions reductions~~
10 ~~requirements pursuant to section 578 of this title.~~

11 ~~§ 593. RULES~~

12 ~~(a) The Secretary of Natural Resources shall adopt rules pursuant to~~
13 ~~3 V.S.A. chapter 25 consistent with the Vermont Climate Action Plan (Plan).~~
14 ~~In adopting rules pursuant to this section the Secretary shall:~~

15 ~~(1) Ensure that the rules are consistent with the specific initiatives,~~
16 ~~programs, and strategies set forth in the Plan and updates to the Plan; follow~~
17 ~~the Vermont Climate Council's guidance provided pursuant to subdivision~~
18 ~~591(b)(4) of this chapter; and further the objectives pursuant to subsection~~
19 ~~592(d) of this chapter.~~

20 ~~(2) Develop a detailed record containing facts; data; and legal,~~
21 ~~scientific, and technical information sufficient to establish a reasonable basis to~~

1 ~~believe that the rules shall achieve the State's greenhouse gas emissions~~
2 reductions requirements pursuant to section 578 of this title. This detailed
3 record shall be included with the rule and filed with the Secretary of State
4 pursuant to 3 V.S.A. § 838.

5 (b) On or before July 1, 2022, the Secretary shall adopt and implement
6 rules consistent with the specific initiatives, programs, and strategies set forth
7 in the Plan and achieve the 2025 greenhouse gas emissions reduction
8 requirement pursuant to section 578 of this title.

9 (c) The Secretary shall conduct public hearings across the State concerning
10 the proposed rules. The Secretary shall conduct a portion of these hearings in
11 areas and communities that have the most significant exposure to the impacts
12 of climate change, including disadvantaged, low-income, and rural
13 communities and areas.

14 (d) The Secretary shall, on or before July 1, 2024, review and, if necessary,
15 update the rules required by subsection (b) of this section in order to ensure
16 that the 2025 greenhouse gas emissions reduction requirement pursuant to
17 section 578 of this title is achieved. In performing this review and update, the
18 Secretary shall observe the requirements of subsection (c) of this section.

19 (e) On or before July 1, 2026, the Secretary shall adopt and implement
20 rules consistent with the specific initiatives, programs, and strategies set forth
21 ~~in the Plan and updates to the Plan and achieve the 2030 greenhouse gas~~

1 ~~sions reduction requirement pursuant to section 578 of this title. The Secretary~~
2 ~~shall observe the requirements of subsection (c) of this section.~~

3 ~~(f) The Secretary shall, at his or her discretion, but not less frequently than~~
4 ~~once every two years between 2026 and 2030, review and, if necessary, update~~
5 ~~the rules required by subsection (e) of this section in order to ensure that the~~
6 ~~2030 greenhouse gas emissions reduction requirement pursuant to section 578~~
7 ~~of this title is achieved. In performing this review and update, the Secretary~~
8 ~~shall observe the requirements of this subsection (c) of this section.~~

9 ~~(g) On or before July 1, 2040, the Secretary shall adopt and implement~~
10 ~~rules consistent with the specific initiatives, programs, and strategies set forth~~
11 ~~in the Plan and updates to the Plan and achieve the 2050 greenhouse gas~~
12 ~~emissions reduction requirement pursuant to section 578 of this title.~~

13 ~~(h) The Secretary shall, at his or her discretion, but not less frequently than~~
14 ~~once every two years between 2040 and 2050, review and, if necessary, update~~
15 ~~the rules required by subsection (g) of this section in order to ensure that the~~
16 ~~2050 greenhouse gas emissions reduction requirement pursuant to section 578~~
17 ~~of this title is achieved. In performing this review and update, the Secretary~~
18 ~~shall observe the requirements of subsection (c) of this section.~~

19 ~~(i) The Secretary may establish alternative reduction mechanisms to be~~
20 ~~used by sources of greenhouse gas emissions, if necessary, to achieve net zero~~
21 ~~emissions after 2050.~~

1 (1) The use of alternative reduction mechanisms shall account for not
2 more than 20 percent of statewide greenhouse gas emissions estimated as a
3 percentage of 1990 emissions. The use of a mechanism must offset a quantity
4 of greenhouse gas emissions equal to or greater than the amount of greenhouse
5 gasses emitted.

6 (2) The Secretary shall verify that any greenhouse gas emissions offset
7 projects authorized as alternative reduction mechanisms represent equivalent
8 emissions reductions or carbon sequestration that are real, additional,
9 verifiable, enforceable, and permanent.

10 (j) If the Council fails to adopt the Plan or update the Plan as required by
11 section 592 of this chapter, the Secretary shall adopt and implement rules
12 pursuant to 3 V.S.A. chapter 25 to achieve the greenhouse gas emissions
13 reductions requirements pursuant to section 573 of this title.

14 (k) Nothing in this section shall be construed to limit the existing authority
15 of a State agency or department to regulate greenhouse gas emissions or
16 establish strategies to mitigate climate risk and build resiliency to climate
17 change.

18 § 594. CAUSE OF ACTION

19 (a) Any person may commence an action based upon the failure of the
20 Secretary of Natural Resources to adopt or update rules pursuant to the
21 deadlines in section 593 of this chapter.

1 (1) The action shall be brought pursuant to Rule 75 of the Vermont
2 Rules of Civil Procedure in the Civil Division of the Superior Court of
3 Washington County.

4 (2) The complaint shall be filed within one year after expiration of the
5 time in which the Secretary of Natural Resources was required to adopt or
6 update rules pursuant to section 593 of this chapter. However, a person shall
7 not commence an action under this subsection until at least 60 days after
8 providing notice of the alleged violation to the Secretary.

9 (3) If the court finds that the Secretary has failed to adopt or update
10 rules pursuant to the deadlines in section 593 of this chapter, the court shall
11 enter an order directing the Secretary to adopt or update rules. If the court
12 finds that the Secretary is taking prompt and effective action to adopt or update
13 rules, the court may grant the Secretary a reasonable period of time to do so.

14 (b) Any person may commence an action alleging that rules adopted by the
15 Secretary pursuant to section 593 of this chapter have failed to achieve the
16 greenhouse gas emissions reductions requirements pursuant to section 578 of
17 this title.

18 (1) The action shall be brought in the Civil Division of the Superior
19 Court of Washington County.

20 (2) The complaint shall be filed within one year after the Vermont
21 Greenhouse Gas Emission Inventory and Forecast published pursuant to

1 ion 582 of this title indicates that the rules adopted by the Secretary have failed
2 to achieve the greenhouse gas emissions reductions requirements pursuant to
3 section 578 of this title. However, a person shall not commence an action
4 under this subsection until at least 60 days after providing notice of the alleged
5 violation to the Secretary.

6 (3) If the court finds that the rules adopted by the Secretary pursuant to
7 section 593 of this chapter are a substantial cause of failure to achieve the
8 greenhouse gas emissions reductions requirements pursuant to section 578 of
9 this title, the court shall enter an order directing the Secretary to adopt or
10 update rules that achieve the greenhouse gas emissions reductions
11 requirements. If the court finds that the Secretary is taking prompt and
12 effective action to comply the court may grant the Secretary a reasonable
13 period of time to do so.

14 (c) In an action brought pursuant to this section, a prevailing party or
15 substantially prevailing party:

16 (1) that is a plaintiff shall be awarded reasonable costs and attorney's
17 fees unless doing so would not serve the interests of justice; or

18 (2) that is a defendant may be awarded reasonable costs if the action
19 was frivolous or lacked a reasonable basis in law or fact.

1 ~~(d) Nothing in this section shall be construed to limit the rights~~
2 ~~procedures, and remedies available under any law, including the Vermont~~
3 ~~Administrative Procedure Act pursuant to 3 V.S.A. chapter 25.~~

4 * * * Rulemaking and Appointment of Council Members * * *

5 Sec. 5. RULES REQUIRED PURSUANT TO 10 V.S.A. § 593

6 Any proposed rules and the detailed record required pursuant to section
7 10 V.S.A. § 593 shall be

8 (1) submitted to the Vermont Climate Council not less than 45 days
9 prior to submitting the proposed rule or rules to the Interagency Committee on
10 Administrative Rules (ICAR);

11 (2) submitted to the House Committees on Energy and Technology, on
12 Natural Resources, Fish, and Wildlife, and on Transportation, to the Senate
13 Committees on Finance, on Natural Resources and Energy, and on
14 Transportation, and to the Joint Carbon Emissions Reduction Committee not
15 less than 30 days prior to submitting the proposed rule or rules to ICAR; and

16 (3) filed with ICAR on or before March 1, 2022.

17 Sec. 6. VERMONT CLIMATE COUNCIL; APPOINTMENT OF MEMBERS
18 AND FIRST MEETING

19 All members of the Vermont Climate Council established pursuant to
20 section 10 V.S.A. § 591 shall be appointed within 60 days of the effective date

1 ~~of this act and the Chair shall call the first meeting of the Council within~~
2 30 days after all members have been appointed.

3 * * * State Energy Policy and the Comprehensive Energy Plan * * *

4 Sec. 7. 30 V.S.A. § 202a is amended to read:

5 § 202a. STATE ENERGY POLICY

6 It is the general policy of the State of Vermont:

7 (1) To ~~assure, ensure~~ to the greatest extent practicable, that Vermont can
8 meet its energy service needs in a manner that is adequate, reliable, secure, and
9 sustainable; that ~~assures ensure~~ affordability and encourages the State's
10 economic vitality, the efficient use of energy resources, and cost-effective
11 demand-side management; and that is environmentally sound.

12 (2) To identify and evaluate, on an ongoing basis, resources that will
13 meet Vermont's energy service needs in accordance with the principles of
14 reducing greenhouse gas emissions and least-cost integrated planning;
15 including efficiency, conservation, and load management alternatives, wise use
16 of renewable resources, and environmentally sound energy supply.

17 (3) To meet Vermont's energy service needs in a manner that will
18 achieve the greenhouse gas emissions reductions requirements pursuant to
19 10 V.S.A. § 578 and are consistent with the Vermont Climate Action Plan
20 adopted and updated pursuant to 10 V.S.A. § 592.

21 ~~Sec. 8. 30 V.S.A. § 202b is amended to read:~~

~~§ 202b. STATE COMPREHENSIVE ENERGY PLAN~~

~~(a) The Department of Public Service, in conjunction with other State agencies designated by the Governor, shall prepare a State Comprehensive Energy Plan covering at least a 20-year period. The Plan shall seek to implement the State energy policy set forth in section 202a of this title, including meeting the State greenhouse gas emissions reductions requirements pursuant to 10 V.S.A. § 578, and shall be consistent with the relevant goals of 24 V.S.A. § 4302 and with the Vermont Climate Action Plan adopted and updated pursuant to 10 V.S.A. § 522. The State Comprehensive Energy Plan shall include:~~

~~* * *~~

~~* * * Effective Date * * *~~

~~Sec. 9. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

~~** * * Title and Findings * * **~~

~~*Sec. 1. SHORT TITLE*~~

~~*This act may be cited as the Vermont Global Warming Solutions Act of 2020.*~~

~~*Sec. 2. LEGISLATIVE FINDINGS*~~

~~*The General Assembly finds that:*~~

~~*(1) According to the Intergovernmental Panel on Climate Change (IPCC), the climate crisis is both caused and exacerbated by greenhouse gas emissions that result from human activity. The IPCC has determined that industrialized countries must cut their emissions to net zero by 2050, which is necessary to achieve the Paris Agreement's goal of keeping the increase in global average temperature to below 2°C. A climate emergency threatens our communities, State, and region and poses a significant threat to human health*~~

and safety, infrastructure, biodiversity, our common environment, and our economy.

(2) The State of Vermont is part of the U.S. Climate Alliance, a bipartisan coalition of 25 states that have committed to reducing greenhouse gas emissions consistent with the goals of the Paris Agreement. Working in parallel with other members of the U.S. Climate Alliance, the State of Vermont will help accelerate solutions that address the climate crisis in the absence of federal action. By implementing climate mitigation, adaptation, and resilience strategies, Vermont will also position its economy to benefit and thrive from the global transition to carbon neutrality and national and international efforts to address the crisis.

(3) According to the IPCC and the World Bank, a failure to substantially reduce emissions over the next ten years will require even more substantial reductions later and will increase the costs of decarbonization. Delaying necessary policy action to address the climate crisis risks significant economic damage to Vermont.

(4) According to the IPCC and the State of Vermont, adaptation and resilience measures are necessary to address climate risks.

(5) According to the IPCC, the climate crisis disproportionately impacts rural and marginalized, disenfranchised, and disinvested communities, which already bear significant public health, environmental, socioeconomic, and other burdens. Mitigation, adaptation, and resilience strategies must prioritize the allocation of investment of public resources to these communities and minimize, to the greatest extent practicable, potential regressive impacts.

(6) According to the Vermont Agency of Natural Resources, the adverse impacts of climate change in Vermont include an increase in the severity and frequency of extreme weather events, a rise in vector-borne diseases including Lyme disease, more frequent cyanobacteria blooms, adverse impacts to forest and agricultural soils, forest and crop damage, shorter and irregular sugaring seasons, a reduction in seasonal snow cover, and variable and rising average temperatures that result in uncertain and less snowfall.

(7) According to the Vermont Agency of Natural Resources, the conservation and restoration of Vermont forests, floodplains, and wetlands and the promotion of forest management and farming practices that sequester and store carbon are critical to achieving climate mitigation, adaptation, and resilience and support a host of co-benefits, such as improving air and water quality, economic vitality, ecosystem functions, local food systems, and creating more climate resilient communities and landscapes.

(8) The credit rating industry is now analyzing the adaptation and resilience strategies of issuers of state and municipal bonds and may apply a negative credit factor for issuers with insufficient strategies. Establishing robust adaptation and resilience strategies for Vermont will help protect the State from a climate crisis-related credit downgrade.

** * * Greenhouse Gas Reduction Requirements * * **

Sec. 3. 10 V.S.A. § 578 is amended to read:

§ 578. GREENHOUSE GAS REDUCTION GOALS REQUIREMENTS

(a) ~~General goal of greenhouse gas reduction requirements. It is the goal of the State to~~ Vermont shall reduce emissions of greenhouse gases from within the geographical boundaries of the State and those emissions outside the boundaries of the State that are caused by the use of energy in Vermont in order to make an appropriate contribution to achieving the regional goals of reducing emissions of greenhouse gases from the 1990 baseline, as measured and inventoried pursuant to section 582 of this title, by:

(1) ~~25 not less than 26 percent from 2005 greenhouse gas emissions by January 1, 2012~~ 2025 pursuant to the State's membership in the United States Climate Alliance and commitment to implement policies to achieve the objectives of the 2016 Paris Agreement;

(2) ~~50 not less than 40 percent from 1990 greenhouse gas emissions by January 1, 2028~~ 2030 pursuant to the State's 2016 Comprehensive Energy Plan; and

(3) ~~if practicable using reasonable efforts, 75 not less than 80 percent from 1990 greenhouse gas emissions by January 1, 2050~~ pursuant to the State's 2016 Comprehensive Energy Plan.

** * **

(c) Implementation of State programs to reduce greenhouse gas emissions. In order to facilitate the State's compliance with the goals established in this section, all State agencies shall consider, ~~whenever practicable,~~ any increase or decrease in greenhouse gas emissions in their decision-making procedures with respect to the purchase and use of equipment and goods; the siting, construction, and maintenance of buildings; the assignment of personnel; and the planning, design, and operation of programs, services, and infrastructure.

** * **

** * * Vermont Climate Council and Vermont Climate Action Plan * * **

Sec. 4. 10 V.S.A. chapter 24 is added to read:

CHAPTER 24. VERMONT CLIMATE COUNCIL AND CLIMATE ACTION PLAN

§ 590. DEFINITIONS

As used in this chapter:

(1) “Adaptation” means reducing vulnerability and advancing resilience through planned and implemented enhancements to, or avoiding degradation of, natural and built systems and structures.

(2) “Greenhouse gas” has the same meaning as in section 552 of this title.

(3) “Mitigation” means reduction of anthropogenic greenhouse gas emissions, and preservation and enhancement of natural systems to sequester and store carbon, in order to stabilize and reduce greenhouse gases in the atmosphere.

(4) “Resilience” means the capacity of individuals, communities, and natural and built systems to withstand and recover from climatic events, trends, and disruptions.

§ 591. VERMONT CLIMATE COUNCIL

(a) There is created the Vermont Climate Council (Council). The Council shall be composed of the following members:

(1) the Secretary of Administration, who shall serve as the Chair of the Council;

(2) the Secretary of Natural Resources or designee;

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

(4) the Secretary of Commerce and Community Development or designee;

(5) the Secretary of Human Services or designee;

(6) the Secretary of Transportation or designee;

(7) the Commissioner of Public Safety or designee;

(8) the Commissioner of Public Service or designee;

(9) the following members who shall be appointed by the Speaker of the House:

(A) one member with expertise and professional experience in the design and implementation of programs to reduce greenhouse gas emissions;

(B) one member to represent rural communities;

(C) one member to represent the municipal governments;

(D) one member to represent distribution utilities;

(E) one member to represent a statewide environmental organization;

(F) one member to represent the fuel sector; ~~and~~

(G) one member with expertise in climate change science; and

(H) one member to represent Vermont manufacturers.

(10) the following members who shall be appointed by the Committee on Committees:

(A) one member with expertise in the design and implementation of programs to increase resilience to and respond to natural disasters resulting from climate change;

(B) one member to represent the clean energy sector;

(C) one member to represent the small business community;

(D) one member to represent the Vermont Community Action Partnership;

(E) one member to represent the farm and forest sector;

(F) one youth member; and

(G) one member of a Vermont-based organization with expertise in energy and data analysis.

(b) The Council shall:

(1) Identify, analyze, and evaluate strategies and programs to reduce greenhouse gas emissions; achieve the State's reduction requirements pursuant to section 578 of this title; and build resilience to prepare the State's communities, infrastructure, and economy to adapt to the current and anticipated effects of climate change, including:

(A) creating an inventory of all existing programs that impact greenhouse gas emissions and their efficacy;

(B) evaluating and analyzing the technical feasibility and cost-effectiveness of existing strategies and programs and identifying, evaluating, and analyzing new strategies and programs that are based upon emerging scientific and technical information;

(C) analyzing each source or category of sources of greenhouse gas emissions and identifying which strategies and programs will result in the largest greenhouse gas emissions reductions in the most cost-effective manner;

(D) identifying, analyzing, and evaluating public and private financing strategies to support the transition to a reduced greenhouse gas emissions economy and a more resilient State; and

(E) evaluating and analyzing existing strategies and programs that build resilience, and identifying, evaluating, and analyzing new strategies and programs to prepare the State's communities, infrastructure, and economy to adapt to the current and anticipated effects of climate change.

(2) On or before December 1, 2021, adopt the Vermont Climate Action Plan (Plan) and update the Plan on or before July 1 every four years thereafter. The Plan shall set forth the specific initiatives, programs, and strategies that the State shall pursue to reduce greenhouse gas emissions; achieve the State's reduction requirements pursuant to section 578 of this title; and build resilience to prepare the State's communities, infrastructure, and economy to adapt to the current and anticipated effects of climate change.

(3) Identify the means to accurately measure:

(A) the State's greenhouse gas emissions and progress towards meeting the reduction requirements pursuant to section 578 of this title, including publishing emissions data in a timely manner;

(B) the effectiveness of the specific initiatives, programs, and strategies set forth in the Plan and updates to the Plan in reducing greenhouse gas emissions;

(C) the effect of climate change on the State's climate, wildlife, and natural resources; and

(D) the existing resilience of the State's communities, infrastructure, and economy and progress towards improving resilience to adapt to the current and anticipated effects of climate change.

(4) Provide guidance to the Secretary of Natural Resources concerning the form, content, and subject matter of rules to be adopted pursuant to section 593 of this chapter.

(c) Subcommittees. The Council shall create the subcommittees listed in this subsection and may also create other subcommittees to advise the Council, assist in preparing the Plan, and carry out other duties. The Council may appoint members of the Council to serve as members of subcommittees and may also appoint individuals who are not members of the Council to serve as members of subcommittees.

(1) Rural Resilience and Adaptation Subcommittee. The Rural Resilience and Adaptation Subcommittee shall focus on the pressures that climate change adaptation will impose on rural transportation, electricity,

housing, emergency services, and communications infrastructure, and the difficulty of rural communities in meeting the needs of its citizens. The Subcommittee shall:

(A) develop a municipal vulnerability index to include factors measuring a municipality's population, average age, employment, and grand list trends; active public and civic organizations; and distance from emergency services and shelter;

(B) develop best practice recommendations specific to rural communities for reducing municipal, school district, and residential fossil fuel consumption; fortifying critical transportation, electricity, and community infrastructure; and creating a distributed, redundant, storage-supported local electrical system;

(C) recommend a means of securely sharing self-identified vulnerable residents' information with State and local emergency responders and utilities;

(D) recommend tools for municipalities to assess their climate emergency preparedness, evaluate their financial capacity to address infrastructure resilience, and prioritize investment in that infrastructure; and

(E) utilize Vermont Emergency Management biennial reports to recommend program, policy, and legislative changes that will enhance municipal resilience to increased hazards presented by climate change.

(2) Cross-Sector Mitigation Subcommittee. This subcommittee shall focus on identifying the most scientifically and technologically feasible strategies and programs that will result in the largest possible greenhouse gas emissions reductions in the most cost-effective manner.

(3) Just Transitions Subcommittee. This subcommittee shall focus on ensuring that strategies to reduce greenhouse gas emissions and to build resilience to adapt to the effects of climate change benefit and support all residents of the State fairly and equitably. This subcommittee shall ensure that strategies consider the disproportionate impact of climate change on rural, low income, and marginalized communities and that programs and incentives for building resilience are designed to be accessible to all Vermonters and do not unfairly burden any groups, communities, geographic locations, or economic sectors. This subcommittee may adopt a measurement tool to assess the equitability of programs and strategies considered by the Council.

(4) Agriculture and Ecosystems Subcommittee. This subcommittee shall focus on the role Vermont's natural and working lands play in carbon sequestration and storage, climate adaptation, and ecosystem and community resilience. This subcommittee will seek to understand current initiatives in the agricultural and forestry sectors and the businesses that depend on them and

to develop actions and policies that restore wetlands; increase carbon stored on agricultural and forest land and in forest products; and support healthy agricultural soils and local food systems.

(d) The Council shall recommend necessary legislation to the General Assembly concerning:

(1) adopting market-based or alternative compliance mechanisms as part of the State's greenhouse gas emissions reduction strategies;

(2) changes to land use and development, including to chapter 151 of this title and 30 V.S.A. § 248, to reduce greenhouse gas emissions and promote resilience in response to climate change;

(3) statutory authority necessary to implement the Plan; and

(4) any other matter the Council deems appropriate.

(e) The Council shall have the administrative, technical, and legal assistance of the Agency of Natural Resources and the Department of Public Service and may request the assistance of any Executive Branch Agency and Department.

(f) A majority of the sitting members of the Council shall constitute a quorum, and action taken by the Council may be authorized by a majority of the members present and voting at any meeting at which a quorum is present. The Council may permit any or all members to participate in a meeting by, or conduct the meeting through the use of, any means of communication, including electronic, telecommunications, and video- or audio-conferencing technology, by which all members participating may simultaneously or sequentially communicate with each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting. The Council shall meet at the call of the Chair or a majority of the members of the Council, and the Council may elect officers and adopt any other procedural rules as it shall determine necessary and appropriate to perform its work.

(g) Members of the Council who are not State employees shall be entitled to per diem compensation and reimbursement of expenses for each day spent in the performance of their duties, as permitted under 32 V.S.A. § 1010. These payments shall be made from monies appropriated to the Agency of Natural Resources.

(h) The members of the Council appointed pursuant to subdivision (a)(8) of this section shall be appointed to initial terms of two years, and members appointed pursuant to subdivision (a)(9) of this section shall be appointed to initial terms of three years. Thereafter, each appointed member shall serve a

term of three years or until his or her earlier resignation or removal. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. An appointed member shall not serve more than three full consecutive three-year terms.

(i) On or before January 15, 2021 and every January 15 thereafter, the Council shall submit a written report to the General Assembly concerning the Council's activities and the State's progress towards meeting the greenhouse gas reduction requirements pursuant to section 578 of this title. On or before November 1, 2021 and every second November 1 thereafter, the Director of Vermont Emergency Management shall file a report with the Council concerning Vermont's overall municipal resilience to increased hazards presented by climate change that shall include hazard mitigation plans, local emergency management plans, and survey results as deemed appropriate by the Director. Subsequent reports shall include updates to document progress in local resilience. The report shall inform Council recommendations on policies to address gaps in local resilience.

§ 592. THE VERMONT CLIMATE ACTION PLAN

(a) On or before December 1, 2021, the Vermont Climate Council (Council) shall adopt the Vermont Climate Action Plan (Plan) and update the Plan on or before July 1 every four years thereafter.

(b) The Plan shall set forth the specific initiatives, programs, and strategies, including regulatory and legislative changes, necessary to achieve the State's greenhouse gas emissions reduction requirements pursuant to section 578 of this title and build resilience to prepare the State's communities, infrastructure, and economy to adapt to the current and anticipated effects of climate change. The Plan shall include specific initiatives, programs, and strategies that will:

(1) reduce greenhouse gas emissions from the transportation, building, regulated utility, industrial, commercial, and agricultural sectors;

(2) encourage smart growth and related strategies;

(3) achieve long-term sequestration and storage of carbon and promote best management practices to achieve climate mitigation, adaption, and resilience on natural working lands;

(4) achieve net zero emissions by 2050 across all sectors;

(5) reduce energy burdens for rural and marginalized communities;

(6) limit the use of chemicals, substances, or products that contribute to climate change; and

(7) build and encourage climate adaptation and resilience of Vermont communities and natural systems.

(c) The analysis, development, and selection of the specific initiatives, programs, and strategies contained in the Plan and updates to the Plan shall be based upon:

(1) the Council's analysis and evaluation of strategies and programs pursuant to subdivision 591(b)(1) of this chapter;

(2) reports, plans, and information pertaining to greenhouse gas emissions reduction and climate resilience strategies from the Agency of Natural Resources, the Department of Public Service, other State agencies and departments, and, where appropriate, the State Comprehensive Energy Plan prepared pursuant to 30 V.S.A. § 202b and the 2018 Vermont Climate Action Commission Report to the Governor; and

(3) other reports, plans, and information.

(d) The specific initiatives, programs, and strategies contained in the Plan and updates to the Plan shall further the following objectives:

(1) to prioritize the most cost-effective, technologically feasible, and equitable greenhouse gas emissions reduction pathways and adaptation and preparedness strategies informed by scientific and technical expertise;

(2) to provide for greenhouse gas emissions reductions that reflect the relative contribution of each source or category of source of emissions;

(3) to minimize negative impacts on marginalized and rural communities and upon individuals with low and moderate income;

(4) to ensure that all regions of the State benefit from greenhouse gas emissions reductions, including sharing in the resulting economic, quality-of-life, and public health benefits;

(5) to support economic sectors and regions of the State that face the greatest barriers to emissions reductions, especially rural and economically distressed regions and industries;

(6) to support industries, technology, and training that will allow workers and businesses in the State to benefit from greenhouse gas emissions reduction solutions;

(7) to support the use of natural solutions to reduce greenhouse gas emissions and increase resilience, including the use of working lands to sequester and store carbon and protect against severe weather events; and

(8) to maximize the State's involvement in interstate and regional initiatives and programs designed to reduce regional greenhouse gas emissions and build upon state, national, and international partnerships and programs designed to mitigate climate change and its impacts.

(e) The Plan shall form the basis for the rules adopted by the Secretary of Natural Resources pursuant to section 593 of this chapter. If the Council fails to adopt the Plan or update the Plan as required by this chapter, the Secretary shall proceed with adopting and implementing rules pursuant to subsection 593(j) of this chapter to achieve the greenhouse gas emissions reductions requirements pursuant to section 578 of this title.

§ 593. RULES

(a) The Secretary of Natural Resources shall adopt rules pursuant to 3 V.S.A. chapter 25 consistent with the Vermont Climate Action Plan (Plan). In adopting rules pursuant to this section the Secretary shall:

(1) Ensure that the rules are consistent with the specific initiatives, programs, and strategies set forth in the Plan and updates to the Plan; follow the Vermont Climate Council's guidance provided pursuant to subdivision 591(b)(4) of this chapter; and further the objectives pursuant to subsection 592(d) of this chapter.

(2) Develop a detailed record containing facts; data; and legal, scientific, and technical information sufficient to establish a reasonable basis to believe that the rules shall achieve the State's greenhouse gas emissions reductions requirements pursuant to section 578 of this title. This detailed record shall be included with the rule and filed with the Secretary of State pursuant to 3 V.S.A. § 838.

(b) On or before December 1, 2022, the Secretary shall adopt and implement rules consistent with the specific initiatives, programs, and strategies set forth in the Plan and achieve the 2025 greenhouse gas emissions reduction requirement pursuant to section 578 of this title.

(c) The Secretary shall conduct public hearings across the State concerning the proposed rules. The Secretary shall conduct a portion of these hearings in areas and communities that have the most significant exposure to the impacts of climate change, including disadvantaged, low-income, and rural communities and areas.

(d) The Secretary shall, on or before July 1, 2024, review and, if necessary, update the rules required by subsection (b) of this section in order to ensure that the 2025 greenhouse gas emissions reduction requirement pursuant to section 578 of this title is achieved. In performing this review and update, the Secretary shall observe the requirements of subsection (c) of this section.

(e) On or before July 1, 2026, the Secretary shall adopt and implement rules consistent with the specific initiatives, programs, and strategies set forth in the Plan and updates to the Plan and achieve the 2030 greenhouse gas emissions reduction requirement pursuant to section 578 of this title. The Secretary shall observe the requirements of subsection (c) of this section.

(f) The Secretary shall, at his or her discretion, but not less frequently than once every two years between 2026 and 2030, review and, if necessary, update the rules required by subsection (e) of this section in order to ensure that the 2030 greenhouse gas emissions reduction requirement pursuant to section 578 of this title is achieved. In performing this review and update, the Secretary shall observe the requirements of subsection (c) of this section.

(g) On or before July 1, 2040, the Secretary shall adopt and implement rules consistent with the specific initiatives, programs, and strategies set forth in the Plan and updates to the Plan and achieve the 2050 greenhouse gas emissions reduction requirement pursuant to section 578 of this title.

(h) The Secretary shall, at his or her discretion, but not less frequently than once every two years between 2040 and 2050, review and, if necessary, update the rules required by subsection (g) of this section in order to ensure that the 2050 greenhouse gas emissions reduction requirement pursuant to section 578 of this title is achieved. In performing this review and update, the Secretary shall observe the requirements of subsection (c) of this section.

(i) The Secretary may establish alternative reduction mechanisms to be used by sources of greenhouse gas emissions, if necessary, to achieve net zero emissions after 2050.

(1) The use of alternative reduction mechanisms shall account for not more than 20 percent of statewide greenhouse gas emissions estimated as a percentage of 1990 emissions. The use of a mechanism must offset a quantity of greenhouse gas emissions equal to or greater than the amount of greenhouse gasses emitted.

(2) The Secretary shall verify that any greenhouse gas emissions offset projects authorized as alternative reduction mechanisms represent equivalent emissions reductions or carbon sequestration that are real, additional, verifiable, enforceable, and permanent.

(j) If the Council fails to adopt the Plan or update the Plan as required by section 592 of this chapter, the Secretary shall adopt and implement rules pursuant to 3 V.S.A. chapter 25 to achieve the greenhouse gas emissions reductions requirements pursuant to section 578 of this title.

(k) Nothing in this section shall be construed to limit the existing authority of a State agency, department, or entity to regulate greenhouse gas emissions

or establish strategies or ~~promulgate~~ adopt rules to mitigate climate risk and build resilience to climate change.

(l) The General Assembly may repeal, revise, or modify any rule or amendment to any rule, and its action shall not be abridged, enlarged, or modified by subsequent rule.

§ 594. CAUSE OF ACTION

(a) Any person may commence an action based upon the failure of the Secretary of Natural Resources to adopt or update rules pursuant to the deadlines in section 593 of this chapter.

(1) The action shall be brought pursuant to Rule 75 of the Vermont Rules of Civil Procedure in the Civil Division of the Superior Court of Washington County.

(2) The complaint shall be filed within one year after expiration of the time in which the Secretary of Natural Resources was required to adopt or update rules pursuant to section 593 of this chapter. However, a person shall not commence an action under this subsection until at least 60 days after providing notice of the alleged violation to the Secretary.

(3) If the court finds that the Secretary has failed to adopt or update rules pursuant to the deadlines in section 593 of this chapter, the court shall enter an order directing the Secretary to adopt or update rules. If the court finds that the Secretary is taking prompt and effective action to adopt or update rules, the court may grant the Secretary a reasonable period of time to do so.

(b) Any person may commence an action alleging that rules adopted by the Secretary pursuant to section 593 of this chapter have failed to achieve the greenhouse gas emissions reductions requirements pursuant to section 578 of this title.

(1) The action shall be brought in the Civil Division of the Superior Court of Washington County.

(2) The complaint shall be filed within one year after the Vermont Greenhouse Gas Emission Inventory and Forecast published pursuant to section 582 of this title indicates that the rules adopted by the Secretary have failed to achieve the greenhouse gas emissions reductions requirements pursuant to section 578 of this title. However, a person shall not commence an action under this subsection until at least 60 days after providing notice of the alleged violation to the Secretary.

(3) If the court finds that the rules adopted by the Secretary pursuant to section 593 of this chapter are a substantial cause of failure to achieve the

greenhouse gas emissions reductions requirements pursuant to section 578 of this title, the court shall enter an order remanding the matter to the Secretary to adopt or update rules that achieve the greenhouse gas emissions reductions requirements consistent with this chapter. If the court finds that the Secretary is taking prompt and effective action to comply, the court may grant the Secretary a reasonable period of time to do so.

(c) In an action brought pursuant to this section, a prevailing party or substantially prevailing party:

(1) that is a plaintiff shall be awarded reasonable costs and attorney's fees unless doing so would not serve the interests of justice; or

(2) that is a defendant may be awarded reasonable costs and attorney's fees if the action was frivolous or lacked a reasonable basis in law or fact.

(d) Nothing in this section shall be construed to limit the rights, procedures, and remedies available under any law, including the Vermont Administrative Procedure Act pursuant to 3 V.S.A. chapter 25.

** * * Rulemaking and Appointment of Council Members * * **

Sec. 5. RULES REQUIRED PURSUANT TO 10 V.S.A. § 593

(a) Any proposed rules and access to the detailed record required pursuant to section 10 V.S.A. § 593 shall be:

(1) provided to the Vermont Climate Council not less than 45 days prior to submitting the proposed rule or rules to the Interagency Committee on Administrative Rules (ICAR);

(2) provided to the members of the House Committees on Energy and Technology, on Natural Resources, Fish, and Wildlife, and on Transportation, to the Senate Committees on Finance, on Natural Resources and Energy, and on Transportation, and to the Joint Carbon Emissions Reduction Committee not less than 30 days prior to submitting the proposed rule or rules to ICAR; and

(3) filed with ICAR on or before July 1, 2022.

(b) Upon the adoption of the Action Plan (Plan) pursuant to 10 V.S.A. § 592, the Joint Fiscal Office of the General Assembly (JFO) shall prepare, or hire a consultant to prepare, an analysis of the economic, budgetary, and fiscal costs and benefits of the Plan. JFO shall submit the analysis to the House Committees on Energy and Technology, on Natural Resources, Fish, and Wildlife, on Appropriations and on Transportation, to the Senate Committees on Finance, on Appropriations, on Natural Resources and Energy, and on Transportation, and to the Joint Carbon Emissions Reduction Committee.

*Sec. 6. VERMONT CLIMATE COUNCIL; APPOINTMENT OF MEMBERS
AND FIRST MEETING*

All members of the Vermont Climate Council established pursuant to section 10 V.S.A. § 591 shall be appointed within 60 days of the effective date of this act, and the Chair shall call the first meeting of the Council within 30 days after all members have been appointed.

** * * State Energy Policy and the Comprehensive Energy Plan * * **

Sec. 7. 30 V.S.A. § 202a is amended to read:

§ 202a. STATE ENERGY POLICY

It is the general policy of the State of Vermont:

(1) To ~~assure~~, ensure to the greatest extent practicable, that Vermont can meet its energy service needs in a manner that is adequate, reliable, secure, and sustainable; that ~~assures~~ ensures affordability and encourages the State's economic vitality, the efficient use of energy resources, and cost-effective demand-side management; and that is environmentally sound.

(2) To identify and evaluate, on an ongoing basis, resources that will meet Vermont's energy service needs in accordance with the principles of reducing greenhouse gas emissions and least-cost integrated planning; including efficiency, conservation, and load management alternatives; wise use of renewable resources; and environmentally sound energy supply.

(3) To meet Vermont's energy service needs in a manner that will achieve the greenhouse gas emissions reductions requirements pursuant to 10 V.S.A. § 578 and is consistent with the Vermont Climate Action Plan adopted and updated pursuant to 10 V.S.A. § 592.

Sec. 8. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The Department of Public Service, in conjunction with other State agencies designated by the Governor, shall prepare a State Comprehensive Energy Plan covering at least a 20-year period. The Plan shall seek to implement the State energy policy set forth in section 202a of this title, including meeting the State's greenhouse gas emissions reductions requirements pursuant to 10 V.S.A. § 578, and shall be consistent with the relevant goals of 24 V.S.A. § 4302 and with the Vermont Climate Action Plan adopted and updated pursuant to 10 V.S.A. § 592. The State Comprehensive Energy Plan shall include:

* * *

~~*** Appropriation and Positions ***~~

~~Sec. 9. APPROPRIATION~~

~~The sum of \$972,000.00 is appropriated from the General Fund to the Agency of Natural Resources in fiscal year 2021 for the purpose of implementing this Act, including for personal services for the positions created pursuant to Sec. 10; costs associated with providing administrative, technical, and legal support to the Vermont Climate Council; compensation and reimbursement of per diems and expenses for members of the Council; hiring consultants and experts; and for other necessary costs and expenses. The appropriation shall carry forward into fiscal year 2022 as necessary. Estimated amounts are \$586,000 in fiscal year 2021 and \$386,000 in fiscal year 2022.~~

~~Sec. 10. AGENCY OF NATURAL RESOURCES; POSITIONS~~

~~Three full-time, limited service positions are created in the Agency of Natural Resources for the purpose of implementing this Act.~~

~~*** Effective Date ***~~

~~Sec. 119. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~