Introduced by Representatives Williams of Barre City, McCann of Montpelier, Casey of Montpelier, and Anthony of Barre City

Referred to Committee on

Date:

Subject: Flood recovery; appropriations; land use planning

Statement of purpose of bill as introduced: This bill proposes to enact multiple provisions related to statewide flood recovery and improved future flood preparedness and resilience.

An act relating to flood recovery

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

* * * Tax Abatement Reimbursement * * *

Sec. 1. REIMBURSEMENT TO MUNICIPALITIES OF STATE EDUCATION PROPERTY TAXES THAT WERE ABATED DUE TO FLOODING

(a)(1) The Commissioner of Taxes may approve an application by a municipality for reimbursement of State education property tax payments owed under 32 V.S.A. § 5402(c) and 16 V.S.A. § 426. To be eligible for reimbursement under this section, prior to April 15, 2024, a municipality shall have abated, in proportion to the abated municipal tax, under 24 V.S.A. § 1535

the State education property taxes that were assessed on eligible property, after application of any property tax credit allowed under 32 V.S.A. chapter 154.

(2) As used in this subsection, "eligible property" means property lost or destroyed due directly or indirectly to severe storms and flooding in an area that was declared a federal disaster between July 1, 2023 and October 15, 2023, provided the loss or destruction resulted in one or more of the following:

(A) a 50 percent or greater loss in value to the primary structure on the property;

(B) loss of use by the property owner of the primary structure on the property for 60 days or more;

(C) loss of access by the property owner to utilities for the primary structure on the property for 60 days or more; or

(D) condemnation of the primary structure on the property under federal, State, or municipal law, as applicable.

(b) If a municipality demonstrates that, due to disruption to tax collections resulting from flooding in an area that was declared a federal disaster between July 1, 2023 and October 15, 2023, the municipality incurred unanticipated interest expenses on funds borrowed to make State education property tax payments owed under 32 V.S.A. § 5402(c) and 16 V.S.A. § 426, the municipality may be reimbursed by an amount equal to its reasonable interest

expenses under this subsection, provided the amount of reimbursed interest expenses shall not exceed eight percent.

(c) The Commissioner shall adopt application and approval procedures for reimbursements made to municipalities under this section.

(d) Notwithstanding any provision of law to the contrary, the Agency of Education has the authority to make the reimbursements approved by the Commissioner under this section by:

(1) reducing the amount of State education property tax payments that a municipality owes under 32 V.S.A. § 5402(c) and 16 V.S.A. § 426; or

(2) reconciling the reimbursements with any State education property tax payments that a municipality has already made under 32 V.S.A. § 5402(c) and 16 V.S.A. § 426.

(e) A board of abatement may reconsider any decision it has made between April 1, 2023 and July 1, 2024. The General Assembly recognizes the public service provided by boards of abatement and encourages boards to create procedures to treat all claims for property tax abatements due to the severe storms and flooding uniformly.

Sec. 2. HOMESTEAD PROPERTY TAX CREDIT; HOUSEHOLD INCOME DEFINITION; EXCLUSION OF DISASTER RELIEF PAYMENTS; TAXABLE YEARS 2023 AND 2024

Notwithstanding 32 V.S.A. § 6061(4)(A) and (5), the definition of household income for purposes of the homestead property tax credit shall exclude all disaster relief payments, as determined under 26 U.S.C. § 139, received by a taxpayer in taxable years 2023 and 2024.

* * * Flood Recovery; Municipal Lost Revenue * * *

Sec. 3. FLOOD RECOVERY LOST REVENUE GRANT PROGRAM

(a) The Agency of Commerce and Community Development shall establish a program to award grants to municipalities to offset municipal tax and other revenues lost due to the 2023 flooding, including lost property tax revenue due to tax abatement of flood affected property. The Agency of Commerce and Community Development shall establish a formula for the award of grants to municipalities under this section. The formula shall be noncompetitive and shall be designed to award grants based on the proportion of revenue lost by each municipality.

(b) Applications for a grant under this section shall be submitted to the Agency of Commerce and Community Development on or before January 1, 2025. The Agency shall provide an application form or electronic application that all affected municipalities may access.

(c) In addition to other funds appropriated to the Agency of Commerce and Community Development in fiscal year 2025, $15,000,000.00 from the

General Fund is appropriated to the Agency for grant awards to municipalities under this section.

* * * Flood Recovery Assistance Program * * *

Sec. 4. FLOOD RECOVERY ASSISTANCE PROGRAM

(a) The Agency of Commerce and Community Development shall establish the Flood Recovery Assistance Program (FRAP) to provide financial assistance to non-profit and for-profit businesses in the State that suffered losses due to the 2023 floods. Assistance under the program shall be available for all of the following when related to losses due to the 2023 flooding:

(1) physical or structural damages from flooding;

(2) lost revenue of businesses;

(3) lost wages of employees of businesses;

(4) lost inventory and new supplies;

(5) damaged equipment; and

(6) other administrative or operating expenses.

(b) The Agency shall develop criteria for awards under this section, including priority eligibility for businesses owned by persons of color and indigenous peoples and businesses owned by new Americans. United States citizenship shall not be a requirement for eligibility under the program.

(c) In addition to other funds appropriated to the Agency of Commerce and Community Development in fiscal year 2025, $10,000,000.00 from the

General Fund is appropriated to the Agency for grant awards to municipalities under this section.

(d) The program established under this section shall replace the Business Emergency Gap Assistance Program created by the Agency.

* * * VEM Coordination and Collaboration with Municipalities * * *

Sec. 5. EMERGENCY PREPAREDNESS; MUNICIPAL COORDINATION AND COLLABORATION

(a) The Division of Vermont Emergency Management (VEM) at the Department of Public Safety shall establish a working group to improve VEM coordination and collaboration with municipalities prior to and during declared emergencies and other hazards in the State. The working group shall be comprised of:

(1) the Commissioner of Public Safety or designee;

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

(3) the Secretary of Natural Resources or designee; and

(4) five representatives of municipalities affected by an emergency or other hazard in the State within the past 24 months to be appointed by the Vermont League of Cities and Towns.

(b) The Working Group shall address how to improve VEM coordination and collaboration with municipalities, including:

(1) increased municipal representation in VEM emergency planning;

(2) increased funding to municipalities to improve equipment necessary to properly respond to or mitigate an emergency or other hazard;

(3) protocols for communication between municipalities and VEM and other State agencies during an emergency or other disaster; and

(4) increased training and support by VEM of municipal emergency responders.

(c) The Working Group shall submit its recommendations to the Commissioner of Public Safety and the General Assembly on or before January 1, 2025.

Sec. 6. FLOOD RESILIENT COMMUNITIES PROGRAM

(a) Upon expenditure of all money appropriated to the Division of Vermont Emergency Management's (VEM's) Flood Resilient Communities Fund, VEM shall rename the program the Flood Resilient Communities Program to continue to provide funding for hazard mitigation matching funds and a State-level buyout program for parcels ineligible for Federal Emergency Management Administration-related programs. Funds under the Program shall be available for:

(1) the buyout or purchase of flood damaged property;

(2) elevation of flood damaged structures;

(3) removal of damaged structures or debris on flood damaged property; and

(4) activities to increase flood resiliency of property, including streambank alteration or land conservation.

(b) In addition to other funds appropriated to the Department of Public Safety in fiscal year 2025, $10,000,000.00 from the General Fund is appropriated to the Department for VEM administration of the Flood Resilient Communities Program. VEM shall not co-mingle State funds received under this subsection with previous appropriations to VEM from federal sources.

* * * Flood Recovery Group Funding * * *

Sec. 7. VEM FUNDING OF FLOOD RECOVERY GROUPS

In addition to other funds appropriated to the Department of Public Safety in fiscal year 2025, $2,000,000.00 from the General Fund is appropriated to the Department to provide grants to Long-Term Recovery Groups established to provide assistance and funding to municipalities impacted by the 2023 flooding. An organization shall be eligible for an award under this section if the Federal Emergency Management Administration approved the organization as long-term recovery group for the purpose of addressing the needs of persons or families affected by the 2023 flooding. Awards under this program shall be used to provide assistance for flood recovery when funds are not available from other federal or State resources.

* * * Housing Development; Repair * * *

Sec. 8. HOUSING DEVELOPMENT; FLOOD IMPACTED MUNICIPALITIES

(a) In addition to other funds appropriated to the Agency of Commerce and Community Development in fiscal year 2025, $2,000,000.00 from the General Fund is appropriated to the Agency for the purposes of the Vermont Housing Improvement Program (VHIP) to provide grants for housing construction, renovation, or repair in municipalities impacted by the 2023 flooding or in municipalities adjacent to municipalities impacted by the 2023 flooding.

(b) The Agency shall develop criteria for awards under this section. The criteria shall prioritize awards to:

(1) persons and families of low or moderate income; and

(2) housing or other structures located in a flood hazard area.

(c) The Agency shall coordinate the award of grants under this section with funds awarded under Sec. 7 of this Act to ensure that all costs related to flood recovery and repair are eligible for assistance.

* * * Disclosure of Property Located in Flood Hazard Area * * *

Sec. 9. 27 V.S.A. § 380 is added to read:

§ 380. DISCLOSURE OF INFORMATION; CONVEYANCE OF REAL ESTATE

(a) Prior to or as part of a contract for the conveyance of real property, the seller shall provide the buyer with the following information:

(1) whether the real property is located in a Federal Emergency Management Agency mapped flood hazard area or whether the property is located in a fluvial erosion hazard area mapped by a municipality;

(2) whether the real property was ever subject to flooding; and

(3) the flood insurance rates for the real property, if applicable.

(b) The failure of the seller to provide the buyer with the information required under subsection (a) of this section is grounds for the buyer to terminate the contract prior to transfer of title or occupancy, whichever occurs earlier.

(c) A buyer of real estate who fails to receive the information required to be disclosed by a seller under subsection (a) of this section may bring an action to recover from the seller the amount of the buyer's damages and reasonable attorney's fees. The buyer may also seek punitive damages when the seller knowingly failed to provide the required information.

(d) A seller shall not be liable for damages under this section for any error, inaccuracy, or omission of any information required to be disclosed to the buyer under subsection (a) of this section when the error, inaccuracy, or omission was based on information provided by a public body or by another person with a professional license or special knowledge who provided a

written report that the seller reasonably believed to be correct and that was provided by the seller to the buyer.

(e) Noncompliance with the requirements of this section shall not affect the marketability of title of a real property.

Sec. 10. 9 V.S.A. chapter 137, subchapter 5 is added to read:

Subchapter 5. Disclosure of Information Prior to Entering Rental Agreement

§ 4481. DEFINITIONS

As used in this subchapter:

(1) "Commercial or industrial property" means any real property that is used for a commercial or industrial use.

(2) "Landlord" means the owner, lessor, or where applicable sublessor of a residential dwelling or commercial or industrial building.

(3) "Rental agreement" means any agreement, written or oral, setting the terms and conditions for the use and occupancy of a residential dwelling unit or commercial or industrial property.

(4) "Residential dwelling unit" means a building or part of a building that is used as a home, residence, or sleeping place by one or more persons who maintain a household.

(5) "Tenant" means a person entitled under a rental agreement to occupy a residential dwelling or commercial or industrial property.

§ 4482. DISCLOSURE OF INFORMATION

(a) Prior to entering a rental agreement, the landlord shall provide the prospective tenant with the following information:

(1) whether the residential dwelling unit or commercial or industrial property is located in a Federal Emergency Management Agency mapped flood hazard area or whether the residential dwelling unit or commercial or industrial property is located in a fluvial erosion hazard area mapped by a municipality;

(2) whether the residential dwelling unit or commercial or industrial property was ever subject to flooding; and

(3) the flood insurance rates for the residential dwelling unit or commercial or industrial property, if applicable.

§ 4483. RIGHT TO TERMINATE

(a) Notwithstanding a contrary provision of a rental agreement or municipal ordinance governing residential dwelling units or commercial or industrial property, a tenant may terminate a rental agreement if the landlord fails to provide the information required under section 4482 of this title.

(b) Upon termination under this section, the landlord shall return the entire amount of any security deposit provided by the tenant and may not retain any portion of the security deposit otherwise authorized to be withheld by statute or municipal ordinance.

* * * Dam Removal; Winooski River * * *

Sec. 11. DAM REMOVAL; WINOOSKI RIVER WATERSHED

(a) In addition to other funds appropriated to the Agency of Natural Resources in fiscal year 2025, $10,000,000.00 is appropriated from the General Fund to the Agency of Natural Resources so that the Dam Safety Division at the Department of Environmental Conservation may contract with consultants or local groups to identify and expedite the removal of dams in the Winooski River watershed that pose a flood risk because of lack of maintenance or sediment retention.

(b) The initial efforts to identify and remove dams in the Winooski River watershed shall focus on dams within the city limits of Montpelier, provided that at least $370,000.00 of the appropriations shall be set aside for the removal of the Jockey Hollow Dam located on the Stevens Branch in the city of Barre.

* * * Hydrologic Model of Winooski River * * *

Sec. 12. HYDROLOGIC MODEL OF WINOOSKI RIVER

(a) The Secretary of Natural Resources shall contract with a qualified entity or entities to complete a hydrologic model of the Winooski River watershed that allows for a better understanding of the flood risk posed by the river during alternative flood scenarios. The model shall consider:

(1) the source of flood risk, including unmanaged runoff from developed and undeveloped lands upstream from areas prone to flooding; and

(2) the optimal site-level implementation of best management practices for flood prevention, flood resiliency, or management of upstream runoff.

(b) Upon completion of the model, the Secretary of Natural Resources shall utilize the model results to prioritize where flood prevention, flood resiliency, and management of upstream runoff measures should be implemented in the Winooski River watershed.

(c) In addition to other funds appropriated to the Agency of Natural resources in fiscal year 2025, $1,000,000.00 from the General Fund is appropriated to the Agency for award of a contract to conduct the modeling required by this section.

* * * Emergency Management Planners; Regional Planning Commissions * * *

Sec. 13. EMERGENCY MANAGEMENT PLANNERS; REGIONAL PLANNING COMMISSIONS

In addition to other funds appropriated to the Division of Vermont Emergency Management (VEM) at the Department of Public Safety in fiscal year 2025, $700,000.00 from the General Fund is appropriated to the Department for the purpose of VEM awarding $60,000.00 grants to each regional planning commission in the State for the purpose of combining the grant award with federal funding in order to hire a full-time emergency planner for each regional planning commission.

* * * Best Management Practices for Rebuilding after Emergency * * *

Sec. 14. BEST MANAGEMENT PRACTICES FOR REBUILDING AFTER EMERGENCY

(a) The Division of Vermont Emergency Management (VEM) at the Department of Public Safety shall publish best management practices for rebuilding or repairing structures after damage from a flood or other hazard. The best management practices shall address:

(1) how to rebuild or repair to provide for flood resiliency;

(2) how to avoid reconstruction or repair that increased flood risk or risk to property; and

(3) where and how to replace or repair utility infrastructure to mitigate risk of harm to the infrastructure or to allow for shutdown or closure of a utility line in order to prevent further hazard from a utility line during an emergency.

(b) VEM shall publish the best management practices required by this section on or before July 1, 2025.

* * * Reverse E-911 Policy * * *

Sec. 15. REVERSE E-911 POLICY DURING EMERGENCY

The Enhanced 911 Board, in consultation with the Division of Vermont Emergency Management (VEM) at the Department of Public Safety, shall develop a policy for the use of the E-911 system to provide VT-Alerts more effectively and expeditiously during emergencies in order to reduce the risk of

harm to persons and property. The Board shall issue its policy on or before July 1, 2025.

* * * Municipal Planning; Flood Resiliency * * *

Sec. 16. 24 V.S.A. § 4302(c)(14) is amended to read:

(14) To encourage flood resilient communities.

(A) New development in identified flood hazard, fluvial erosion, and river corridor ~~protection~~ areas ~~should~~ shall be avoided or compliant with State model flood hazard area and river corridor bylaws. If new development is to be built in such areas, it ~~should~~ shall not exacerbate flooding and fluvial erosion.

(B) The protection and restoration of floodplains, river corridors, wetlands, and upland forested areas that attenuate and moderate flooding and fluvial erosion ~~should~~ shall be encouraged.

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

Sec. 17. AGENCY OF NATURAL RESOURCES RIPARIAN BUFFER PROGRAM

On or before January 1, 2025, the Agency of Natural Resources shall submit to the General Assembly a recommended program for establishing a riparian buffer of at least 50 feet along 100 percent of the river banks in the

State that are located outside established settlement areas. The recommendations shall include:

(1) criteria for when and how to establish a riparian buffer, including what uses would be allowed in a buffer;

(2) whether the size of riparian buffers should exceed 50 feet in certain flood-prone riparian areas;

(3) a mechanism for implementing required buffers along the rivers of the State, including whether the buffers should be mandated by legislation or incentivized and an estimate of how much a recommended mechanism would cost; and

(4) how a buffer program would be implemented and whether it should be the responsibility of State or municipal government.

* * * Shelter Identification; Funding Shelter Operation * * *

Sec. 18. VERMONT EMERGENCY MANAGEMENT; SHELTER IDENTIFICATION

(a) The Division of Vermont Emergency Management (VEM) at the Department of Public Safety shall amend the Local Emergency Plan Template and any best management practices or guidance the Division issues to municipalities to address the need for the siting of municipal emergency shelters in a manner that allows access by those in need during an emergency or hazard.

(b) VEM shall advise municipalities that when a shelter is sited under a local emergency plan, the municipality should assess whether the physical location or characteristics of the surrounding area during an emergency or hazard could prevent access. Guidance to municipalities shall include not siting a shelter in proximity to a river or body of water subject to flooding and siting a shelter in a manner that is accessible by multiple routes so that individual road closures do not prohibit access.

(c) On or before January 15, 2025, VEM shall submit a proposal to the General Assembly on how the State shall fund the operation of municipal emergency shelters during a declared emergency. The proposal shall address funding for staff, supplies, utilities, and other expenses that municipalities currently fund when the State declares an emergency.

* * * Dam Safety Review * * *

Sec. 19. DAM SAFETY REVIEW OF HIGH HAZARD POTENTIAL DAMS

The Dam Safety Program at the Department of Environmental Conservation shall review the emergency action plans and inundation maps for every dam in the State classified as high hazard potential at least every 10 years and within one month after every 100-year flood event affecting the dam.

* * * Floodproofing Wastewater Treatment Facilities * * *

Sec. 20. FLOODPROOFING WASTEWATER TREATMENT FACILITIES

(a) As used in this section, "wastewater treatment facility" has the same meaning as in 10 V.S.A. § 1295.

(b) The Water Investment Division at the Department of Environmental Conservation shall establish a program to award grants to permitted wastewater treatment facilities in the State for the purpose of floodproofing each facility. The Division may establish criteria for award of grants under this section, including priority of award, actions eligible for award, application requirements, and timing of application and use of grant funds.

(c) In addition to other funds appropriated to the Department of Environmental Conservation in fiscal year 2025, $2,000,000.00 from the General Fund is appropriated to the Department for administration of the wastewater treatment facility floodproofing grants required by this section.

Sec. 21. VCGI EMERGENCY MANAGEMENT MAPPING POSITION

In addition to other funds appropriated to the Agency of Digital Services in fiscal year 2025, $150,000.00 is appropriated from the General Fund to the Agency for the purposes of funding a new permanent, full-time, classified position in the Vermont Center for Geographic Information for the purpose of creating emergency management interfaces or dashboards that allow for continual provision or supply of emergency management information to State agencies and the public during the entire duration of an emergency or other hazard. The interface or dashboard would coordinate with any early warning

system for emergencies or hazards and would provide tools for response to emergency needs, such as evacuation routes.

* * * Better Roads Program; Culvert Replacement * * *

Sec. 22. BETTER ROADS PROGRAM; CULVERT REPLACEMENT

In addition to other funds appropriated to the Agency of Transportation in fiscal year 2025, $3,000,000.00 is appropriated from the Transportation Fund to the Municipal Mitigation Assistance Program at the Agency for the purpose of expanding funding of culvert replacement and upsizing to manage the increased severity and recurrence of flooding in the State. The State shall make a continued ongoing effort to fund the Better Roads Program at an amount that is at least consistent with the appropriation under this section.

* * * Flood Recovery and Resilience Coordinator * * *

Sec. 23. WINOOSKI RIVER; FLOOD RECOVERY AND RESILIENCE COORDINATOR

In addition to other funds appropriated to the Agency of Natural Resources in fiscal year 2025, $125,000.00 is appropriated from the General Fund to the Agency to provide a grant to the Friends of the Winooski River for the purpose of hiring a community flood recovery and resilience planning coordinator to identify flood recovery and climate resilience projects in the Winooski River watershed.

* * * Floodplain Access * * *

Sec. 24. FLOODPLAIN RECONNECTION STUDY

In addition to other funds appropriated to the Agency of Natural Resources in fiscal year 2025, $500,000.00 is appropriated from the General Fund to the Agency to contract with the University of Vermont or other qualified contractor for the purpose of identifying the amount and location of floodplain in the Winooski River watershed that should be acquired or conserved in order to protect communities in the watershed from recurring flood events.

* * * Effective Date * * *

Sec. 25. EFFECTIVE DATE

This act shall take effect on July 1, 2024.