

1 H.56

2 Introduced by Representatives Klein of East Montpelier and Cheney of

3 Norwich

4 Referred to Committee on

5 Date:

6 Subject: Energy; public service; taxation; air quality; renewable electricity

7 generation; energy efficiency; heating oil; sulfur content

8 Statement of purpose: This bill proposes to enact various statutes and session

9 law relating to energy and the use of renewable electricity generation to meet

10 Vermont's needs and support its economy, including:

11 (1) Revising and expanding the goal of the Sustainably Priced Energy  
12 Enterprise Development (SPEED) program to assure, by January 1, 2022, that  
13 the amount of in-state qualifying renewable energy plants equals one-third of  
14 the state's highest annual energy usage on or before January 1, 2022, or of  
15 6,000 GWH, whichever is greater.

16 (2) Integrating aspects of a renewable portfolio standard into the SPEED  
17 program, including requirements that the public service board allocate the  
18 amount of the SPEED goal among the various eligible renewable technologies  
19 and that, by January 1, 2022, the supply portfolios of Vermont retail electricity  
20 providers comply on a pro rata basis with the 2022 SPEED goal and the

1 board's allocations. The bill proposes penalties for a provider's  
2 noncompliance.

3 (3) Requiring the public service board to issue an additional standard  
4 offer within the SPEED program for in-state renewable energy plants of  
5 2.2 MW or less that constitute qualifying small power production facilities  
6 under federal law. This standard offer would be offered each year through  
7 2021, with each annual increment being the amount of capacity calculated by  
8 the department of public service to increase retail electricity rates by no more  
9 than one percent annually. The board would allocate this standard offer among  
10 the eligible renewable technologies, and this allocation would be included in  
11 the allocation of the overall SPEED goal. The participating plants would count  
12 toward that goal. The board would set the price of this standard offer based on  
13 the avoided cost that a retail electricity provider would otherwise pay for a  
14 plant using the same technology.

15 (4) Making the new standard offer available as of January 1, 2012. Prior  
16 to that date, the public service board would complete the necessary  
17 proceedings, including determining the avoided costs and technology  
18 allocations.

19 (5) Restoring the clean energy development fund to the supervision of  
20 the department of public service, with a management structure similar to the  
21 structure put in place when the fund was originally established.

1           (6) Funding future investments by the clean energy development fund  
2 through a grid parity support charge of \$1.50 per month on the bill of each  
3 retail electric customer.

4           (7) Adopting an additional program to be known as Renewable Energy  
5 Investment Vermont (REI-Vermont) for new renewable energy plants in the  
6 state of greater than 2.2 MW to be owned and operated by the state's retail  
7 electric utilities, of no more than 20 MW to be owned and operated by the state  
8 of Vermont, or of no more than 2.2 MW to be owned and operated by a  
9 Vermont municipality. These plants would be for the purpose of providing  
10 electricity to Vermonters. The commissioner of public service would  
11 administer the program, consulting with the clean energy development board.

12           (8) Including in the REI-Vermont program measures to avoid or reduce  
13 the need for placing long-term costs related to the plants in rates and to limit  
14 the long-term costs of the plants in rates to operations and maintenance.

15           (9) Funding the REI-Vermont program through a customer optional  
16 charge on electric bills that would be used up front to pay the capital costs of  
17 new renewable energy plants. The bill proposes a default renewable  
18 investment contribution charge that a customer may elect to adjust up or down,  
19 including adjusting the charge to zero.

20           (10) Revising the net metering statute. The bill would raise the capacity  
21 limit for farm and group net metering systems to 500 kilowatts, remove an

1 existing limit to the cumulative capacity of net metering systems on an electric  
2 company's distribution grid, require payment by an electric company to a  
3 customer at the time a customer's accumulated credits revert to the company,  
4 and require electric companies to offer additional credits or other incentives,  
5 including monetary payments, to net metering customers using solar systems.

6 (11) Requiring the state of Vermont to make its facilities and lands  
7 available to the state's retail electric providers for installation of renewable  
8 energy plants, except for lands that are subject to a covenant or other binding  
9 legal restriction that clearly contradicts such installation.

10 (12) Mandating that the state's energy efficiency utilities propose and  
11 implement programs that are designed to encourage customers to modify their  
12 approach to the manner in which they use energy, including how they size  
13 equipment, the timing of when equipment is used, and the employment of  
14 services that analyze a customer's use and waste of energy.

15 (13) Moving the home weatherization assistance program from the  
16 office of economic opportunity to the entity appointed to deliver electric  
17 energy efficiency and heating and process fuel efficiency programs.

18 (14) Requiring that heating oil sold in this state contain less sulfur than  
19 it currently does. These requirements would take effect when substantially  
20 similar or more stringent requirements are adopted in surrounding states or on  
21 July 1, 2012, whichever is later. The requirements would be enforceable by

1 the secretary of agriculture, food and markets in the same manner as weights  
2 and measures.

3 (15) Waiving, for five years starting in 2012, the fuel excise tax on  
4 biodiesel fuel produced in Vermont.

5 (16) Exempting, from the sales and use tax, sales of equipment used in  
6 the production of electrical energy from biomass.

7 (17) Allowing taxpayers who would have been eligible to take existing  
8 business solar energy tax credits, but for a \$9.4 million cap on those credits  
9 imposed in 2010, to take those credits in equal annual amounts over a five-year  
10 period beginning in 2011. The bill proposes that the general fund, rather than  
11 the clean energy development fund, support the taking of these credits.

12 An act relating to the Vermont Energy Act of 2011

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

14 Sec. 1. DESIGNATION OF ACT

15 This act shall be referred to as the Vermont Energy Act of 2011.

16 \* \* \* Revisions to SPEED Program and Standard Offer \* \* \*

17 Sec. 2. 30 V.S.A. § 8002 is amended to read:

18 § 8002. DEFINITIONS

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\* \* \*

(16) “Department” means the department of public service under section 1 of this title, unless the context clearly indicates otherwise.

(17) “Avoided cost” means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase from a plant, such providers would obtain from a source using the same generation technology as the plant. With respect to a plant or that portion of a plant proposed by the state of Vermont proposed for support by the fund created under section 8012 of this title, such incremental cost shall include operations and maintenance only.

(18) “GWH” means gigawatt hour or hours.

(19) “kW” means kilowatt or kilowatts (AC).

(20) “kWh” means kW hour or hours.

(21) “MW” means megawatt or megawatts (AC).

(22) “MWH” means MW hour or hours.

(23) “Vermont composite electric utility system” means the combined generation, transmission, and distribution resources along with the combined retail load requirements of the Vermont retail electricity providers.

1 Sec. 3. 30 V.S.A. § 8005 is amended to read:

2 § 8005. SUSTAINABLY PRICED ENERGY ENTERPRISE

3 DEVELOPMENT (SPEED) PROGRAM

4 (a) In order to achieve the goals of section 8001 of this title, there is created  
5 the Sustainably Priced Energy Enterprise Development (SPEED) program.

6 The SPEED program shall have two categories of projects: qualifying SPEED  
7 resources and nonqualifying SPEED resources.

8 (b) The SPEED program shall be established, by rule, order, or contract, by  
9 the public service board by January 1, 2007. As part of the SPEED program,  
10 the public service board may, and in the case of subdivisions (1), (2), and (5)  
11 of this subsection shall:

12 (1) Name one or more entities to become engaged in the purchase and  
13 resale of electricity generated within the state by means of qualifying SPEED  
14 resources or nonqualifying SPEED resources, and shall implement the standard  
15 offer required by subdivision (2) of this subsection through this entity or  
16 entities. An entity appointed under this subdivision shall be known as a  
17 SPEED facilitator.

18 (2) ~~No later than September 30, 2009, put into effect, on behalf of all~~  
19 ~~Vermont retail electricity providers, Issue~~ standard offers for qualifying  
20 SPEED resources with a plant capacity of 2.2 MW or less.

21 (A) These standard offers shall consist of at least three types:

1                   (i) The standard offer required by No. 45 of the Acts of 2009 to be  
2 available until the cumulative plant capacity of all such resources  
3 commissioned in the state that have accepted a that standard offer ~~under this~~  
4 ~~subdivision (2)~~ equals or exceeds 50 MW, with the price, term, and other  
5 provisions of that offer set and the costs of that offer allocated in accordance  
6 with the provisions of this section as they existed as of January 1, 2011;  
7 ~~provided, however, that a~~

8                   (ii) The standard offer required by subdivision (2)(F) of this  
9 subsection; and

10                   (iii) A standard offer in accordance with this subdivision.

11                   (I) The board shall make a standard offer available to a plant  
12 that:

13                                   (aa) Complies with the plant capacity limit of 2.2 MW;

14                                   (bb) Constitutes a qualifying small power production facility  
15 under 16 U.S.C. 796(17)(C) and 18 C.F.R. part 292;

16                                   (cc) Is a qualifying SPEED resource;

17                                   (dd) Will be commissioned after the effective date of this

18 act;

19                                   (ee) Is not a net metering system under section 219a of this

20 title; and

1                    (ff) Has not executed a standard offer contract under a  
2 different subdivision of this subsection.

3                    (II) The price for a standard offer under this subdivision (2)(A)  
4 (iii) shall be the avoided cost of the Vermont composite electric utility system.

5 With respect to a given plant proposed for a standard offer, the board shall  
6 adjust this avoided cost to reflect benefits provided by the plant's location or  
7 technology such as relief of a transmission supply constraint or availability at  
8 times of peak demand. In setting this avoided cost, the board may consider  
9 adjusting that cost to account for an incentive such as a grant or tax credit that  
10 is available to a plant using the same generation technology as long as the  
11 incentive is not rationed. The only provisions of board rule 4.100 (small power  
12 production and cogeneration) that shall apply are rules 4.109 (exemption from  
13 utility regulation) and 4.110 (reporting requirements).

14                    (III) To demonstrate that a plant constitutes a qualifying small  
15 power production facility under 16 U.S.C. 796(17)(C) and 18 C.F.R. part 292,  
16 the board shall not impose requirements that are more stringent than the  
17 regulations of the Federal Energy Regulatory Commission under 18 C.F.R.  
18 §§ 292.203(d)(1) (no certification required for qualifying facilities of one  
19 megawatt or less) and 292.207(a) (self-certification for plants greater than one  
20 megawatt).

1                   (IV) The board shall make this standard offer available in  
2                   annual increments through calendar year 2021. Each annual increment shall be  
3                   the amount of capacity calculated by the department of public service to  
4                   increase retail electricity rates by no more than one percent annually,  
5                   calculated on a statewide basis. Capacity within an annual increment shall be  
6                   reallocated to other eligible plants if a plant that accepts a standard offer is not  
7                   commissioned within a reasonable period as determined by the board, and the  
8                   amount of any such reallocation may be added to an annual increment  
9                   determined in accordance with this subdivision.

10                   (V) Using a planning horizon of the ten-year period ending on  
11                   December 31, 2021, the board shall allocate the standard offer described in this  
12                   subdivision (iii) among the different types of eligible technologies by fuel  
13                   source in a manner that will assist the achievement by that date of the goal and  
14                   requirements of subdivision (d)(2) of this section. In making these allocations,  
15                   the board shall begin with the presumption that each fuel source should have  
16                   an equal allocation. As long as the board allocates at least five percent to each  
17                   fuel source, the board may adjust this presumed equal allocation based on its  
18                   consideration of all pertinent factors, including environmental benefits, peak  
19                   demand benefits, job creation within the state, and the cost of technology. For  
20                   a given fuel source, the board may establish allocations for plants of differing  
21                   plant capacities. The board shall allocate each annual increment among those

1 technologies in the manner the board deems most likely to support  
2 achievement of the goal and requirements of subdivision (d)(2) of this section.

3 (B) A plant owned and operated by a Vermont retail electricity  
4 provider shall count toward ~~this 50-MW ceiling~~ one, and only one, of the  
5 standard offers described in subdivisions (2)(A)(i) and (iii) of this subsection if  
6 the plant has a plant capacity of 2.2 MW or less and is commissioned on or  
7 after September 30, 2009, and the plant is not otherwise counted toward the  
8 goal and requirements of subsection (d) of this section.

9 (C) The term of a standard offer required by this subdivision (2) shall be  
10 10 to 20 years, except that the term of a standard offer for a plant using solar  
11 power shall be 10 to 25 years. ~~The price paid to a plant owner under a~~  
12 standard offer required by this subdivision shall include an amount for each  
13 kilowatt-hour (kWh) generated that shall be set as follows:

14 (A) ~~Until the board determines the price to be paid to a plant owner~~  
15 ~~in accordance with subdivision (2)(B) of this subsection, the price shall be:~~

16 ~~(i) For a plant using methane derived from a landfill or an~~  
17 ~~agricultural operation, \$0.12 per kWh.~~

18 ~~(ii) For a plant using wind power that has a plant capacity of~~  
19 ~~15 kW or less, \$0.20 per kWh.~~

20 ~~(iii) For a plant using solar power, \$0.30 per kWh.~~

1                   ~~(iv) For a plant using hydropower, wind power with a plant~~  
2 ~~capacity greater than 15 kW, or biomass power that is not subject to~~  
3 ~~subdivision (2)(A)(i) of this subsection, a price equal, at the time of the plant's~~  
4 ~~commissioning, to the average residential rate per kWh charged by all of the~~  
5 ~~state's retail electricity providers weighted in accordance with each such~~  
6 ~~provider's share of the state's electric load.~~

7                   ~~(B) In accordance with the provisions of this subdivision, the board~~  
8 ~~by order shall set the price to be paid to a plant owner under a standard offer,~~  
9 ~~including the owner of a plant described in subdivisions (2)(A)(i) (iv) of this~~  
10 ~~subsection.~~

11                   ~~(i) The board shall use the following criteria in setting a price~~  
12 ~~under this subdivision:~~

13                   ~~(I) The board shall determine a generic cost, based on an~~  
14 ~~economic analysis, for each category of generation technology that constitutes~~  
15 ~~renewable energy. In conducting such an economic analysis the board shall:~~

16                   ~~(aa) Include a generic assumption that reflects reasonably~~  
17 ~~available tax credits and other incentives provided by federal and state~~  
18 ~~governments and other sources applicable to the category of generation~~  
19 ~~technology. For the purpose of this subdivision (2)(B), the term "tax credits~~  
20 ~~and other incentives" excludes tradeable renewable energy credits.~~

1                   ~~(bb) Consider different generic costs for subcategories of~~  
2 ~~different plant capacities within each category of generation technology.~~

3                   ~~(II) The board shall include a rate of return on equity not less~~  
4 ~~than the highest rate of return on equity received by a Vermont investor-owned~~  
5 ~~retail electric service provider under its board-approved rates as of the date a~~  
6 ~~standard offer goes into effect.~~

7                   ~~(III) The board shall include such adjustment to the generic~~  
8 ~~costs and rate of return on equity determined under subdivisions (2)(B)(i)(I)~~  
9 ~~and (II) of this subsection as the board determines to be necessary to ensure~~  
10 ~~that the price provides sufficient incentive for the rapid development and~~  
11 ~~commissioning of plants and does not exceed the amount needed to provide~~  
12 ~~such an incentive.~~

13                   ~~(ii) No later than September 15, 2009, the board shall open and~~  
14 ~~complete a noncontested case docket to accomplish each of the following~~  
15 ~~tasks:~~

16                   ~~(I) Determine whether there is a substantial likelihood that one~~  
17 ~~or more of the prices stated in subdivision (2)(A) of this subsection do not~~  
18 ~~constitute a reasonable approximation of the price that would be paid applying~~  
19 ~~the criteria of subdivision (2)(B)(i).~~

20                   ~~(II) If the board determines that one or more of the prices stated~~  
21 ~~in subdivision (2)(A) of this subsection do not constitute such an~~

1 approximation, set interim prices that constitute a reasonable approximation of  
2 the price that would be paid applying the criteria of subdivision (2)(B)(i).  
3 Once the board sets such an interim price, that interim price shall be used in  
4 subsequent standard offers until the board sets prices under subdivision  
5 (2)(B)(iii) of this subsection.

6 (iii) ~~Regardless of its determination under subdivision (2)(B)(ii) of~~  
7 ~~this subsection, the board shall proceed to set, no later than January 15, 2010,~~  
8 ~~the price to be paid to a plant owner under a standard offer applying the criteria~~  
9 ~~of subdivision (2)(B)(i) of this subsection.~~

10 ~~(C)~~(D) On or before January 15, 2012 2014 and on or before every  
11 second January 15 after that date, the board shall review the prices set under  
12 ~~subdivision (2)(B)~~ subdivisions (2)(A)(i) and (iii) of this subsection and  
13 determine whether such prices are ~~providing sufficient incentive for the rapid~~  
14 ~~development and commissioning of plants~~ continue to conform to the  
15 applicable pricing requirements of this subsection. In the event the board  
16 determines that such a price is ~~inadequate or excessive~~ does not so conform,  
17 the board shall reestablish the price, in accordance with the applicable pricing  
18 ~~requirements of subdivision (2)(B)(i)~~ of this subsection, for effect on a  
19 prospective basis commencing two months after the price has been  
20 reestablished.

1           ~~(D)~~(E) Once the board determines, under subdivision ~~(2)(B) or (C)~~  
2           (2)(D) of this subsection, the ~~generic cost and rate of return elements for~~  
3           standard offer price for a category of renewable energy, the price paid to a  
4           plant owner under a subsequently executed standard offer contract shall  
5           comply with that determination.

6           (E) A plant owner who has executed a contract for a standard offer  
7           under this section prior to a determination by the board under subdivision  
8           ~~(2)(B) or (C)~~ (2)(D) of this subsection shall continue to receive the price  
9           agreed on in that contract.

10           (F) Notwithstanding any other provision of this section, on and after  
11           June 8, 2010, a standard offer shall be available for a qualifying existing plant.

12           (i) For the purpose of this subdivision, “qualifying existing plant”  
13           means a plant that meets all of the following:

14                   (I) The plant was commissioned on or before September 30,  
15                   2009.

16                   (II) The plant generates electricity using methane derived from  
17                   an agricultural operation and has a plant capacity of 2.2 MW or less.

18                   (III) On or before September 30, 2009, the plant owner had a  
19                   contract with a Vermont retail electricity provider to supply energy or  
20                   attributes, including tradeable renewable energy credits from the plant, in

1 connection with a renewable energy pricing program approved under section  
2 8003 of this title.

3 (ii) Plant capacity of a plant accepting a standard offer pursuant to  
4 this subdivision (2)(F) shall not be counted toward the 50-MW amount or any  
5 increment of the annual standard offer under ~~this subsection (b)~~ subdivisions  
6 (2)(A)(i) and (iii) of this subsection.

7 (iii) Award of a standard offer under this subdivision (2)(F) shall  
8 be on condition that the plant owner and the retail electricity provider agree to  
9 modify any existing contract between them described under subdivision (i)(III)  
10 of this subdivision (2)(F) so that the contract no longer requires energy from  
11 the plant to be provided to the retail electricity provider. Those provisions of  
12 such a contract that concern tradeable renewable energy credits associated with  
13 the plant may remain in force.

14 (iv) The price and term of a standard offer contract under this  
15 subdivision (2)(F) shall be the same, as of the date such a contract is executed,  
16 as the price and term otherwise in effect under this subsection (b) for a plant  
17 that uses methane derived from an agricultural operation.

18 \* \* \*

19 (5) Require all Vermont retail electricity providers to purchase ~~through~~  
20 from the SPEED ~~program~~ facilitator, in accordance with subdivision (g)(2) of  
21 this section, the power generated by the plants that accept the standard offer

1 required to be issued under subdivision (2) of this subsection. For the purpose  
2 of this sale to the retail electricity providers, the board and the SPEED  
3 facilitator constitute instrumentalities of the state.

4 \* \* \*

5 (7) Create a mechanism by which a retail electricity provider may  
6 establish that it has a sufficient amount of renewable energy, or resources that  
7 would otherwise qualify under the provisions of subsection (d) of this section,  
8 in its portfolio so that equity requires that the retail electricity provider be  
9 relieved, in whole or in part, from requirements established under this  
10 subsection that would require a retail electricity provider to purchase SPEED  
11 power, provided that this mechanism shall not apply to the requirement to  
12 purchase power under subdivision (5) of this subsection. However, a retail  
13 electricity provider that establishes that it receives at least ~~25 percent~~ one-third  
14 of its energy from qualifying SPEED resources that were in operation on or  
15 before September 30, 2009, shall be exempt and wholly relieved from the  
16 requirements of subdivisions (b)(5) (requirement to purchase standard offer  
17 power) and (g)(2) (allocation of standard offer electricity and costs) of this  
18 section.

19 \* \* \*

20 (d)(1) The public service board shall meet on or before January 1, ~~2012~~  
21 2022 and open a proceeding to determine the total amount of qualifying

1 SPEED resources that have been supplied to Vermont retail electricity  
2 providers or have been issued a certificate of public good. If the board finds  
3 that the amount of qualifying SPEED resources coming into service or having  
4 been issued a certificate of public good after January 1, 2005 and before  
5 ~~July~~ January 1, 2012 ~~2022~~ equals or exceeds ~~total statewide growth in electric~~  
6 ~~retail sales during that time, and in addition, at least five percent of the 2005~~  
7 ~~total statewide electric retail sales is provided by qualified SPEED resources or~~  
8 ~~would be provided by qualified SPEED resources that have been issued a~~  
9 ~~certificate of public good, or if it finds that the amount of qualifying SPEED~~  
10 ~~resources equals or exceeds 10 percent of total statewide electric retail sales for~~  
11 ~~calendar year 2005~~ the goal and requirements stated in subdivision (2) of this  
12 subsection, the portfolio standards established under this chapter shall not be in  
13 force. The board shall make its determination by January 1, ~~2013~~ 2023. If the  
14 board finds that the goal ~~established has~~ and requirements of subdivision (2) of  
15 this subsection have not been met, one year after the board's determination the  
16 portfolio standards established under subsection 8004(b) of this title shall take  
17 effect. In making its determination under this subdivision, the board shall  
18 include all qualifying SPEED resources that have executed a standard offer  
19 agreement under subsections (b) and (g) of this section and come into service  
20 or received a certificate of public good or have executed such an agreement on

1 or after January 1, 2020 and complied with the associated milestone  
2 requirements of the board.

3 (2) A state goal is to assure that ~~20 percent of total statewide electric~~  
4 ~~retail sales before July 1, 2017 shall be generated,~~ by January 1, 2022, the total  
5 amount of qualifying SPEED resources in the state is no less than the amount  
6 of one-third of the state's highest annual energy usage on or before January 1,  
7 2022, or of 6,000 GWH, whichever is greater.

8 (A) No later than January 1, 2012, the board shall allocate this  
9 amount among the technologies eligible to be qualifying SPEED resources and  
10 publish this allocation. This allocation shall include and be consistent with the  
11 allocation made by the board under subdivision (b)(2)(A)(iii)(V) of this section  
12 (annual standard offer).

13 (B) No later than January 1, 2022:

14 (i) Each Vermont retail electricity provider shall have and  
15 continue to have in its supply portfolio an amount of qualifying SPEED  
16 resources equal to its share of one-third of the state's highest annual energy  
17 usage on or before January 1, 2022, or of 6,000 GWH, whichever is greater.  
18 The provider's share shall be determined based on its pro rata percentage of  
19 total Vermont retail kWh sales for the most recent calendar year.

20 (ii) Within the supply portfolio of a retail electricity provider, the  
21 allocation among eligible technologies of the amount of qualifying SPEED

1 resources calculated in accordance with subdivision (2)(B)(i) of this subsection  
2 shall correspond to the board's allocation pursuant to subdivision (2)(A) of this  
3 subsection.

4 (C) Each retail electricity provider shall make annual incremental  
5 progress toward the amount described in subdivision (2)(B)(i) of this  
6 subsection. In addition, each provider's portfolio shall include at least  
7 one-third of this amount by December 31, 2016 and two-thirds of this amount  
8 by December 31, 2019. Compliance with the requirements of this subdivision  
9 (C) may be demonstrated through qualifying SPEED resources that have been  
10 commissioned, have applied for or received a certificate of public good under  
11 section 248 of this title, or have executed a standard offer agreement under  
12 subsections (b) and (g) of this section and have met the milestone requirements  
13 of the board associated with such an agreement.

14 (D) If a retail electricity provider fails to comply with subdivision (B)  
15 or (C) of this subsection:

16 (i) The provider's return on equity, if it receives such a return,  
17 shall be reduced by 200 basis points until the provider's portfolio is brought  
18 into compliance;

19 (ii) The board may impose penalties on the provider under section  
20 30 of this title; and

1           (iii) The board may impose penalties under section 30 of this title  
2           on a director, trustee, commissioner, or officer of the provider who was in a  
3           position to influence the achievement of such compliance and failed to exercise  
4           all objectively available means to cause the provider to achieve such  
5           compliance.

6           (E) The public service board shall report to the house and senate  
7           committees on natural resources and energy and to the joint energy committee  
8           by ~~December 31, 2011~~ January 15, 2014 and every second January 15  
9           afterward through 2020 with regard to the state's progress of the state and each  
10           retail electric utility provider in meeting ~~this~~ the goal and requirements of this  
11           subsection. ~~In addition, the board shall report to the house and senate~~  
12           ~~committees on natural resources and energy and to the joint energy committee~~  
13           ~~by December 31, 2013 with regard to the state's progress in meeting this goal~~  
14           and, if necessary, Each such report shall include any appropriate  
15           recommendations for measures that will make attaining the goal and  
16           requirements more likely.

17           (3) For the purposes of the determination to be made under this  
18           subsection, electricity produced at all facilities owned by or under long-term  
19           contract to Vermont retail electricity providers, ~~whether it is generated inside~~  
20           ~~or outside Vermont, that is new renewable energy that constitute qualifying~~

1 SPEED resources shall be counted in the calculations under subdivisions (1)  
2 and (2) of this subsection.

3 (e) ~~By no later than September 1, 2006, the public service~~ The board shall  
4 provide, by order or rule, the regulations and procedures that are necessary to  
5 allow the public service board and the department of public service to  
6 implement, and to supervise further the implementation and maintenance of the  
7 SPEED program. These rules shall assure that decisions with respect to  
8 certificate of public good applications for SPEED resources shall be made in a  
9 timely manner.

10 \* \* \*

11 (g) With respect to executed contracts for standard offers under this  
12 section:

13 \* \* \*

14 (2) The SPEED facilitator shall ~~distribute~~ sell the electricity purchased  
15 ~~and any associated costs~~ to the Vermont retail electricity providers at the same  
16 price paid to the plant owners and shall allocate such costs to the providers  
17 based on their pro rata share of total Vermont retail kWh sales for the previous  
18 calendar year, and the Vermont retail electricity providers shall accept and pay  
19 the SPEED facilitator for those costs. ~~For the purpose of this subdivision, a~~  
20 ~~Vermont retail electricity provider shall receive a credit toward its share of~~  
21 ~~those costs for any plant with a plant capacity of 2.2 MW or less that it owns or~~

1 ~~operates and that is commissioned on or after September 30, 2009. The~~  
2 ~~amount of such credit shall be the amount that the plant owner otherwise~~  
3 ~~would be eligible to receive, if the owner were not a retail electricity provider,~~  
4 ~~under a standard offer in effect at the time of commissioning. The amount of~~  
5 ~~any such credit shall be redistributed to the Vermont retail electricity providers~~  
6 ~~on a basis such that all providers pay for a proportionate volume of plant~~  
7 ~~capacity up to the 50-MW ceiling for standard offer contracts stated in~~  
8 ~~subdivision (b)(2) of this section.~~

9 \* \* \*

10 (m) The state and its instrumentalities shall not be liable to a plant owner or  
11 retail electricity provider with respect to any matter related to SPEED,  
12 including costs associated with a standard offer contract under this section or  
13 any damages arising from breach of such a contract, the flow of power  
14 between a plant and the electric grid, or the interconnection of a plant to that  
15 grid.

16 (n) On or before January 15, ~~2011~~ 2014 and every second January 15  
17 afterward, the board shall report to the house and senate committees on natural  
18 resources and energy concerning the status of the standard offer program under  
19 this section. In its report, the board at a minimum shall:

20 (1) Assess the progress made toward attaining the ~~cumulative statewide~~  
21 ~~capacity ceiling stated~~ full subscription and commissioning of the 50-MW

1 amount and the annual standard offer described in ~~subdivision~~ subdivisions  
2 (b)(2)(A)(i) and (iii) of this section.

3 (2) If ~~that cumulative statewide capacity ceiling has~~ the 50-MW amount  
4 or the cumulative annual increments to date of the annual standard offer have  
5 not been met fully subscribed or fully commissioned, identify the barriers to  
6 attaining ~~that ceiling~~ full subscription and commissioning and detail the  
7 board's recommendations for overcoming such barriers.

8 (3) If ~~that cumulative statewide capacity has been met or is likely to be~~  
9 ~~met~~ the 50-MW amount or the cumulative annual increments to date of the  
10 annual standard offer have been or, within a year of the date of the board's  
11 report, are likely to be fully subscribed and fully commissioned, recommend  
12 whether the standard offer program under this section should continue and, if  
13 so, whether there should be any modifications to the program.

14 Sec. 4. COMMENCEMENT OF NEW STANDARD OFFER; BOARD

15 ALLOCATION PROCEEDINGS; RPS/SPEED STUDY REPEAL

16 (a) The standard offer required by 30 V.S.A. § 8005(b)(2)(A)(iii) shall be  
17 available commencing January 1, 2012.

18 (b)(1) The public service board, by December 15, 2011, shall open and  
19 complete proceedings to make those decisions and take those actions necessary  
20 to achieve, by January 1, 2012:

1           (A) Commencement of the standard offer described in subsection (a)  
2 of this section, including determining avoided costs and technology  
3 allocations; and

4           (B) Publication of the SPEED goal allocation described in 30 V.S.A.  
5 § 8005(d)(2)(A).

6           (2) The board may combine these proceedings.

7           (c) The board shall not conduct the proceedings described in subsection (b)  
8 of this section as contested cases under the Vermont Administrative Procedure  
9 Act, 3 V.S.A. chapter 25. With respect to each proceeding, the board shall  
10 conduct one or more technical workshops and offer an opportunity for  
11 submission of written comments prior to issuing an order. The board shall  
12 provide public notice at least 14 days in advance of the initial workshop and  
13 30 days in advance of the comment deadline. Such notice shall include at least  
14 a press release to the state's radio, television, and newspaper media and direct  
15 notice to the department of public service, the agency of natural resources, the  
16 SPEED facilitator, each transmission utility doing business in Vermont, each  
17 Vermont retail electricity provider, all persons and entities that participated in  
18 or were parties to board dockets no. 7523 and 7533, and nongovernmental  
19 organizations that often appear in board policy proceedings such as business,  
20 consumer, and environmental advocates. The board may retain personnel and

1 allocate costs of this proceeding in accordance with the procedures of  
2 30 V.S.A. §§ 20 and 21.

3 (d) Sec. 13a(b) (board study and report on potential revisions to SPEED  
4 program or adoption of a renewable portfolio standard) of No. 159 of the Acts  
5 of the 2009 Adj. Sess. (2010) is repealed.

6 \* \* \* Clean Energy Development Fund;

7 Grid Parity Support Charge \* \* \*

8 Sec. 5. 10 V.S.A § 6523 is amended to read:

9 § 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

10 (a) Creation of fund.

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

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

20 (B) The proceeds of the grid parity support charge established under  
21 section 6525 of this title.



1           ~~(A) Three at large directors appointed by the speaker of the house;~~

2           ~~(B) Three at large directors appointed by the president pro tempore~~  
3 ~~of the senate.~~

4           ~~(C) Two at large directors appointed by the governor.~~

5           ~~(D) The state treasurer, ex officio. This fund shall be administered~~  
6 ~~by the department of public service to facilitate the development and~~  
7 ~~implementation of clean energy resources. The department is authorized to~~  
8 ~~expend moneys from the clean energy development fund in accordance with~~  
9 ~~this section. The commissioner of the department shall make all decisions~~  
10 ~~necessary to implement this section and administer the fund except those~~  
11 ~~decisions committed to the clean energy development board under this~~  
12 ~~subsection.~~

13           ~~(2) During fiscal years after FY 2006, up to five percent of amounts~~  
14 ~~appropriated to the public service department from the fund may be used for~~  
15 ~~administrative costs related to the clean energy development fund and after~~  
16 ~~FY 2007, another five percent of amounts appropriated to the public service~~  
17 ~~department from the fund not to exceed \$300,000.00 in any fiscal year shall be~~  
18 ~~transferred to the secretary of the agency of agriculture, food and markets for~~  
19 ~~agricultural and farm-based energy project development activities. The~~  
20 ~~department shall assure an open public process in the administration of the~~  
21 ~~fund for the purposes established in this subchapter.~~

1           (3) ~~A quorum of the clean energy development board shall consist of~~  
2 ~~five directors. The directors of the board shall select a chair and vice chair.~~  
3 There is created the clean energy development fund advisory committee, which  
4 shall consist of the commissioner of public service or designee, and the chairs  
5 of the house and senate committees on natural resources and energy or their  
6 designees.

7           (4) ~~In making appointments of at large directors to the clean energy~~  
8 ~~development board, the appointing authorities shall give consideration to~~  
9 ~~citizens of the state with knowledge of relevant technology, regulatory law,~~  
10 ~~infrastructure, finance, and environmental permitting. A director shall recuse~~  
11 ~~himself or herself from all matters and decisions pertaining to a company or~~  
12 ~~corporation of which the director is an employee, officer, partner, proprietor, or~~  
13 ~~board member. The at large directors of the board shall serve terms of four~~  
14 ~~years beginning July 1 of the year of appointment. However, one at large~~  
15 ~~director appointed by the speaker and one at large director appointed by the~~  
16 ~~president pro tempore shall serve an initial term of two years. Any vacancy~~  
17 ~~occurring among the at large directors shall be filled by the respective~~  
18 ~~appointing authority and shall be filled for the balance of the unexpired term.~~  
19 ~~A director may be reappointed.~~ There is created the clean energy development  
20 board, which shall consist of seven persons appointed for four-year terms by  
21 the clean energy development fund advisory committee. The advisory

1 committee shall appoint a new member to fill a vacancy occurring in the board  
2 during the term of a member for the balance of the member's term.

3 (5) ~~Except for those directors of the clean energy development board~~  
4 ~~otherwise regularly employed by the state, the compensation of the directors~~  
5 ~~shall be the same as that provided by subsection 1010(a) of Title 32. All~~  
6 ~~directors of the clean energy development board, including those directors~~  
7 ~~otherwise regularly employed by the state, shall receive their actual and~~  
8 ~~necessary expenses when away from home or office upon their official duties.~~

9 The clean energy development board shall have decision-making and approval  
10 authority with respect to the plans, budget, and program designs described in  
11 subdivisions (8)(B)–(D) of this subsection. Prior to the award of specific  
12 grants and investments, the commissioner of public service shall consult the  
13 clean energy development board which shall provide its recommendation. The  
14 clean energy development board shall function in an advisory capacity to the  
15 commissioner on all other aspects of this section's implementation.

16 (6) At least every three years, the ~~clean energy development board~~  
17 department shall commission a detailed financial audit by an independent third  
18 party of the fund and the activities of the fund manager, which shall make  
19 available to the auditor its books, records, and any other information  
20 reasonably requested by the ~~board or the~~ auditor for the purpose of the audit.

1           (7) In performing its duties, the clean energy development board may  
2 utilize the legal and technical resources of the department of public service ~~or,~~  
3 ~~alternatively, may utilize reasonable amounts from the clean energy~~  
4 ~~development fund to retain qualified private legal and technical service~~  
5 ~~providers.~~ The department of public service shall provide the clean energy  
6 development board ~~and its fund manager~~ with administrative services.

7           (8) ~~The clean energy development board~~ department shall perform each  
8 of the following:

9           (A) By January 15 of each year, commencing in 2010, provide to the  
10 house and senate committees on natural resources and energy, the senate  
11 committee on finance, and the house committee on commerce and economic  
12 development a report detailing the revenues collected and the expenditures  
13 made under this subchapter.

14           (B) Develop, and submit to the clean energy development board for  
15 review and approval, a five-year strategic plan and an annual program plan,  
16 both of which shall be developed with input from a public stakeholder process  
17 and shall be consistent with state energy planning principles.

18           (C) Develop, and submit to the clean energy development board for  
19 review and approval, an annual operating budget.

20           (D) Develop, and submit to the clean energy development board for  
21 review and approval, proposed program designs to facilitate clean energy

1 market and project development (including use of financial assistance,  
2 investments, competitive solicitations, technical assistance, and other incentive  
3 programs and strategies).

4 (9) At least ~~quarterly~~ semiannually, the clean energy development board  
5 and the commissioner jointly shall hold a public meeting to review and discuss  
6 the status of the fund, fund projects, the performance of the fund manager, any  
7 reports, information, or inquiries submitted by the fund manager or the public,  
8 and any additional matters ~~the clean energy development board deems~~ they  
9 deem necessary to fulfill ~~its~~ their obligations under this section.

10 ~~(10) The clean energy development board shall administer and is~~  
11 ~~authorized to expend monies from the clean energy development fund in~~  
12 ~~accordance with this section.~~

13 (f) Clean energy development fund manager. The clean energy  
14 development fund shall have a fund manager who shall be ~~a state~~ an employee  
15 ~~retained and supervised by the board and housed within and assigned for~~  
16 ~~administrative purposes to~~ of the department of public service.

17 (g) Bonds. The commissioner of public service, in consultation with the  
18 clean energy development board, may explore use of the fund to establish one  
19 or more loan-loss reserve funds to back issuance of bonds by the state treasurer  
20 otherwise authorized by law, including clean renewable energy bonds, that  
21 support the purposes of the fund.

1 (h) ARRA funds. All American Recovery and Reinvestment Act (ARRA)  
2 funds described in section 6524 of this title shall be disbursed, administered,  
3 and accounted for in a manner that ensures rapid deployment of the funds and  
4 is consistent with all applicable requirements of ARRA, including  
5 requirements for administration of funds received and for timeliness, energy  
6 savings, matching, transparency, and accountability. These funds shall be  
7 expended for the following categories listed in this subsection, provided that  
8 no single project directly or indirectly receives a grant in more than one of  
9 these categories. ~~The~~ After consultation with the clean energy development  
10 board, the commissioner of public service shall have discretion to use  
11 non-ARRA moneys within the fund to support all or a portion of these  
12 categories and shall direct any ARRA moneys for which non-ARRA moneys  
13 have been substituted to the support of other eligible projects, programs, or  
14 activities under ARRA and this section.

15 \* \* \*

16 (4) \$2 million for a public-serving institution efficiency and renewable  
17 energy program that may include grants and loans and create a revolving loan  
18 fund. For the purpose of this subsection, “public-serving institution” means  
19 government buildings and nonprofit public and private universities, colleges,  
20 and hospitals. In this program, awards shall be made through a competitive bid  
21 process. ~~On or before January 15, 2011, the clean energy development board~~

1 ~~shall report to the general assembly on the status of this program, including~~  
2 ~~each award made and, for each such award, the expected energy savings or~~  
3 ~~generation and the actual energy savings or generation achieved.~~

4 \* \* \*

5 (8) Concerning the funds authorized for use in subdivisions (4)-(7) of  
6 this subsection:

7 (A) To the extent permissible under ARRA, up to five percent may  
8 be spent for administration of the funds received.

9 (B) In the event that the ~~clean energy development board~~  
10 commissioner of public service determines that a recipient of such funds has  
11 insufficient eligible projects, programs, or activities to fully utilize the  
12 authorized funds, then after consultation with the clean energy development  
13 board, the commissioner shall have discretion to reallocate the balance to other  
14 eligible projects, programs, or activities under this section.

15 (9) The ~~clean energy development board~~ commissioner of public service  
16 is authorized, to the extent allowable under ARRA, to utilize up to 10 percent  
17 of ARRA funds received for the purpose of administration. The ~~board~~  
18 commissioner shall allocate a portion of the amount utilized for administration  
19 to retain permanent, temporary, or limited service positions or contractors and  
20 the remaining portion to the oversight of specific projects receiving ARRA  
21 funding ~~through the board~~ pursuant to section 6524 of this title.

1 (i) Rules. The department and the clean energy development board each  
2 may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out its functions  
3 under this section. ~~The board and shall consult with the commissioner of~~  
4 ~~public service each other~~ either before or during the rulemaking process.

5 ~~(j) Governor disapproval. The governor shall have the authority within~~  
6 ~~30 days of approval or adoption to disapprove a project, program, or other~~  
7 ~~activity approved by the clean energy development board if the source of the~~  
8 ~~funds is ARRA; and any rules adopted under subsection (i) of this section.~~ The  
9 ~~governor may at any time waive his or her authority to disapprove any project,~~  
10 ~~program, or other activity or rule under this subsection.~~

11 Sec. 6. CLEAN ENERGY DEVELOPMENT BOARD; TRANSITION;

12 TERM EXPIRATION; NEW APPOINTMENTS

13 (a) The terms of all members of the clean energy development board  
14 appointed prior to the effective date of this section shall expire on  
15 December 31, 2011.

16 (b) No later than October 1, 2011, the clean energy development fund  
17 advisory committee created by Sec. 5 of this act shall appoint the members of  
18 the clean energy development board created by Sec. 5 of this act. The terms of  
19 the members so appointed shall commence on January 1, 2012. The advisory  
20 committee may appoint members of the clean energy development board as it  
21 existed prior to this effective date of this section.

1       Sec. 7. 10 V.S.A. § 6524 is amended to read:

2       § 6524. ARRA ENERGY MONEYS

3           The expenditure of each of the following shall be subject to the direction  
4       and approval of the commissioner of public service, after consultation with the  
5       clean energy development board established under subdivision ~~6523(e)(1)~~  
6       6523(e)(4) of this title, and shall be made in accordance with subdivisions  
7       6523(d)(1)(expenditures authorized), ~~(e)(3)(quorum), (e)(4)(appointments;~~  
8       ~~recusal), (e)(5)(compensation), (e)(7)(assistance, administrative support),~~ and  
9       (e)(8)(A)(reporting) and subsections 6523(f)(fund manager), (h)(ARRA  
10       funds), and (i)(rules), ~~and (j)(governor disapproval)~~ of this title and applicable  
11       federal law and regulations:

12           (1) The amount of \$21,999,000.00 in funds received by the state under  
13       the appropriation contained in the American Recovery and Reinvestment Act  
14       (ARRA) of 2009, Pub.L. No. 111-5, to the state energy program authorized  
15       under 42 U.S.C. § 6321 et seq.

16           (2) The amount of \$9,593,500.00 received by the state under ARRA  
17       from the United States Department of Energy through the energy efficiency  
18       and conservation block grant program.

1 Sec. 8. 10 V.S.A. § 6525 is added to read:

2 § 6525. GRID PARITY SUPPORT CHARGE

3 Each Vermont retail electricity provider shall assess on each customer's  
4 monthly electric bill a grid parity support charge of \$1.50. At the end of each  
5 monthly billing cycle, a Vermont retail electricity provider shall transmit to the  
6 clean energy development fund the total amount of the grid parity support  
7 charge assessed to the provider's customers during the immediately preceding  
8 monthly billing cycle. With respect to a customer's nonpayment of a grid  
9 parity support charge, the board and a retail electricity provider shall apply the  
10 same rules as are applied to a customer's nonpayment of the energy efficiency  
11 charge under subdivision 209(d)(3) of this title.

12 Sec. 9. RECODIFICATION; REDESIGNATION

13 (a) 10 V.S.A. §§ 6523, 6524, and 6525 are recodified respectively as  
14 30 V.S.A. §§ 8015, 8016, and 8017. The office of legislative council shall  
15 revise accordingly any references to these statutes contained in the Vermont  
16 Statutes Annotated. Any references in session law to these statutes as  
17 previously codified shall be deemed to refer to the statutes as recodified by this  
18 act.

19 (b) Within 30 V.S.A. chapter 89 (renewable energy programs):

20 (1) §§ 8001–8014 shall be within subchapter 1 and designated to read:



1           (3) Facilitate utility or public ownership of renewable energy plants and  
2           combined heat and power projects to benefit ratepayers and economic  
3           development in the state.

4           (4) Support, over the long term, stability in electric energy prices for  
5           Vermont consumers.

6           (5) Lower long-term rate impacts by reducing the inclusion of fuel costs  
7           in rates.

8           § 8022. DEFINITIONS

9           In this subchapter:

10           (1) “Capital costs” means costs necessary to install a renewable energy  
11           plant and bring the plant to the point of commissioning, excluding feasibility  
12           studies and permitting costs. The term “capital costs” includes the cost of land  
13           acquisition, construction costs, and the cost of plant components. The term  
14           “capital costs” excludes financing, carrying, operation, and maintenance costs.

15           (2) “CEDB” means the clean energy development board established  
16           under section 8015 of this title.

17           (3) “Commissioner” means the commissioner of public service or  
18           designee. The commissioner shall have authority to administer and expend  
19           moneys from the fund in accordance with this subchapter.

20           (4) “Fund” means the REI-Vermont fund created under this subchapter,  
21           except when used as part of the phrase “clean energy development fund.”

1           (5) “REI-Vermont” or “program” means the renewable energy  
2           investment Vermont program established under this subchapter.

3           (6) “Renewable energy” is as defined in subdivision 8002(2) of this title  
4           and includes a plant that sequentially produces both electric power and thermal  
5           energy (combined heat and power) from a resource that meets the definition in  
6           subdivision 8002(2).

7           § 8023. RENEWABLE ENERGY INVESTMENT VERMONT FUND;

8                   CREATION

9           The renewable energy investment Vermont fund is created. Balances in the  
10           fund shall be held for the benefit of ratepayers, shall be expended solely for the  
11           purposes set forth in this subchapter, and shall not be used for the general  
12           obligations of government. All balances in the fund at the end of any fiscal  
13           year shall be carried forward and remain part of the fund. Interest earned by  
14           the fund shall be deposited in the fund. This fund is established in the state  
15           treasury pursuant to subchapter 5 of chapter 7 of Title 32.

16           § 8024. RENEWABLE INVESTMENT CONTRIBUTION; CUSTOMER

17                   ELECTION TO REVISE OR DECLINE

18           A renewable investment contribution charge to the customers of each  
19           Vermont retail electricity provider is established. Each of the following shall  
20           apply to this contribution charge:

21           (1) The charge shall be shown separately on each customer’s bill.

1           (2) The default rate of the contribution charge shall be \$0.03 per each  
2           kWh of electrical energy consumed by the customer. This charge shall be  
3           assessed unless the customer instructs otherwise pursuant to subdivision (3) of  
4           this section.

5           (3) At any time, a customer may instruct the retail electricity provider to  
6           revise the rate of the charge to the customer, which the provider shall  
7           implement for the next monthly billing cycle following the instruction. The  
8           rates for the charge available to a customer shall range from zero through  
9           \$0.05 per kWh in one-cent increments. A customer may elect not to be  
10          charged the renewable investment contribution charge.

11          (4) During the monthly billing cycle that commences in November 2011  
12          and every 12th monthly billing cycle afterward, each retail electricity provider  
13          shall send with its bills to customers an information sheet that the  
14          commissioner, after consultation with the CEDB, shall develop and provide.  
15          The information sheet shall summarize the purpose of the REI-Vermont  
16          program and the benefits of participation. The sheet also shall inform the  
17          customer of the default rate and the options available under subdivisions (2)  
18          and (3) of this section and state that the customer may exercise these options  
19          by contacting the customer's retail electricity provider at the telephone number  
20          or mailing address on the provider's bill. The first time such a sheet is sent to

1 customers, the sheet shall provide notice of the inception of the REI-Vermont  
2 program.

3 (5) A customer shall not be eligible to participate in the REI-Vermont  
4 program and shall not be assessed a charge under this section if the customer is  
5 a low income electric utility customer as defined in subsection 218(e) of this  
6 title who is receiving reduced rates to assure affordability as provided under  
7 subsection 218(e).

8 (6) At the end of each monthly billing cycle, a Vermont retail electricity  
9 provider shall transmit to the commissioner the total amount of the renewable  
10 investment contribution charge assessed to the provider's customers during the  
11 immediately preceding monthly billing cycle. With respect to a customer's  
12 nonpayment of a charge properly assessed in accordance with this subsection,  
13 the board and a retail electricity provider shall apply the same rules as are  
14 applied to a customer's nonpayment of the energy efficiency charge under  
15 subdivision 209(d)(3) of this title.

16 § 8025. RENEWABLE CONTRIBUTION CHARGE MONEYS;

17 PLACEMENT INTO FUND

18 All moneys raised through the renewable investment contribution charge  
19 shall be placed into the REI-Vermont fund.

20 § 8026. USE OF MONEYS FROM THE REI-VERMONT FUND

21 Moneys from the fund shall be used exclusively as stated in this section.

1           (1) Moneys from the fund shall be used for the capital costs of  
2           developing and constructing:

3                   (A) Renewable energy plants in Vermont with greater than 2.2 MW  
4           plant capacity to be owned and operated by a Vermont retail electricity  
5           provider.

6                   (B) Renewable energy plants with a plant capacity of less than 20  
7           MW by the state of Vermont that will constitute qualifying small power  
8           production facilities under 16 U.S.C. 796(17)(C) and 18 C.F.R. part 292,  
9           provided such plants are not net metering systems under section 219a of this  
10           title and do not execute a standard offer contract under section 8005 of this  
11           title. The secretary of administration shall have authority to own and operate  
12           or contract for the operation of a plant by the state of Vermont, the capital  
13           costs of which are funded under this chapter, and may delegate such authority  
14           to any agency of the state other than the board and the department. The use of  
15           any funds by a state agency for such a plant other than those received under  
16           this subchapter shall require separate authority.

17                   (C) Renewable energy plants with a plant capacity of not more than  
18           2.2 MW by a municipality within the state of Vermont that will constitute  
19           qualifying small power production facilities under 16 U.S.C. 796(17)(C) and  
20           18 C.F.R. part 292, provided such plants do not execute a standard offer  
21           contract under section 8005 of this title.

1           (2) Funds expended pursuant to subdivision (1) of this section may only  
2           be used for a renewable energy plant for which an application for a certificate  
3           of public good under section 248 of this title is or will be filed on or after  
4           January 1, 2012, provided that the plant was not in service prior to that date or,  
5           if the plant was in service prior to that date, the application under section 248  
6           of this title proposes or will propose a modernization of the plant and either an  
7           increase in its plant capacity or an increase in anticipated energy production.

8           (3) Up to five percent annually of the moneys deposited into the fund  
9           may be used by the commissioner to administer the REI-Vermont program,  
10           including contracting with the SPEED facilitator and for any other necessary  
11           assistance and expertise, and purchasing any necessary insurance.

12           § 8027. PLANT SELECTION

13           The following shall apply to the identification and selection of plants to be  
14           supported by the fund under section 8026 of this title:

15           (1) In consultation with the CEDB, the commissioner shall assess  
16           proposed plants based on criteria that include cost-effectiveness, acquisition  
17           costs, diversification of renewable energy technologies, potential  
18           environmental and land use impacts, avoidance of transmission costs, and  
19           other relevant factors.

20           (2) Supported plants shall not result in the placement in a retail  
21           electricity provider's rates of financing or carrying costs except as may be

1 approved by the public service board under applicable utility ratemaking law  
2 with respect to:

3 (A) Those capital costs of a plant not supported by the fund.

4 (B) Operations and maintenance costs of a plant after commissioning.

5 (3) The commissioner shall consult with the agency of natural resources  
6 and the department of public service when reviewing a plant proposed for  
7 funding and consider the comments of that agency and department.

8 (4) The commissioner periodically shall issue requests for proposals  
9 from Vermont retail electricity providers, the state of Vermont, and Vermont  
10 municipalities for plants to be supported by the fund. A Vermont retail  
11 electricity provider or an agency or municipality of the state of Vermont may  
12 apply for funding from the account regardless of whether such a request has  
13 been issued. The commissioner shall determine the information and  
14 documents to be submitted with a proposal or an application under this  
15 subdivision.

16 (5) At the time of an award, the commissioner shall provide for  
17 reallocation of the award and return of any funds transferred in the event that  
18 the plant for which the award is made is not commissioned within a reasonable  
19 period as determined by the commissioner.

1     § 8028. OWNERSHIP AND ALLOCATION OF ELECTRICITY

2             PRODUCTS

3             (a) Plants of retail electricity provider.

4                 (1) If moneys from the fund are used to support 100 percent of the  
5                 capital costs of a renewable energy plant by a Vermont retail electricity  
6                 provider, then the Vermont retail electricity providers shall receive and have  
7                 ownership of 100 percent of the electricity and other products of the plant over  
8                 its life, including electrical energy, capacity, and tradeable renewable energy  
9                 credits. If moneys from the fund are used to support less than 100 percent of  
10                the capital costs of a renewable energy plant by a retail electricity provider,  
11                then the percentage of the plant's electricity products received and owned by  
12                the Vermont retail electricity providers for the life of the plant shall be equal at  
13                least to the percentage of the plant's capital costs supported by the fund  
14                through the provider or providers.

15                (2) Electricity products described in subdivision (1) of this subsection  
16                shall be allocated by the SPEED facilitator among the retail electricity  
17                providers as follows:

18                    (A) 25 percent shall be allocated to the retail electricity provider or  
19                    providers that own and operate the plant.

1           (B) 75 percent shall be aggregated by the SPEED facilitator and  
2           allocated among all Vermont retail electricity providers based on their pro rata  
3           share of total Vermont kWh sales for the previous calendar year.

4           (b) Plants by the state of Vermont.

5           (1) If moneys from the fund are used to support 100 percent of the  
6           capital costs of a renewable energy plant by the state of Vermont, then the state  
7           of Vermont shall receive and have ownership on behalf of the ratepayers of the  
8           state of 100 percent of the electricity and other products of the plant over its  
9           life, including electrical energy, capacity, and tradeable renewable energy  
10           credits. If moneys from the fund are used to support less than 100 percent of  
11           the capital costs of a renewable energy plant by the state of Vermont, then the  
12           percentage of the plant's electricity products received and owned by the state  
13           of Vermont on behalf of the state's ratepayers for the life of the plant shall be  
14           equal at least to the percentage of the plant's capital costs supported by the  
15           fund through the state of Vermont.

16           (2) Electrical energy and capacity products described in subdivision (1)  
17           of this subsection and the costs of those products shall be aggregated by the  
18           SPEED facilitator and allocated among all Vermont retail electricity providers  
19           based on their pro rata share of total Vermont kWh sales for the previous  
20           calendar year. The price of such products shall be the avoided cost of the  
21           Vermont composite electric utility system as determined by the board. The

1 only provisions of board rule 4.100 (small power production and cogeneration)  
2 that shall apply are rules 4.109 (exemption from utility regulation) and 4.110  
3 (reporting requirements). The SPEED facilitator shall transfer payments  
4 received under this subdivision to the secretary of administration or the  
5 delegated agency under subdivision 8026(1)(B) of this title to support the costs  
6 of plant operation and maintenance.

7 (3) Electricity products described in subdivision (1) of this subsection  
8 other than electrical energy and capacity shall be assets of the fund. From time  
9 to time, the commissioner shall direct the sale of these products, all proceeds of  
10 which shall be deposited into the fund. The report and audit required under  
11 section 8030 of this title shall account for these products and their sale and  
12 deposit into the fund.

13 (c) Plants by a municipality. If moneys from the fund are used to support a  
14 plant by a municipality:

15 (1) 25 percent of the electrical energy generated by the plant shall be  
16 treated in accordance with the provisions of subsection 219a(e) (billing and  
17 crediting of net metering systems) of this title or, if the municipality has  
18 multiple meters, with the provisions of subsection 219a(f) (group net metering  
19 system billing and crediting) of this title. This subdivision (1) shall apply to  
20 the plant regardless of any limits on plant capacity contained in section 219a of  
21 this title.

1           (2) Capacity products and 75 percent of the electrical energy generated  
2 by the plant shall be allocated to the Vermont retail electricity providers in the  
3 same manner as under subdivision (b)(2) of this section, except that the  
4 SPEED facilitator shall transfer payments received to the municipality to  
5 support the costs of plant operation and maintenance.

6           (3) Electricity products of the plant other than electrical energy and  
7 capacity shall be treated in the same manner as under subdivision (b)(3) of this  
8 section.

9           (c) Dispute resolution. The board shall have jurisdiction to resolve any  
10 disputes regarding ownership and allocations under this section.

11           (d) The requirements of this section concerning ownership and allocation  
12 of a plant's electricity products shall continue to apply to the plant regardless  
13 of any sale or transfer or change in ownership of the plant.

14           § 8029. ELECTRICITY PROVIDERS; RATE RECOVERY; RETENTION  
15 OF RENEWABLE ENERGY CREDITS

16           (a) A retail electricity provider shall not recover in rates the capital costs of  
17 or a rate of return on a plant funded under this section or, if less than 100  
18 percent of a plant is funded under this section, that portion of the plant funded  
19 under this section, determined by the percentage of capital costs.

20           (b) Tradeable renewable energy credits. Tradeable renewable energy  
21 credits owned by a Vermont retail electricity provider pursuant to this

1 subchapter shall be retained by the provider for use in the event that the  
2 renewable portfolio standard under section 8004 of this title or other renewable  
3 portfolio standard mandated by the federal government or state of Vermont  
4 comes into effect.

5 § 8030. REPORTING; AUDIT

6 (a) By February 1 of each year, commencing in 2013, the commissioner  
7 shall provide to the house and senate committees on natural resources and  
8 energy, the senate committee on finance, and the house committee on  
9 commerce and economic development a report that includes each of the  
10 following for the reporting period: a complete operating and financial  
11 statement covering its activities related to the account; the account's revenues  
12 and expenditures; an identification of each plant funded by the account,  
13 including the energy generation type, plant capacity, location, and ownership; a  
14 summary of requests for proposals issued, responses, and dispositions; and a  
15 summary of applications for funding from the REI-Vermont program received  
16 independently of a request for proposals and the disposition of those  
17 applications.

18 (b) The commissioner shall keep an accurate account of all activities and  
19 receipts and expenditures under this section. The commissioner shall cause an  
20 audit of the fund and the books related to the fund to be made at least once in  
21 each year by a certified public accountant, and the audit's cost shall be

1 considered an administrative expense of the fund and a copy shall be filed with  
2 the state treasurer. The auditor of accounts of the state and his or her  
3 authorized representatives may at any time examine the fund and related  
4 books, including its receipts, disbursements, contracts, funds, investments, and  
5 any other matters relating to its financial statements.

6 § 8031. LIMITATION OF LIABILITY

7 (a) With respect to a plant supported by the fund, the construction,  
8 operation, and maintenance of such a plant, and any actions or omissions  
9 associated with the plant, the commissioner, the CEDB, and the fund shall  
10 have no liability, except that the fund shall be responsible to a plant owner to  
11 provide funds awarded by the commissioner to the plant owner in accordance  
12 with the terms and conditions of that award and in no event in excess of the  
13 amount of funds awarded for the plant.

14 (b) The state shall not be liable with respect to any matter related to this  
15 section or a plant supported by the fund, except that, with respect to a plant  
16 owned and operated by the state:

17 (1) The state shall purchase insurance of the same type and with the  
18 same limits that a prudent private owner of an electric generation plant would  
19 purchase; and

20 (2) The state's liability for an incident or occurrence shall not exceed the  
21 limits stated in such insurance policy.

1     § 8032. TRIENNIAL REPORT

2         By February 1, 2015, and every third February 1 afterward, the department  
3     shall:

4         (1) Review the REI-Vermont program and associated activities to  
5     determine if either or both of the following circumstances have occurred:

6             (A) More than one-third of the moneys collected to date for the fund  
7     have not been awarded.

8             (B) More than one-third of the plants for which moneys from the  
9     fund have been awarded have not filed petitions for approval under section 248  
10    of this title.

11         (2) Report in writing the results of this review. Each of the following  
12    shall apply to this report:

13             (A) The report shall be submitted to the CEDB, the public service  
14    board, and the house and senate committees on natural resources and energy.

15             (B) In the event that one or both of the circumstances described in  
16    subdivision (1) of this section have occurred, the report shall include the  
17    department's recommended statutory, administrative, or other proposals to  
18    promote the prompt use of moneys from the fund to achieve commissioned  
19    new renewable energy plants in Vermont to deliver stably priced electric  
20    energy to Vermonters, including whether moneys from the fund should be  
21    made available to persons or entities that are not Vermont retail electricity

1 providers or the state of Vermont to install such plants for the purpose of  
2 serving Vermont electric consumers.

3 \* \* \* Net Metering \* \* \*

4 Sec. 12. 30 V.S.A. § 219a is amended to read:

5 § 219a. SELF-GENERATION AND NET METERING

6 (a) As used in this section:

7 \* \* \*

8 (3) "Net metering system" means a facility for generation of electricity  
9 that:

10 (A) is of no more than 250 ~~kilowatts (AC)~~ kW capacity or, in the  
11 case of a group net metering system, no more than 500 kW capacity;

12 (B) operates in parallel with facilities of the electric distribution  
13 system;

14 (C) is intended primarily to offset part or all of the customer's own  
15 electricity requirements;

16 (D) is located on the customer's premises; and

17 (E)(i) employs a renewable energy source as defined in subdivision  
18 8002(2) of this title; or

19 (ii) is a qualified micro-combined heat and power system of 20  
20 ~~kilowatts~~ kW or fewer that meets the definition of combined heat and power in

1 10 V.S.A. § 6523(b) and may use any fuel source that meets air quality  
2 standards.

3 (4) "Farm system" means a facility of no more than ~~250 kilowatts (AC)~~  
4 500 kW output capacity, except as provided in subdivision (k)(5) of this  
5 section, that generates electric energy on a farm operated by a person  
6 principally engaged in the business of farming, as that term is defined in  
7 Regulation 1.175-3 of the Internal Revenue Code of 1986, from the anaerobic  
8 digestion of agricultural products, byproducts, or wastes, or other renewable  
9 sources as defined in subdivision (3)(E) of this subsection, intended to offset  
10 the meters designated under subdivision (g)(1)(A) of this section on the farm  
11 or has entered into a contract as specified in subsection (k) of this section.

12 (5) "Facility" means a structure or piece of equipment and associated  
13 machinery and fixtures that generates electricity. A group of structures or  
14 pieces of equipment shall be considered one facility if they use the same fuel  
15 source and infrastructure and are located in close proximity to each other.  
16 Common ownership shall be relevant but not sufficient to determine that such  
17 a group constitutes a facility.

18 (6) "kW" means kilowatt or kilowatts (AC).

19 (7) "kWh" means kW hour or hours.

20 (8) "MW" means megawatt or megawatts (AC).

21 \* \* \*

1 (e) Consistent with the other provisions of this title, electric energy  
2 measurement for net metering systems using a single nondemand meter that  
3 are not farm systems shall be calculated in the following manner:

4 \* \* \*

5 (3) If electricity generated by the customer exceeds the electricity  
6 supplied by the electric company:

7 (A) The customer shall be billed for the appropriate charges for that  
8 month, in accordance with subsection (b) of this section;

9 (B) The customer shall be credited for the excess ~~kilowatt-hours~~ kWh  
10 generated during the billing period, with this kilowatt-hour credit appearing on  
11 the bill for the following billing period; and

12 (C) Any accumulated ~~kilowatt-hour~~ kWh credits ~~shall be not used~~  
13 within 12 months, ~~or~~ shall revert to the electric company, ~~without any~~ with  
14 compensation to the customer at the highest rate paid during that 12-month  
15 period by the electric company for power generated by technology using the  
16 same fuel source. The determination of that rate shall exclude power  
17 purchased pursuant to a standard offer under section 8005 of this title and shall  
18 include all other prices paid and the monetary value to a customer of all kWh  
19 credits applied to bills by the electric company for power generated by the  
20 same technology. The monetary value of a kWh credit under this  
21 subdivision (3)(C) shall be the value that the credit represents when applied to

1 a charge on a customer's bill for electricity supplied by the electric company.

2 Power reverting to the electric company under this subdivision (3) shall be  
3 considered SPEED resources under section 8005 of this title.

4 \* \* \*

5 (f) Consistent with the other provisions of this title, electric energy  
6 measurement for net metering farm or group net metering systems shall be  
7 calculated in the following manner:

8 \* \* \*

9 (3) If electricity generated by the farm or group net metering system  
10 exceeds the electricity supplied by the electric company:

11 (A) The farm or group net metering system shall be billed for the  
12 appropriate charges for each meter for that month, in accordance with  
13 subsection (b) of this section.

14 (B) Excess ~~kilowatt hours~~ kWh generated during the billing period  
15 shall be added to the accumulated balance with this ~~kilowatt-hour~~ kWh credit  
16 appearing on the bill for the following billing period.

17 (C) Any accumulated kilowatt-hour credits shall be ~~used within 12~~  
18 ~~months or shall revert to the electric company without any compensation to the~~  
19 ~~farm or group net metering system. Power reverting to the electric company~~  
20 ~~under this subdivision (3) shall be considered SPEED resources under section~~

1 ~~8005 of this title~~ subject to and treated in the same manner as under  
2 subdivision (e)(3)(C) of this section.

3 \* \* \*

4 (h)(1) An electric company:

5 (A) Shall make net metering available to any customer using a net  
6 metering system, group net metering system, or farm system ~~on a first come,~~  
7 ~~first served basis until the cumulative output capacity of net metering systems~~  
8 ~~equals 2.0 percent of the distribution company's peak demand during 1996; or~~  
9 ~~the peak demand during the most recent full calendar year, whichever is~~  
10 ~~greater. The board may raise the 2.0 percent cap. In determining whether to~~  
11 ~~raise the cap, the board shall consider the following:~~

12 (i) ~~the costs and benefits of net metering systems already~~  
13 ~~connected to the system; and~~

14 (ii) ~~the potential costs and benefits of exceeding the cap, including~~  
15 ~~potential short and long term impacts on rates, distribution system costs and~~  
16 ~~benefits, reliability and diversification costs and benefits;~~

17 \* \* \*

18 (E) May require a customer to comply with generation  
19 interconnection, safety, and reliability requirements, as determined by the  
20 public service board by rule or order, and may charge reasonable fees for  
21 interconnection, establishment, special metering, meter reading, accounting,

1 account correcting, and account maintenance of net metering arrangements of  
2 greater than 15 kilowatt (AC) kW capacity;

3 \* \* \*

4 (J) In its retail tariff, may, and in the case of net metering systems  
5 using solar energy shall offer credits or other incentives, including monetary  
6 payments, to net metering customers that are in addition to the benefits  
7 provided to such customers under subsections (e) and (f) of this section. Any  
8 such additional credit or incentive may be carried over on the customer's bill  
9 from year to year. With respect to a net metering system that constitutes new  
10 renewable energy under subdivision 8002(4) of this title, the increment of net  
11 annual energy production supplied by the customer to the company through a  
12 net metering system that is supported by such additional credit or incentive  
13 shall count toward the goals and requirements of subsection 8005(d) of this  
14 title. Such increment shall be determined by applying, to the system's net  
15 annual energy production supplied to the company, the value of the additional  
16 credit or incentive divided by the sum of the value of that additional credit or  
17 incentive and the value of the kWh credit provided under subsection (e) or (f)  
18 of this section.

19 (2) All such requirements or credits or other incentives shall be pursuant  
20 to and governed by a tariff approved by the board and any applicable board

1 rule, which tariffs and rules shall be designed in a manner reasonably likely to  
2 facilitate net metering, including deployment of solar generation.

3 \* \* \*

4 (k) Notwithstanding the provisions of subsections (f) and (g) of this  
5 section, an electric company may contract to purchase all or a portion of the  
6 output products from a farm or group net metering system, provided:

7 (1) the farm or group net metering system obtains a certificate of public  
8 good under the terms of subsections (c) and (d) of this section;

9 (2) any contracted power shall be subject to the limitations set forth in  
10 subdivision (h)(1) of this section;

11 (3) any contract shall be subject to interconnection and metering  
12 requirements in subdivisions (h)(1)(C), and (i)(2) and (3) of this section;

13 (4) any contract may permit all or a portion of the tradeable renewable  
14 energy credits for which the farm system is eligible to be transferred to the  
15 electric company;

16 (5) the output capacity of a system may exceed ~~250 kilowatts~~ 500 kW,  
17 provided:

18 (A) the contract assigns the amount of power to be net metered; and

19 (B) the net metered amount does not exceed ~~250 kilowatts~~ 500 kW;

20 and



1 electricity from renewable energy on such facilities and lands at no cost for the  
2 use of the real property.

3 (b) For the purpose of this section:

4 (1) “Board,” “plant,” “renewable energy” and “retail electricity  
5 provider” are as defined in 30 V.S.A. § 8002.

6 (2) “State facilities” is as defined in 3 V.S.A. § 2291(a)(2).

7 (3) “State lands” means all real property owned or controlled by an  
8 agency of the state, whether through fee ownership, easement, or other means,  
9 that is not a state facility. The term excludes real property that is subject to a  
10 covenant or other binding legal restriction that runs with the land, the terms of  
11 which clearly contradict the installation of a renewable energy plant on that  
12 land.

13 (c) The ratepayers of a retail electricity provider that accepts an offer under  
14 subsection (a) of this section shall receive the benefit of the use of a state  
15 facility or land at no cost, and the provider and the board shall take all steps  
16 necessary to ensure that the ratepayers receive this benefit.

17 (d) A renewable energy plant installed pursuant to this section shall be  
18 subject to applicable local taxes.



1 implement 30 V.S.A. § 209(e)(16), commencing no later than March 1, 2012.  
2 After that date, design and implementation of 30 V.S.A. § 209(e)(16) and the  
3 associated board review shall proceed in the same manner as with other  
4 programs by the entities appointed under 30 V.S.A. § 209(d)(2).

5 \* \* \* Weatherization \* \* \*

6 Sec. 16. WEATHERIZATION; PROGRAM IMPLEMENTATION BY  
7 ENERGY EFFICIENCY ENTITY

8 (a) Notwithstanding any other provision of law, the home weatherization  
9 assistance program described in 33 V.S.A. § 2502(a) shall be implemented by  
10 the entity appointed under 30 V.S.A. §§ 209(d)(2) and 235 to deliver energy  
11 efficiency programs. Such implementation shall be pursuant to the oversight  
12 of the public service board and department of public service as described in  
13 30 V.S.A. §§ 209(e) and 235(d). Such implementation shall be supported by  
14 the trust fund and the fuel gross receipts tax described in 33 V.S.A. §§ 2501  
15 and 2503. Such implementation shall include those home weatherization  
16 activities in Vermont, and associated funds, supported by the American  
17 Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5. Such  
18 implementation shall include exercising all home weatherization program  
19 functions and duties of the Office of Economic Opportunity (OEO), which  
20 shall no longer have functions and duties, and collaborating with OEO with

1 respect to any functions and duties relating to home energy that remain with  
2 OEO.

3 (b) On or before January 15, 2012, the governor by executive order shall  
4 provide for the implementation of subsection (a) of this section and the transfer  
5 to the entity described in subsection (a) of this section of all functions and  
6 duties of the OEO with respect to the home weatherization assistance program  
7 described in that subsection. The order shall conform in all respects to  
8 subsection (a) of this section. The provisions of 3 V.S.A. chapter 41  
9 (reorganization by governor) shall apply to the order.

10 (c) On issuance, the governor shall provide the executive order described in  
11 subsection (b) of this section to the general assembly. The governor shall  
12 attach a report that details the support for the manner in which the governor  
13 chose to implement subsection (a) of this section and shall recommend any  
14 proposed changes to statute or session law needed with respect to such  
15 implementation.

16 \* \* \* Heating Oil; Low Sulfur \* \* \*

17 Sec. 17. 9 V.S.A. § 2697b is added to read:

18 § 2697b. HEATING OIL SULFUR REQUIREMENTS

19 (a) In this section, "heating oil" means No. 2 distillate that has distillation  
20 temperatures of 400 degrees Fahrenheit at the 10-percent recovery point and  
21 640 degrees Fahrenheit at the 90-percent recovery point and meets the

1 specifications defined in American Society for Testing and Materials (ASTM)  
2 Specification D 396.

3 (b) All heating oil sold within the state for residential, commercial, or  
4 industrial uses, including space and water heating, shall have a sulfur content  
5 of 15 parts per million or less, unless this requirement is waived pursuant to  
6 subsection (f) of this section.

7 (c) The governor, by executive order, may temporarily suspend the  
8 implementation and enforcement of subsection (b) of this section if the  
9 governor determines, after consulting with the secretary and the commissioner  
10 of public service, that meeting the requirements is not feasible due to an  
11 inadequate supply of the required fuel.

12 \* \* \* Renewable Fuels; Tax Provisions \* \* \*

13 Sec. 18. BIODIESEL; EXCISE TAX; TEMPORARY EXEMPTION

14 (a) Commencing January 1, 2012 through December 31, 2016, biodiesel  
15 produced in Vermont shall not be subject to taxation under 23 V.S.A. chapters  
16 27 and 28 and 32 V.S.A. chapter 233.

17 (b) For the purpose of this section, "biodiesel" means fuel composed of  
18 mono-alkyl esters of long chain fatty acids derived from vegetable oils or  
19 animal fats, which meets both the requirements for fuels and fuel additives of  
20 40 C.F.R. Part 79 and the requirements of American Society for Testing and  
21 Materials (ASTM) Specification D 6751.



1 apply one such portion annually to the taxpayer's liability under 32 V.S.A.  
2 § 5822 or 5832, starting with the tax year that begins on January 1, 2011 and  
3 ending with the tax year that begins on January 1, 2015.

4 (c) Notwithstanding 32 V.S.A. § 5930z(f), no funds shall be transferred  
5 from the clean energy development fund to the general fund in order to support  
6 business solar energy tax credits above the \$9.4-million cap that are taken  
7 under this section.

8 (d) No later than August 1, 2011, the clean energy development fund shall  
9 provide the department of taxes with a list of all taxpayers known to the fund  
10 that submitted a form to the fund pursuant to 32 V.S.A. § 5930z(d) and were  
11 not awarded business solar energy tax credits because of the \$9.4-million cap.  
12 No later than September 15, 2011, the department of taxes shall provide all  
13 such taxpayers with a copy of this section and an information sheet explaining  
14 its provisions and their operation.

15 (e) The operation of Sec. 9(1) and (2) (prospective repeals; business solar  
16 energy tax credits) of No. 159 of the Acts of the 2009 Adj. Sess. (2010) shall  
17 not affect the right of a taxpayer to take credits under this section.

18 (f) This section shall be repealed effective January 1, 2016.

19 Sec. 21. EFFECTIVE DATES; RETROACTIVE APPLICATION

20 (a) The following shall take effect on passage:

1           (1) This section and Secs. 1 (designation of act), 4 (new standard offer;  
2 board allocation proceedings; RPS/SPEED study repeal), 6 (clean energy  
3 development board; term expiration; transition; new appointments), 12 (net  
4 metering), 13 (renewable energy; state facilities and lands), 15 (program  
5 design review; implementation), 16(b) and (c) (home weatherization assistance  
6 program transfer; reorganization and report by governor), and 20 (business  
7 solar energy tax credits) of this act.

8           (2) In Sec. 5 (clean energy development fund): 10 V.S.A. § 6523(c)(3)  
9 (advisory committee) and (4) (clean energy development board) for the  
10 purpose of Sec. 6 of this act.

11           (3) Sec. 11 of this act (REI-Vermont program), except for the provisions  
12 listed in subdivision (c)(1)(C) of this section.

13           (b) The following shall take effect on July 1, 2011: Secs. 2 (definitions,  
14 renewable energy chapter), 3 (revisions to SPEED and standard offer), 9  
15 (recodification; redesignation), 10 (statutory revision), and 14 (energy  
16 efficiency programs; customer approach to energy use) of this act.

17           (c)(1) The following shall take effect on January 1, 2012:

18           (A) Except as provided by subdivision (a)(2) of this section, Secs. 5  
19 (clean energy development fund) and 7 (ARRA energy moneys) of this act.

1           (B) Secs. 8 (grid parity support charge), 18 (biodiesel; excise tax;  
2 temporary exemption), and 19 (biomass equipment; sales tax exemption) of  
3 this act.

4           (C) In Sec. 11 of this act (REI-Vermont program): 30 V.S.A.  
5 § 8024(1) (renewable investment charge on bill), (2) (default charge rate), (3)  
6 (customer election to revise charge rate), (5) (low-income customers), and (6)  
7 (electricity provider transmission of assessed charge).

8           (2) A Vermont retail electricity provider within the meaning of  
9 30 V.S.A. § 8002(9) shall:

10           (A) During the monthly billing cycle that commences in October  
11 2011 provide notice, in a form directed by the commissioner of public service,  
12 of the grid party support charge under Sec. 8 of this act.

13           (B) Implement Sec. 8 of this act (grid parity support charge) and,  
14 under Sec. 11 of this act (REI-Vermont program), implement the assessment of  
15 the renewable investment contribution charge pursuant to 30 V.S.A. § 8024 on  
16 bills rendered on and after January 1, 2012.

17           (d) Sec. 16(a)(home weatherization assistance program implementation)  
18 shall take effect on April 1, 2012.

19           (e)(1) Sec. 13 of this act, containing 9 V.S.A. § 2697b (heating fuel; sulfur  
20 requirement), shall take effect on the later of the following:

21           (A) July 1, 2012.

1           (B) The date on which, through legislation, rule, agreement, or other  
2           binding means, the last of the surrounding states has adopted requirements that  
3           are substantially similar to or more stringent than the requirements contained in  
4           9 V.S.A. § 2697b(b). The attorney general shall determine when this date has  
5           occurred.

6           (2) For the purpose of this subsection, the term “surrounding states”  
7           means the states of Massachusetts, New Hampshire, and New York, and the  
8           term “last” requires that all three of the surrounding states have adopted a  
9           substantially similar or more stringent requirement.

10           (f) In Sec. 12 of this act, 30 V.S.A. § 219a(h)(1)(J) shall apply to petitions  
11           filed by an electric company with the public service board on and after May 1,  
12           2010.