

1 S.119

2 Introduced by Senators Lyons, MacDonald, Miller and Shumlin

3 Referred to Committee on

4 Date:

5 Subject: Renewable energy; conservation; energy efficiency; natural

6 resources; land use; public service; rural economy

7 Statement of purpose: This bill proposes to establish permitting and other  
8 incentives for Vermont-based renewable energy development projects; require  
9 that, on property transfer, the seller disclose energy consumption to the buyer;  
10 address greenhouse gas emissions by providing for a state biomass plan, timber  
11 management program, and forestland conservation program; require woody  
12 biomass electric generation facilities to achieve a fuel efficiency of 50 percent;  
13 require that such facilities and new wood pellet production plants use  
14 procurement practices that promote sustainable forestry, protect natural  
15 resources, and have third party certification, and support local, value-added  
16 goods and services, creation of new jobs, and the economic viability of rural  
17 communities; provide regulatory incentives for Vermont electric retail utilities  
18 to invest in renewable energy and combined heat and power; establish state  
19 policy to support development of renewable energy on state lands where such  
20 development is not restricted by deed or federal or state law; create an ongoing  
21 working group within the executive branch to identify and assess state lands

1 suitable for renewable energy development; establish a statutory priority for  
2 the department of economic development to support renewable energy  
3 companies; modify VEDA eligibility requirements to promote renewable  
4 energy and energy efficiency businesses; include qualified energy efficiency  
5 and renewable energy goods and services under the Vermont brand; require  
6 new buildings, additions, and reconstructions to meet requirements of the  
7 green building rating system; establish requirements for decommissioning of  
8 electric generation facilities and associated decommissioning funds; require the  
9 public service board to issue rules under which utilities pay for service  
10 extensions to support farm biogas energy systems; and establish an order of  
11 preference of resources used to meet Vermont's electricity needs.

12 An act relating to renewable energy, energy efficiency, decommissioning,  
13 and rural economic development

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

15 Sec. 1. DESIGNATION OF ACT

16 This act shall be referred to as the renewable energy and rural economic  
17 development act.

1                   \* \* \* Vermont-Based Renewable Energy Development \* \* \*

2           Sec. 2. 30 V.S.A. § 8007 is added to read:

3           § 8007. VERMONT-BASED RENEWABLE ENERGY DEVELOPMENT

4           (a) Definitions. For purposes of this section:

5                   (1) “Qualifying owner” means any of the following:

6                           (A) A Vermont resident.

7                           (B) A limited liability company that is organized under chapter 21 of  
8                   Title 11, the membership of which consists of individuals who are Vermont  
9                   residents.

10                   (C) A nonprofit corporation organized under Title 11B, the principal  
11                   office of which is in Vermont.

12                   (D) A cooperative, including an electric cooperative, organized under  
13                   chapter 7, 8, or 14 of Title 11, provided that the cooperative’s principal place  
14                   for the transaction of its business is in Vermont.

15                   (E) A municipality located in Vermont, including a municipal electric  
16                   department or municipal board or commission.

17                   (F) A public college or university located in Vermont.

18                   (G) A regional planning commission created under 24 V.S.A. chapter  
19                   117.

20                   (2) “V-BRED” means Vermont-based renewable energy development.

1           (3) “Vermont-based renewable energy development” means the  
2           construction of improvements for the generation of renewable energy that  
3           meets all of the following:

4                   (A) The development is and will be owned in part or entirely by at  
5                   least two qualifying owners, with at least 51 percent of the total financial  
6                   benefits over the life of the project flowing to qualifying owners.

7                   (B) The development has a capacity of at least 50 kW.

8                   (C) The municipality in which the development is to be located has  
9                   adopted a resolution in support of the development by majority of the  
10                  legislative body or voters.

11           (b) Benefits. A V-BRED project shall receive the following benefits:

12                   (1) Any permit, certificate, or approval required for the project,  
13                   including a certificate of public good under section 248 of this title, shall be  
14                   issued no later than seven months after the date a complete application for the  
15                   permit, certificate, or approval is received by the granting authority; provided,  
16                   however, that if any shorter period is or has been established by statute, rule,  
17                   procedure, or guidance document for issuance of the permit, certificate, or  
18                   approval, the shorter period shall apply.

19                   (2) A utility shall pay to the owner of the V-BRED project the first  
20                   \$100,000.00 of the cost to interconnect the V-BRED project if the project will  
21                   interconnect to that utility’s electric transmission or distribution system. Such

1 payment shall be made within 30 days of the date that construction of the  
2 interconnection is completed. Any costs properly paid by a utility to a  
3 V-BRED project under this subdivision shall be considered just and reasonable  
4 under sections 218, 218d, 225, 226, and 227 of this title.

5 (3) To the extent not inconsistent with federal law, an interconnecting or  
6 transmitting utility shall not charge a V-BRED project for the transmission of  
7 the project's electricity to other utilities within the state, unless the utility can  
8 demonstrate that it must actually reserve transmission system capacity for that  
9 purpose.

10 (4) The clean energy development fund established under 10 V.S.A.  
11 § 6523 shall give priority to the V-BRED project over other comparable  
12 projects.

13 (5) An alternative education property tax rate shall be applied to the  
14 V-BRED project in accordance with 32 V.S.A. § 5402d.

15 (6) The sales tax imposed under 32 V.S.A. § 9771 shall not apply to the  
16 first \$500,000.00 in sales of electrical energy from a V-BRED project.

17 Sec. 3. 32 V.S.A. § 5402c is amended to read:

18 § 5402c. WIND-POWERED ELECTRIC GENERATING FACILITIES TAX

19 (a) A facility certified by the commissioner of public service as a facility  
20 which produces electrical energy for resale, generated solely from wind power,  
21 which has an installed capacity of at least five megawatts, which was placed in

1 service after January 1, 2007, and holds a valid certificate of public good  
2 issued under 30 V.S.A. § 248, shall be assessed an alternative education  
3 property tax on its buildings and fixtures used directly and exclusively in the  
4 generation of electrical energy from wind power. However, section 5402d of  
5 this title shall govern the assessment of an education property tax on a  
6 wind-powered electric generation facility that is V-BRED under 30 V.S.A.  
7 § 8007.

8 \* \* \*

9 Sec. 4. 32 V.S.A. § 5402d is added to read:

10 § 5402d. V-BRED PROJECT TAX

11 (a) A facility certified by the commissioner of public service as a facility  
12 that is V-BRED under 30 V.S.A. § 8007, that was placed in service after  
13 January 1, 2010, and that holds a valid certificate of public good issued under  
14 30 V.S.A. § 248 shall be assessed an alternative education property tax on its  
15 buildings and fixtures used directly and exclusively in the generation of  
16 electrical energy.

17 (b) The tax shall be imposed at a rate per kilowatt-hours of electrical  
18 energy produced by the certified facility, as determined by the public service  
19 department for the six months ending April 30 and the six months ending  
20 October 31 each year. The rate of the tax shall be \$0.0025.

1       (c) In no case shall the tax imposed for any six-month period be less than  
2       an amount equal to the rate per kilowatt-hours imposed by this subsection  
3       multiplied by the number of kilowatt-hours that would be generated if the  
4       facility operated at 15 percent of the facility's average capacity factor.

5       (d) The tax imposed by this section shall be paid to the commissioner of  
6       taxes by the person or entity then owning or operating the certified facility by  
7       December 1 for the period ending October 31 and by June 1 for the period  
8       ending April 30 for deposit into the education fund. A person or entity failing  
9       to make returns or pay the tax imposed by this section within the time required  
10       shall be subject to and governed by the provisions of sections 3202 and 3203  
11       of this title and subchapters 8 and 9 of chapter 151 of this title.

12       (e) Unless buildings and fixtures are taxed under this section, they shall  
13       remain subject to taxation under section 5402 of this title. Buildings and  
14       fixtures subject to the education property tax under this section shall not be  
15       taken into account in determining the common level of appraisal for the  
16       municipality.

17       Sec. 5. 32 V.S.A. § 9771 is amended to read:

18       § 9771. IMPOSITION OF SALES TAX

19       Except as otherwise provided in this chapter, there is imposed a tax on retail  
20       sales in this state. The tax shall be paid at the rate of six percent of the sales  
21       price charged for the following:

1 (1) Tangible personal property.

2 (2) Public utility services including gas and electricity, but excluding  
3 water ~~and~~, transportation, and the first \$500,000.00 in sales of electrical energy  
4 from a V-BRED project as defined under 30 V.S.A. § 8007.

5 \* \* \*

6 \* \* \* Clean Energy Development Fund: V-BRED, Thermal, Geothermal \* \* \*

7 Sec. 6. 10 V.S.A. § 6523 is amended to read:

8 § 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

9 (a) Creation of fund.

10 (1) There is established the Vermont clean energy development fund to  
11 consist of:

12 (A) the proceeds due the state under the terms of the memorandum of  
13 understanding between the department of public service and Entergy Nuclear  
14 VY and Entergy Nuclear Operations, Inc. that was entered under public service  
15 board docket 6812; together with the proceeds due the state under the terms of  
16 any subsequent memoranda of understanding entered before July 1, 2005  
17 between the department of public service and Entergy Nuclear VY and Entergy  
18 Nuclear Operations, Inc.; and

19 (B) any other monies that may be appropriated to or deposited into  
20 the fund.



1 implement the authority granted in Title 30 to acquire all reasonably available  
2 cost-effective energy efficiency resources for the benefit of Vermont  
3 ratepayers and the power system. The fund shall be managed, primarily, to  
4 promote:

5 \* \* \*

6 (d) Expenditures authorized.

7 \* \* \*

8 (4) Projects for funding may include the following:

9 (A) projects that will sell power in commercial quantities;

10 (B) among those projects that will sell power in commercial  
11 quantities, funding priority will be given to those projects that commit to sell  
12 power to Vermont utilities on favorable terms;

13 (C) projects to benefit publicly owned or leased buildings;

14 (D) renewable energy projects on farms, which may include any or  
15 all costs incurred to upgrade to a three-phase line to serve a system on a farm;

16 (E) small scale renewable energy in Vermont residences and  
17 businesses;

18 (F) projects under the agricultural economic development special  
19 account established under 6 V.S.A. § 4710(g) to harvest biomass, convert  
20 biomass to energy, or produce biofuel;

21 (G) until December 31, 2008 only, super-efficient buildings; ~~and~~

1 (H) effective projects that are not likely to be established in the  
2 absence of funding under the program;

3 (I) projects to develop and use geothermal energy, regardless of  
4 whether they also involve the generation of electricity; and

5 (J) projects that are V-BRED under 30 V.S.A. § 8007, which shall  
6 receive funding priority over other comparable projects.

7 \* \* \*

8 \* \* \* Property Tax Return; Disclosure of Energy Consumption \* \* \*

9 Sec. 7. 32 V.S.A. § 9606(c) is amended to read:

10 (c) The property transfer return required under this section shall also  
11 contain a certificate in such form as the secretary of the agency of natural  
12 resources and the commissioner of taxes jointly shall prescribe and shall be  
13 signed under oath or affirmation by each of the parties or their legal  
14 representatives. The certificate shall indicate all of the following:

15 (1) ~~whether~~ Whether the transfer is in compliance with or is exempt  
16 from regulations governing potable water supplies and wastewater systems  
17 under chapter 64 of Title 10; ~~and~~.

18 (2) ~~that~~ That the seller has advised the purchaser that local and state  
19 building regulations, zoning regulations, subdivision regulations, and potable  
20 water supply and wastewater system requirements pertaining to the property  
21 may significantly limit the use of the property.



1           (3) Increase, above the level as of the date of enactment, the use of  
2 wood products in building materials by two percent by 2012 and by 10 percent  
3 by 2028.

4           (4) Consistently with the other provisions of this subsection, determine  
5 an appropriate balance between the goals of increasing forest biomass  
6 feedstocks and increasing the use of wood products as building materials.

7           (c) The plan shall include at least the following components:

8           (1) An inventory of biomass quantity, quality, and location.

9           (2) An evaluation of viable technologies for the state.

10           (3) A determination of the estimated net energy contribution and highest  
11 value for biomass resources, giving due consideration to the most efficient uses  
12 of biomass, biomass access, and regulatory requirements including wood  
13 procurement standards, and water quality considerations and regulations.

14           (4) Proposed siting criteria for wood-fired electricity-generating  
15 facilities that give due regard to the existence of available, properly zoned  
16 property and its location relative to the strategic needs of the transmission and  
17 distribution grid and to transportation infrastructure.

18           (5) Standards for the fuel efficiency of biomass electricity generating  
19 facilities that provide for a fuel efficiency of at least 50 percent over the course  
20 of a full year.

21           (6) Wood procurement standards that:

1           (A) Protect site productivity, water quality, biological diversity,  
2           carbon storage capacity, and forest vitality for existing and new biomass  
3           facilities.

4           (B) Ensure that forest biomass harvesting is conducted in a  
5           scientifically sound manner that does not compromise habitat values, including  
6           availability of dead and dying trees to support wildlife, or impair long-term site  
7           productivity or soil nutrient capital at the expense of biomass production.

8           (C) Require third party certification.

9           (7) Strategies to assure that the design and siting of residences,  
10          businesses, and state buildings include due consideration of the potential for  
11          distributed heat and for the use of combined heat and power as defined in  
12          10 V.S.A. § 6523(b)(2).

13          (8) Strategies to encourage needed biomass market development that  
14          include all of the following:

15               (A) Creating reasonable rail transportation options for wood fuel.

16               (B) Appropriate use of biomass by state government, the state's  
17               educational institutions, and other major state-funded institutions, as well as by  
18               local governments and school districts.

19               (C) Appropriate wood pellet industrial development with a strong  
20               landowner cooperative component to increase areas of wood availability.

1           (9) Strategies to divert and use suitable biomass materials from  
2 municipal waste streams.

3           (d) Timber management program. In addition to the biomass plan  
4 developed under subsection (a) of this section, the secretary of natural  
5 resources shall develop a timber management program, which shall include all  
6 of the following:

7           (1) A wood harvest and ecosystem monitoring program that shall  
8 evaluate, on an annual basis, the impacts, if any, of fuel wood harvesting on  
9 forest ecosystems, forest inventory and productivity, the development of the  
10 wood products industry, and carbon sequestration.

11           (2) Strategies to maintain existing programs such as sustainable forestry  
12 certification programs that support sustainable forestry practices and programs  
13 that monitor and detect forest stress agents and generate management  
14 recommendations that promote forest health.

15           (3) Strategies to assure that forestland that is managed in a sustainable  
16 fashion and that net carbon sequestration is increased by improving the  
17 production of high density, quality saw logs and subsequent use of these  
18 products in durable wood products, and by supporting acquisition and use of  
19 new technology to achieve these goals.

20           (e) Forestland conservation program. In addition to the state biomass plan  
21 under subsection (a) and the timber management program under subsection (d)

1 of this section, the secretary of natural resources shall develop a forestland  
2 conservation program, which shall include all of the following:

3 (1) Strategies to promote the development of landowner cooperatives as  
4 a means of enabling carbon trading and ecosystem services compensation in  
5 the marketplace.

6 (2) Development of a new forest management support program that  
7 recognizes and compensates forestlandowners for the ecosystem services  
8 produced on private lands for public benefits.

9 (3) Strategies regarding how to assist existing municipal entities such as  
10 conservation commissions in promoting voluntary forestland carbon  
11 sequestration and storage programs.

12 (4) Strategies to reduce, below the rate as of the date of enactment, the  
13 rate of forest loss by seven percent by December 31, 2011 and by 50 percent  
14 by December 31, 2028, through measures that include each of the following:

15 (A) Increasing the number of acres purchased for conservation or  
16 protected under conservation easements.

17 (B) Increasing enrollment in the use value appraisal program.

18 (C) Creating incentives to maintain forest cover in developed areas  
19 through land use regulations, planning assistance, and stormwater crediting.

20 (D) Establishing incentives to reduce the extent to which landowners  
21 divide forests into small parcels.

1       (f) Public input. In developing or updating the biomass plan and the  
2       strategies of the timber management and forestland conservation programs, the  
3       agency of natural resources and, as to the biomass plan, the agency of  
4       agriculture, food and markets and the department of public service shall seek  
5       public comment by holding public hearings in at least five different geographic  
6       regions of the state on at least three different dates, and by providing notice  
7       through publication once a week and at least seven days apart for two or more  
8       successive weeks in a newspaper or newspapers of general circulation in the  
9       regions where the hearings will be held, and by delivering notices to all  
10       licensed commercial radio and television stations with transmitting facilities  
11       within the state, and to Vermont Public Radio and Vermont Public Television.

12       (g) Dates for completed action. The agency of agriculture, food and  
13       markets, the agency of natural resources, and the department of public service  
14       jointly shall adopt a state biomass plan by no later than January 1, 2010. The  
15       agency of natural resources shall adopt the timber management and forestland  
16       conservation programs no later than January 1, 2010. Upon adoption of the  
17       plan and programs, analytical portions of the plan and programs may be  
18       updated annually. The recommendations in the plan and strategies of the  
19       programs shall be updated no less frequently than every five years, except that  
20       these recommendations and strategies shall be updated prior to the expiration  
21       of five years if the general assembly passes a joint resolution to that effect.

1       Sec. 9. 30 V.S.A. § 248(o) is added to read:

2           (o) This subsection applies to a facility located in the state that uses woody  
3       biomass to generate electricity, requires a certificate of public good under this  
4       section, was not issued such a certificate prior to January 1, 2009, and is not a  
5       net metering system under section 219a of this title. Before granting a  
6       certificate of public good or amendment to such a certificate for a facility to  
7       which this subsection applies, the board shall find, in addition to any other  
8       applicable criteria of this section, that the facility shall comply with each of the  
9       following:

10           (1) The facility will be combined heat and power, producing both  
11       electric power and thermal energy, with a design system efficiency (the sum of  
12       full load design thermal output and electric output divided by the heat input) of  
13       at least 50 percent.

14           (2) The facility will use procurement standards that support  
15       sustainable forestry and promote compliance with the provisions of 10 V.S.A.  
16       § 6086(a)(1)(G) (wetlands), (8) (as to rare and irreplaceable natural areas), and  
17       (8)(A) (habitat; threatened or endangered species).

18           (3) The facility will use procurement standards, management  
19       practices, and a supply chain that are third party certified using  
20       a performance-based audit.



1       (h) Before granting a permit or amendment to any development the purpose  
2 of which is to manufacture wood pellets, the district commission, in addition to  
3 all other findings required by this section, shall find that the development will  
4 comply with each of the following:

5           (1) The development will use procurement standards that support  
6 sustainable forestry and promote compliance with the provisions of  
7 subdivisions 6086(a)(1)(G) (wetlands), (8) (as to rare and irreplaceable natural  
8 areas), and (8)(A) (habitat; threatened or endangered species) of this title.

9           (2) The development will use procurement standards, management  
10 practices, and a supply chain that are third party certified using a  
11 performance-based audit.

12           (3) The development will provide at least each of the following  
13 economic benefits:

14                   (A) Support for locally produced value-added goods and services.

15                   (B) Creation of new jobs in the town and region in which the  
16 facility will be located.

17                   (C) Support for the continued viability of the forest products  
18 sector of the Vermont economy.

19                   (D) Enhancement of the economic viability of one or more rural  
20 municipalities in Vermont.

1 Sec. 11. 24 V.S.A. § 4412 is amended to read:

2 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

3 Notwithstanding any existing bylaw, the following land development  
4 provisions shall apply in every municipality:

5 \* \* \*

6 (10) Woody biomass electric power facilities. In addition to all other  
7 applicable requirements of this chapter, before granting a municipal land use  
8 permit or amendment to any facility subject to jurisdiction under this chapter  
9 the purpose of which is produce electricity from woody biomass and which has  
10 a rated capacity of more than 20 kilowatts, an appropriate municipal panel  
11 shall make the findings stated in 30 V.S.A. § 248(o) that the public service  
12 board otherwise would be required to make if the facility were subject to  
13 approval by that board under 30 V.S.A. § 248.

14 (11) In addition to all other applicable requirements of this chapter,  
15 before granting a municipal land use permit or amendment to any land  
16 development the purpose of which is to manufacture wood pellets, an  
17 appropriate municipal panel shall find that the development will comply with  
18 each of the following:

19 (A) The development will use procurement standards that support  
20 sustainable forestry and promote compliance with the provisions of 10 V.S.A.

1     § 6086(a)(1)(G) (wetlands), (8) (as to rare and irreplaceable natural areas), and  
2     (8)(A) (habitat; threatened or endangered species).

3             (B) The development will use procurement standards, management  
4     practices, and a supply chain that are third-party certified using a performance-  
5     based audit.

6             (C) The development will provide at least each of the following  
7     economic benefits:

8                     (i) Support for locally produced value-added goods and services.

9                     (ii) Creation of new jobs in the town and region in which the  
10     facility will be located.

11                    (iii) Support for the continued viability of the forest products  
12     sector of the Vermont economy.

13                    (iv) Enhancement of the economic viability of the municipality.

14                             \* \* \* Regulatory Incentives for Renewables,

15                                     Combined Heat and Power \* \* \*

16     Sec. 12. 30 V.S.A. § 218 is amended to read:

17     § 218. JURISDICTION OVER CHARGES AND RATES

18                                     \* \* \*

19                    (f) Regulatory incentives for renewable generation and combined heat and  
20     power.

21             (1) For the purpose of this section:

1           (A) “Combined heat and power” has the meaning stated in 10 V.S.A.  
2           § 6523(b)(2), except that the design system efficiency for a combined heat and  
3           power facility that uses woody biomass as a fuel source shall be at least 50  
4           percent.

5           (B) “Renewable energy” has the meaning stated in subdivision  
6           8002(2) of this title.

7           (2) The board shall allow a utility subject to jurisdiction under  
8           subdivisions 203(1) and (2) of this title to recover an additional premium in  
9           rates for any one of the following:

10           (A) Investment by the company in a renewable energy generation  
11           plant or combined heat and power project located in Vermont.

12           (B) A commitment by the company to purchase, for at least 15 years,  
13           power from a renewable energy generation plant or combined heat and power  
14           project that is located in Vermont and not owned by a utility subject to  
15           jurisdiction under subdivisions 203(1) and (2) of this title.

16           (C) Investment by the company in equipment that allows an existing  
17           renewable energy generation plant located in Vermont to increase its energy  
18           output.

19           (D) Investment by the company that extends an existing contractual  
20           commitment to purchase power from a renewable energy generation plant  
21           located in Vermont.

1           (3) Costs paid by an electric distribution utility under a contract between  
2           that utility and the owner of a renewable energy generation plant, for energy to  
3           be supplied by that plant to the utility, shall be considered just and reasonable  
4           and shall not be subject to disallowance based on the execution or terms of the  
5           contract if the contract is approved by the public service board under section  
6           248 of this title. The protection afforded by this subdivision shall apply only if  
7           the price stated in the contract is fixed, and the term of the contract is at least  
8           15 years. The protection afforded by this subdivision shall not apply to the  
9           utility's management of the contract following the contract's approval under  
10           section 248 of this title.

11                           \* \* \* Renewable Energy Generation on State Lands \* \* \*

12           Sec. 13. REPEAL OF POLICY

13           The existing policy of the agency of natural resources, entitled "Wind  
14           Energy and Other Renewable Energy Development on ANR Lands," is  
15           repealed. Any existing policies of the agency of natural resources to restrict  
16           the use of state lands for the development of projects to produce renewable  
17           energy are void.

1 Sec. 14. 3 V.S.A. chapter 68 is added to read:

2 CHAPTER 68. STATE LANDS; RENEWABLE ENERGY

3 § 4030. STATE POLICY; RENEWABLE ENERGY; STATE LANDS

4 Renewable energy provides a unique combination of environmental,  
5 energy, and economic benefits. The policy of the state of Vermont therefore is  
6 to site renewable energy, as defined in 30 V.S.A. § 8002(2) on state lands  
7 where such lands have the capacity to produce renewable energy, provided that  
8 such siting does not directly conflict with a specific restriction in federal or  
9 state law or with a specific restriction or covenant contained in a conveyance  
10 of an interest in the property to the state or one of its agencies or departments.

11 § 4031. WORKING GROUP; WIND TURBINE SITING; STATE LANDS

12 (a) The secretary of administration shall convene a working group to  
13 perform each of the following:

14 (1) Develop recommendations to implement the policy stated in section  
15 4030 of this title.

16 (2) Identify each state property on which the siting of wind energy  
17 generation facilities will not conflict with any specific restriction or covenant  
18 described in section 4030 of this title.

19 (3) For each state property identified under subdivision (2) of this  
20 subsection, complete a wind assessment that builds upon and updates any prior  
21 assessments or studies of Vermont's wind resources. The assessment must

1 identify those state properties that are most appropriate for large commercial  
2 wind power development through a systematic analysis of potential sites with  
3 regard at least to each of these factors: the adequacy of the wind; proximity to  
4 existing transmission lines; whether there is existing development at a site; an  
5 analysis of the viewshed and aesthetic impact; an analysis of the natural  
6 resources on the site and the potential for impacts to those resources; and other  
7 relevant environmental considerations.

8 (4) Submit in writing the recommendations, identifications, and  
9 assessments required by this subsection at least to the president pro tempore of  
10 the senate, the speaker of the house, the senate committee on natural resources  
11 and energy, and the house committees on natural resources and energy and on  
12 fish, wildlife and water resources.

13 (b) The working group shall consist at least of the following members or  
14 their designees: the secretary of administration as chair; the secretary of  
15 natural resources; the commissioner of public service; the commissioner of  
16 forests, parks and recreation; a representative of the wind turbine industry; a  
17 representative each of two interested citizens' organizations; a representative  
18 of a retail electric utility; and a representative of local government. Members  
19 of the group who are not state officials shall be chosen by joint action of the  
20 speaker of the house, the president pro tempore of the senate, and the governor,  
21 and shall be entitled to per diem compensation at the same rate as provided

1 under 32 V.S.A. § 1010(a). The group shall make decisions by majority vote.  
2 The group shall have the staff assistance of the agencies of administration and  
3 natural resources and the department of public service.

4 (c) The working group shall solicit the input of the public prior to making  
5 recommendations.

6 (d) By January 15, 2010, the working group shall complete the activities  
7 required under subsection (a) of this section. No less frequently than every  
8 third January 15 after that date, the working group shall update the  
9 recommendations, identifications, and assessments required by subsection (a)  
10 of this section and submit the update to the same persons and entities listed in  
11 subdivision (a)(4) of this section.

12 Sec. 15. 3 V.S.A. § 2825 is amended to read:

13 § 2825. DUTIES OF THE SECRETARY

14 \* \* \*

15 (f) On reasonable terms, the secretary shall make available, for the  
16 development of projects to produce renewable energy as that term is defined in  
17 30 V.S.A. § 8002(2), those lands owned or controlled by the agency that have  
18 the capacity to produce such energy unless, with respect to a particular  
19 property, such availability directly conflicts with a specific restriction in  
20 federal or state law or with a specific restriction or covenant contained in a

1 conveyance of an interest in the property to the agency or one of its  
2 departments.

3 Sec. 16. 10 V.S.A. § 2601 is amended to read:

4 § 2601. POLICY AND PURPOSES

5 (a) The conservation of the forests, timberlands, woodlands and soil and  
6 recreational resources of the state are hereby declared to be in the public  
7 interest. It is the policy of the state to encourage economic management of its  
8 forests and woodlands; to encourage the development of projects to produce  
9 renewable energy, as that term is defined under 30 V.S.A. § 8002(2), on state  
10 lands that have the capacity to produce such energy and are not specifically  
11 restricted from such development by deed or federal or state law; and to  
12 maintain, conserve, and improve its soil resources and to control forest pests to  
13 the end that forest benefits, including maple sugar production, are preserved  
14 for its people, floods, and soil erosion are alleviated, hazards of forest fires are  
15 lessened, its natural beauty is preserved, its wildlife is protected, the  
16 development of its recreational interests is encouraged, the fertility and  
17 productivity of its soil are maintained, the impairment of its dams and  
18 reservoirs is prevented, its tax base is protected and the health, safety, and  
19 general welfare of its people are sustained and promoted.

20 \* \* \*

1 Sec. 17. 10 V.S.A. § 2603 is amended to read:

2 § 2603. POWERS AND DUTIES: COMMISSIONER

3 \* \* \*

4 (b) The commissioner shall manage and plan for the use of publicly owned  
5 forests and park lands in order to implement the policy and purposes of this  
6 chapter, promote and protect the natural, productive, and recreational values of  
7 such lands, and provide for multiple uses of the lands in the public interest.

8 The commissioner may sell forest products and other resources on public lands  
9 and shall administer the state park system and a community recreation program  
10 as is in the best interests of the state and is consistent with the purposes and  
11 policies of this chapter. On reasonable terms, the commissioner shall make  
12 available, for the development of projects to produce renewable energy as that  
13 term is defined in 30 V.S.A. § 8002(2), those lands owned or controlled by the  
14 department that have the capacity to produce such energy unless, with respect  
15 to a particular property, such availability directly conflicts with a specific  
16 restriction in federal or state law or with a specific restriction or covenant  
17 contained in a conveyance of an interest in the property to the department.

18 Sec. 18. 10 V.S.A. § 4081(h) is added to read:

19 (h) The policies of this section shall not be used to deny categorically the  
20 availability of lands owned or controlled by the agency or one of its  
21 departments for the development of projects to produce renewable energy as

1 that term is defined in 30 V.S.A. § 8002(2) if such lands are not restricted from  
2 such development by deed or federal or state law.

3 \* \* \* VEDA, Renewable Energy, Energy Efficiency \* \* \*

4 Sec. 19. 3 V.S.A. § 2471 is amended to read:

5 § 2471. DEPARTMENT OF ECONOMIC DEVELOPMENT

6 (a) The department of economic development is created within the agency  
7 of commerce and community development as the successor to and the  
8 continuation of the department of development.

9 (b) It shall be a priority of the department to assist renewable energy  
10 companies in expanding and moving to the state. For purposes of this  
11 subsection, the term “renewable energy” has the meaning stated in 30 V.S.A.  
12 § 8002(2).

13 Sec. 20. 10 V.S.A. § 212 is amended to read:

14 § 212. DEFINITIONS

15 As used in this chapter:

16 \* \* \*

17 (6) “Eligible facility” or “eligible project” means any industrial,  
18 commercial, or agricultural enterprise or endeavor approved by the authority  
19 that meets the criteria established in the Vermont sustainable jobs strategy  
20 adopted by the governor under section 280b of this title, including land and  
21 rights in land, air, or water, buildings, structures, machinery, and equipment of

1 such eligible facilities or eligible projects, except that, other than energy  
2 efficiency and renewable energy opportunities, an eligible facility or project  
3 shall not include the portion of an enterprise or endeavor relating to the sale of  
4 goods at retail where such goods are manufactured primarily out of state, and  
5 except further that an eligible facility or project shall not include the portion of  
6 an enterprise or endeavor relating to housing. ~~Such enterprises or endeavors~~

7 An eligible enterprise or endeavor may include:

8 (A) quarrying, mining, logging, manufacturing, processing, including  
9 the operation of sawmills and the further processing of agricultural and forest  
10 products, assembling, or warehousing of goods or materials for sale or  
11 distribution or the maintenance of safety standards in connection therewith;

12 \* \* \*

13 (M) qualifying Sustainably Priced Energy Enterprise Development  
14 (SPEED) resources or nonqualifying SPEED resources, as defined in 30  
15 V.S.A. § 8002; ~~or~~

16 (N) renewable energy and energy efficiency businesses, including:  
17 (i) construction, installation, engineering, sales, and systems  
18 management components of those businesses, together with any related  
19 on-the-job training;



1 secretary of state who shall register the logo as a trademark pursuant to  
2 9 V.S.A. chapter 71, subchapter 1. The logo shall remain a registered  
3 trademark of the program until it is withdrawn by the secretary of the agency  
4 of agriculture, food and markets and the secretary of the agency of commerce  
5 and community development.

6 \* \* \* Green Buildings, LEED \* \* \*

7 Sec. 22. 10 V.S.A. chapter 170 is added to read:

8 CHAPTER 170. GREEN BUILDINGS

9 § 7700. GREEN BUILDING RATING SYSTEM

10 Notwithstanding any other provision of law, the design and construction of  
11 a new building, an addition to an existing building, or the substantial  
12 reconstruction of an existing building shall comply at a minimum with  
13 the standards prescribed by the U.S. Green Building Council under the  
14 Leadership in Energy and Environmental Design (LEED) green building rating  
15 system for buildings designed in accordance with that system to achieve a  
16 silver rating. Where a building, addition, or substantial reconstruction is  
17 subject to a requirement to obtain a municipal land use permit or amendment  
18 under 24 V.S.A. chapter 117 or a land use permit or amendment under chapter  
19 151 of this title, the applicable LEED standard shall be that in effect as of the  
20 date a complete application is filed for the permit or amendment being

1 requested. Otherwise, the applicable LEED standard shall be that in effect 90  
2 days prior to the date construction commences.

3 § 7701. INCORPORATION IN LAND USE PERMITS; ENFORCEMENT

4 Where a building, addition, or substantial reconstruction subject to section  
5 8701 of this title is also subject to a requirement to obtain a land use permit or  
6 amendment under chapter 151 of this title or a municipal land use permit or  
7 amendment under 24 V.S.A. chapter 117, each of the following shall apply to  
8 the requirements of section 7700 of this title:

9 (1) They shall be deemed requirements of any permit or amendment  
10 issued under those chapters approving the building, addition, or substantial  
11 reconstruction.

12 (2) Failure to comply with the requirements of section 7700 of this title  
13 shall be a violation of chapter 151 of this title, 24 V.S.A. chapter 117, or both  
14 if applicable, and may be enforced in the same manner as other violations of  
15 those chapters.

16 § 7702. CERTIFICATION ON TRANSFER

17 Upon transfer of ownership of any building, addition, or substantial  
18 reconstruction subject to the requirements of section 7700 of this title, the  
19 seller shall provide LEED certification that demonstrates to the buyer that the  
20 building, addition, or reconstruction complies with the requirements of that  
21 section.

1                   \* \* \* Decommissioning of Electric Generation Facilities \* \* \*

2           Sec. 23. 30 V.S.A. § 275 is added to read:

3           § 275. DECOMMISSIONING; FUND; ELECTRIC GENERATION

4           (a) The purpose of this section is to promote the reclamation of lands on  
5           which electric generation facilities are located, as soon as possible following  
6           cessation of use for electric power generation or authority to operate, to a  
7           condition that allows future beneficial use of those lands, whether for energy  
8           production, commercial use, recreational use, or other use consistent with the  
9           character and traditional settlement patterns and land uses of the state, region,  
10           and locality.

11           (b) For the purpose of this section, “decommissioning” means at least all of  
12           the following:

13           (1) Removal of all structures, improvements, waste materials, and debris  
14           that are part of or are associated with an electric generation facility, and  
15           disposal of the same in accordance with applicable law, except for those items  
16           that the board determines may remain under subdivisions (2), (3), or (4) of this  
17           subsection.

18           (2) Removal of all transmission and distribution facilities on the same  
19           site as or associated with a generation facility, removal of all structures, waste  
20           material, and debris associated with those transmission and distribution  
21           facilities, and disposal of the same in accordance with applicable law, unless

1 the board determines that the public good permits or supports allowing a  
2 particular transmission or distribution facility to remain.

3 (3) Removal of all roads and trails on the same site as or associated with  
4 a generation facility, unless the board determines that the public good permits  
5 or supports allowing a particular road or trail to remain.

6 (4) Removal of all below-ground infrastructure, unless the board  
7 determines that allowing a particular item of below-ground infrastructure to  
8 remain is in the public good.

9 (5) Returning the land to its grade prior to construction of the facility  
10 being decommissioned.

11 (6) Reseeding, mulching, and replanting with native stock and materials.

12 (c) Any person, as defined in 10 V.S.A. § 6001(14), and any company  
13 receiving, holding, or subject to a certificate from the board under section 102,  
14 107, 109, 231, or 248 of this title shall maintain a separate decommissioning  
15 fund for each electric generation facility located in the state that is owned,  
16 operated, or controlled by that person, unless the facility is a net metering  
17 system under section 219a of this title.

18 (d) A decommissioning fund required by subsection (c) of this section shall  
19 contain the amount of money necessary to accomplish, within the period  
20 described in subdivision (1) of this subsection, decommissioning of the facility  
21 to which it pertains.

1           (1) The period described in this subdivision is a maximum of 15 years  
2 after either of the following, whichever is earlier: the end of the facility's  
3 projected useful life or a date set by the board in a certificate applicable to the  
4 facility, person, or company for cessation of authority to operate the facility.

5           (2) No later than 60 days after enactment of this section, any person or  
6 company owning an existing generation facility for which this section requires  
7 a decommissioning fund shall file a petition with the board for a determination  
8 that:

9                   (A) A decommissioning fund has been established for the facility.

10           (B) No later than July 1, 2011, the fund will contain the moneys  
11 necessary to accomplish, within the period described in subdivision (1) of this  
12 subsection, decommissioning of the facility.

13           (C) The decommissioning fund for the facility otherwise complies  
14 with the requirements of this section.

15           (3) The board will render its decision on a petition filed under  
16 subdivision (2) of this subsection within 120 days of the petition's filing.  
17 Except for a renewable energy generation facility, failure of the board to render  
18 a decision within this 120-day period shall mean that the petition is denied.  
19 For the purpose of this section, "renewable energy" has the meaning stated in  
20 subdivision 8002(2) of this title.

1           (4) Failure to timely file or denial by the board of a petition under  
2           subdivision (2) of this subsection shall suspend authority to construct or  
3           operate a facility that is subject to this section. Such suspension shall be lifted  
4           if, on subsequent petition, the board determines that the decommissioning fund  
5           for the facility meets the requirements of subdivisions (2)(A) through (C) of  
6           this subsection.

7           (5) Subsequent to enactment of this section, the board may not issue a  
8           certificate to a person or company owning or operating or proposing to own or  
9           operate a facility required to have a decommissioning fund under this section  
10          without a finding that each of the following is true:

11           (A) The person or company will establish or has established a fund  
12           that will comply with this section and contain the moneys necessary to  
13           accomplish, within the period described in subdivision (1) of this subsection,  
14           decommissioning of the facility.

15           (B) Subdivision (A) of this subdivision (5) will be satisfied no later  
16           than the first of the following events: site preparation for, commencement of  
17           construction on, placement into service of, transfer to a new owner of, or  
18           continued operation of the facility.

19           (e) A decommissioning fund under this section shall be created and  
20           maintained in such a manner that it is not subject to claims by creditors in a

1 bankruptcy proceeding and cannot be used by the certificate holder or any  
2 other person for any purpose other than decommissioning.

3 (f) A decommissioning fund under this section may be funded by cash, a  
4 letter of credit, or a bond.

5 (g) Under this section, any determination that a decommissioning fund  
6 contains the moneys necessary for decommissioning shall be based on the full  
7 estimated costs of decommissioning and shall not:

8 (1) Be net of salvage value.

9 (2) Rely on projections of proceeds from investment of the fund.

10 (3) Rely on deferral of decommissioning in order to allow the moneys in  
11 the fund to reach the amount necessary to accomplish decommissioning within  
12 the period described in subdivision (d)(1) of this section.

13 (h)(1) Unless the board determines an earlier date to be in the public good,  
14 any electric generation facility required to have a decommissioning fund under  
15 this section shall be decommissioned within a maximum of 15 years after  
16 either of the following, whichever is earlier: the date on which the facility is  
17 taken out of service or the date set by the board in a certificate applicable to the  
18 facility, person, or company for cessation of authority to operate the facility.

19 (2) On cessation of facility's use for electric generation or authority to  
20 operate the facility, the owner of a facility subject to this section may petition  
21 the board to allow retention of an existing structure or component for which

1 removal otherwise would be required under subsection (b) of this section. The  
2 board may grant such a petition if it finds that allowing the structure or  
3 component to remain is consistent with future beneficial use of the property as  
4 described in subsection (a) of this section and will promote the public good.  
5 This subdivision shall not apply to a determination, prior to cessation of use for  
6 electric generation or authority to operate, under subsection (d) of this section  
7 regarding whether the decommissioning fund for a facility contains the amount  
8 of money necessary to accomplish decommissioning.

9 (i) The board may issue rules that implement this section.

10 (j) This section sets out minimum requirements for decommissioning and  
11 decommissioning funds. Upon finding that such is necessary to protect or  
12 promote the public good, the board may, by rule, order, or condition of a  
13 certificate issued under this title, impose requirements that are either of the  
14 following:

15 (1) More stringent than the requirements of this section.

16 (2) In addition to the requirements of this section and consistent with its  
17 purpose.

18 \* \* \* Service Extensions for Biogas \* \* \*

19 Sec. 24. 30 V.S.A. § 209(b) is amended to read:

20 (b) The provisions of section 218 of this title notwithstanding, the public  
21 service board shall, under sections 803-804 of Title 3, adopt rules applicable to

1 companies subject to this chapter which:

2 \* \* \*

3 (2) Regulate or prescribe the grounds upon which the companies may  
4 disconnect or refuse to reconnect service to customers; ~~and~~

5 (3) Regulate and prescribe reasonable procedures used by companies in  
6 disconnecting or reconnecting services and billing customers in regard thereto;  
7 and

8 (4) Encourage the in-state deployment of farm biogas energy systems  
9 by authorizing contributions in aid of construction paid by the serving utility  
10 for electric service extensions to farms as necessary to ensure the economic  
11 viability of farm biogas systems that utilize on-farm manure as the primary  
12 input. A utility shall be entitled to recover in rates contributions in aid of  
13 construction that it pays under this subdivision. The rules pertaining to farm  
14 biogas energy systems shall be adopted by January 31, 2010. The rules shall  
15 require that a utility recovery of an appropriate share of costs from a  
16 subsequent customer who attaches to an extension for which the utility paid a  
17 contribution in aid of construction under this subdivision, with any such  
18 recovered costs credited in favor of the ratepayers.

19 \* \* \* Order of Preference for Resources to Meet Electricity Needs \* \* \*

20 Sec. 25. 30 V.S.A § 209(h) is added to read:

21 (h) Notwithstanding any other provision of law:

1           (1) Resources shall be chosen to meet Vermont's need for energy  
2           services in the following descending order of preference, with the first  
3           described resource being the resource of first resort and the last described  
4           resource being the resource of last resort:

5                   (A) Cost-effective energy efficiency, demand-side management, and  
6                   demand response programs and measures.

7                   (B) Renewable energy as defined in subdivision 8002(2) of this title.

8                   (C) Nonqualifying SPEED resources as that term is defined in  
9                   subdivision 8002(6) of this title.

10                  (D) Fossil fuel resources, with rank being inverse to size of carbon  
11                  footprint.

12                  (E) Other resources not listed in subdivisions (1)(A) through (C) of  
13                  this subsection.

14                  (2) Each electric distribution utility subject to the jurisdiction of the  
15                  board shall procure resources to meet its customers' need for energy services  
16                  in accordance with the order established in subdivision (1) of this subsection.

17                  (3) The integrated resource plan of each electric distribution utility  
18                  subject to the jurisdiction of the board, prepared under section 218c of this  
19                  title, shall demonstrate compliance with subdivision (1) of this subsection.

1           (4) The board shall apply the resource order stated in subdivision (1) of  
2           this subsection in determining whether a purchase, investment or facility under  
3           subdivisions 248(a)(1) and(2) of this title will:

4           (A) Promote the general good of the state under subsection 248(a) of  
5           this title.

6           (B) Meet the criteria of subsection 248(b) of this title, including  
7           subdivisions 248(b)(2), (4), (6), and (7).

8           Sec. 26. EFFECTIVE DATE

9           (a) This act shall take effect from passage.

10          (b) Notwithstanding 1 V.S.A. § 214, Secs. 3 and 4 of this act shall apply to  
11          taxable years beginning on and after January 1, 2009.

12          (c) Notwithstanding 1 V.S.A. §§ 213 and 214, Sec. 23 of this act shall  
13          apply to certificates granted by the public service board prior to enactment and  
14          proceedings pending before that board as of the date of enactment.