

1 H.718

2 Introduced by Representatives Botzow of Pownal, Kitzmiller of Montpelier,

3 Russell of Rutland City, Scheuermann of Stowe, Shand of

4 Weathersfield and Zagar of Barnard

5 Referred to Committee on

6 Date:

7 Subject: Utilities; commercial building energy standards; energy planning;

8 electronic case filing and management; universal service fund

9 Statement of purpose: This bill proposes to make miscellaneous amendments  
10 to matters within the jurisdiction of the department of public service and the  
11 public service board.

12 An act relating to the department of public service and the public service  
13 board

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

15 ~~\*\*\* Effective Date of the CBES \*\*\*~~

16 Sec. 1. 21 V.S.A. § 268 is amended to read:

17 § 268. COMMERCIAL BUILDING ENERGY STANDARDS

18 \*\*\*

19 (c) Revision and interpretation of energy standards. No later than

20 January 1, 2011, the commissioner shall complete rulemaking to amend the

1 ~~commercial building energy standards to ensure that commercial building~~  
2 construction must be designed and constructed in a manner that complies with  
3 ANSI/ASHRAE/IESNA standard 90.1-2007 or the 2009 edition of the IECC,  
4 whichever provides the greatest level of energy savings. These amendments  
5 shall be effective ~~three months~~ one year after final adoption and shall apply to  
6 construction commenced on and after the date they become effective. At least  
7 every three years after January 1, 2011, the commissioner of public service  
8 shall amend and update the CBES by means of administrative rules adopted in  
9 accordance with 3 V.S.A. chapter 25. The commissioner shall ensure that  
10 appropriate revisions are made promptly after the issuance of updated  
11 standards for commercial construction under the IECC or  
12 ASHRAE/ANSI/IESNA standard 90.1, whichever provides the greatest level  
13 of energy savings. Prior to final adoption of each required revision of the  
14 CBES, the department of public service shall convene an advisory committee  
15 to include one or more mortgage lenders; builders; building designers;  
16 architects; civil, mechanical, and electrical engineers; utility representatives;  
17 and other persons with experience and expertise, such as consumer advocates  
18 and energy conservation experts. The advisory committee may provide the  
19 commissioner of public service with additional recommendations for revision  
20 of the CBES.

21 \* \* \*

1 ~~(2) Except for the amendments required by this subsection to be adopted~~  
2 ~~by January 1, 2011, each~~ Each time the CBES are amended by the  
3 commissioner of public service, the amended CBES shall become effective  
4 upon a date specified in the adopted rule, a date that shall not be less than ~~three~~  
5 ~~months~~ one year after the date of adoption. Except for the amendments  
6 required by this subsection to be adopted by January 1, 2011, persons  
7 submitting an application for any local permit authorizing commercial  
8 construction, or an application for construction plan approval by the  
9 commissioner of public safety pursuant to 20 V.S.A. chapter 173, before the  
10 effective date of the amended CBES shall have the option of complying with  
11 the applicable provisions of the earlier or the amended CBES. After the  
12 effective date of the original or the amended CBES, any person submitting  
13 such an application for commercial construction in an area subject to the CBES  
14 shall comply with the most recent version of the CBES.

15 \* \* \*

16 Sec. 2. RETROACTIVE APPLICATION

17 Sec. 1 of this act shall apply to rules adopted under 21 V.S.A. § 268  
18 (commercial building energy standards) on or after September 1, 2011.

~~\*\*\* Coordination of Energy Planning \*\*\*~~

Sec. 3. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

(a) The department of public service, through the director for regulated utility planning, shall constitute the responsible utility planning agency of the state for the purpose of obtaining for all consumers in the state proper utility service at minimum cost under efficient and economical management consistent with other public policy of the state. The director shall be responsible for the provision of plans for meeting emerging trends related to electrical energy demand, supply, safety and conservation.

(b) The department, through the director, shall prepare an electrical energy plan for the state. The plan shall be for a 20-year period and shall serve as a basis for state electrical energy policy. The electric energy plan shall be based on the principles of "least cost integrated planning" set out in and developed under section 218c of this title. The plan shall include at a minimum:

(1) an overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for electrical energy, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, modifications in housing types and design, conservation and other trends and factors which, as determined by the director, will significantly affect state electrical energy policy and programs;

1 ~~(2) an assessment of all energy resources available to the state for~~  
2 electrical generation or to supply electrical power, including among others,  
3 fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy  
4 and strategies for minimizing the economic and environmental costs of energy  
5 supply, including the production of pollutants, by means of efficiency and  
6 emission improvements, fuel shifting, and other appropriate means;

7 (3) estimates of the projected level of electrical energy demand;

8 (4) a detailed exposition, including capital requirements and the  
9 estimated cost to consumers, of how such demand shall be met based on the  
10 assumptions made in subdivision (1) of this subsection and the policies set out  
11 in subsection (c) of this section; and

12 (5) specific strategies for reducing electric rates to the greatest extent  
13 possible in Vermont over the most immediate ~~five-year~~ six-year period, for the  
14 next succeeding ~~five-year~~ six-year period, and long-term sustainable strategies  
15 for achieving and maintaining the lowest possible electric rates over the full  
16 20-year planning horizon consistent with the goal of maintaining a financially  
17 stable electric utility industry in Vermont.

18 (c) In developing the plan, the department shall take into account the  
19 protection of public health and safety; preservation of environmental quality;  
20 the potential for reduction of rates paid by all retail electricity customers; the  
21 potential for reduction of electrical demand through conservation, including

1 ~~alternative utility rate structures; use of load management technologies;~~  
2 efficiency of electrical usage; utilization of waste heat from generation; and  
3 utility assistance to consumers in energy conservation.

4 (d) In establishing plans, the director shall:

5 (1) Consult with:

6 (A) the public;

7 (B) Vermont municipal utilities;

8 (C) Vermont cooperative utilities;

9 (D) Vermont investor-owned utilities;

10 (E) Vermont electric transmission companies;

11 (F) environmental and residential consumer advocacy groups active  
12 in electricity issues;

13 (G) industrial customer representatives;

14 (H) commercial customer representatives;

15 (I) the public service board;

16 (J) an entity designated to meet the public's need for energy  
17 efficiency services under subdivision 218c(a)(2) of this title.

18 (K) other interested state agencies; and

19 (L) other energy providers.

20 (2) To the extent necessary, include in the plan surveys to determine  
21 needed and desirable plant improvements and extensions and coordination

1 ~~between utility systems, joint construction of facilities by two or more utilities,~~  
2 methods of operations, and any change that will produce better service or  
3 reduce costs. To this end, the director may require the submission of data by  
4 each company subject to supervision, of its anticipated electrical demand,  
5 including load fluctuation, supplies, costs, and its plan to meet that demand and  
6 such other information as the director deems desirable.

7 (e) The department shall conduct public hearings on the final draft and  
8 shall consider the evidence presented at such hearings in preparing the final  
9 plan. The plan shall be adopted no later than January 1, ~~2004~~ 2012 and  
10 readopted in accordance with this section by every sixth January 1 thereafter,  
11 and shall be submitted to the general assembly each time the plan is adopted or  
12 readopted. The provisions of 2 V.S.A. § 20(d) (expiration of required reports)  
13 shall not apply to the submission to be made under this subsection.

14 (f) After adoption by the department of a final plan, any company seeking  
15 board authority to make investments, to finance, to site or construct a  
16 generation or transmission facility or to purchase electricity or rights to future  
17 electricity, shall notify the department of the proposed action and request a  
18 determination by the department whether the proposed action is consistent with  
19 the plan. In its determination whether to permit the proposed action, the board  
20 shall consider the department's determination of its consistency with the plan  
21 along with all other factors required by law or relevant to the board's decision

1 ~~on the proposed action. If the proposed action is inconsistent with the plan, the~~  
2 board may nevertheless authorize the proposed action if it finds that there is  
3 good cause to do so. The department shall be a party to any proceeding on the  
4 proposed action, except that this section shall not be construed to require a  
5 hearing if not otherwise required by law.

6 (g) The director shall annually review that portion of a plan extending over  
7 the next ~~five~~ six years. The department, through the director, shall ~~annually~~  
8 biennially extend the plan by ~~one~~ two additional ~~year~~ years; and from time to  
9 time, ~~but in no~~ and in any event ~~less than every five years~~ sixth year, institute  
10 proceedings to review a plan and make revisions, where necessary. The  
11 ~~five-year~~ six-year review and any interim revisions shall be made according to  
12 the procedures established in this section for initial adoption of the plan. The  
13 six-year review and any revisions made in connection with that review shall be  
14 performed contemporaneously with readoption of the comprehensive energy  
15 plan under section 202b of this title.

16 (h) The plans adopted under this section ~~shall be submitted to the energy~~  
17 ~~committees of the general assembly and~~ shall become the electrical energy  
18 portion of the state energy plan.

19 (i) It shall be a goal of the electrical energy plan to assure, by 2028, that at  
20 least 60 MW of power are generated within the state by combined heat and  
21 power (CHP) facilities powered by renewable fuels or by nonqualifying

1 ~~SPEED resources, as defined in section 8002 of this title. In order to meet this~~  
2 goal, the plan shall include incentives for development and strategies to  
3 identify locations in the state that would be suitable for CHP. The plan shall  
4 include strategies to assure the consideration of CHP potential during any  
5 process related to the expansion of natural gas services in the state.

6 Sec. 4. 30 V.S.A. § 202b is amended to read:

7 § 202b. STATE COMPREHENSIVE ENERGY PLAN

8 (a) The department of public service, in conjunction with other state  
9 agencies designated by the governor, shall prepare a comprehensive state  
10 energy plan covering at least a 20-year period. The plan shall seek to  
11 implement the state energy policy set forth in section 202a of this title. The  
12 plan shall include:

13 (1) A comprehensive analysis and projections regarding the use, cost,  
14 supply and environmental effects of all forms of energy resources used within  
15 Vermont.

16 (2) Recommendations for state implementation actions, regulation,  
17 legislation, and other public and private action to carry out the comprehensive  
18 energy plan.

19 (b) In developing or updating the plan's recommendations, the department  
20 of public service shall seek public comment by holding public hearings in at  
21 least five different geographic regions of the state on at least three different

1 ~~dates, and by providing notice through publication once a week and at least~~  
2 seven days apart for two or more successive weeks in a newspaper or  
3 newspapers of general circulation in the regions where the hearings will be  
4 held, and by delivering notices to all licensed commercial radio and television  
5 stations with transmitting facilities within the state, plus Vermont Public Radio  
6 and Vermont Educational Television.

7 (c) The department shall adopt a state energy plan by ~~no later than~~ January  
8 1, ~~1994~~ 2012 and shall ~~readopt the plan by every sixth January 1 thereafter.~~  
9 On adoption or readoption, the plan shall be submitted to the general assembly.  
10 The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not  
11 apply to such submission.

12 (1) Upon adoption of the plan, analytical portions of the plan may be  
13 updated ~~annually~~ and published biennially.

14 (2) Every fourth year after the adoption or readoption of a plan under  
15 this section, the department shall publish the manner in which the department  
16 will engage the public in the process of readopting the plan under this section.

17 (3) The publication requirements of subdivisions (1) and (2) of this  
18 subsection may be met by inclusion of the subject matter in the department's  
19 biennial report.

20 (4) The plan's implementation recommendations shall be updated by the  
21 department no less frequently than every ~~five~~ six years. These

1 ~~recommendations shall be updated prior to the expiration of five six years if~~  
2 the general assembly passes a joint resolution making a request to that effect. If  
3 the department proposes or the general assembly requests the revision of  
4 implementation recommendations, the department shall hold public hearings  
5 on the proposed revisions.

6 (d) ~~Any distribution~~ Distribution of the plan to members of the general  
7 assembly shall be in accordance with the provisions of 2 V.S.A. § 20 ~~(a)–(c)~~.

8 Sec. 5. INTENT; RETROACTIVE APPLICATION

9 In enacting Secs. 3 (20-year electric plan) and 4 (comprehensive energy  
10 plan), the general assembly intends to set the readoption of these plans by the  
11 department of public service (the department) on a regular six-year cycle  
12 beginning with the comprehensive energy plan adopted by the department in  
13 December 2011. The department's adoption of that plan in December 2011  
14 shall be deemed to satisfy the requirements of 30 V.S.A. §§ 202 and 202b, as  
15 amended by Secs. 3 and 4 of this act, to adopt plans by January 1, 2012.

16 Sec. 6. 21 V.S.A. § 269 is amended to read:

17 § 269. COMPLIANCE PLAN

18 The commissioner of public service shall perform all of the following:

19 (1) No later than September 1, 2011, issue a plan for achieving  
20 compliance with the energy standards adopted under this subchapter no later  
21 than February 1, 2017 in at least 90 percent of new and renovated residential

1 ~~and commercial building space. In preparing this plan, the department shall~~  
2 review enforcement mechanisms for building energy codes that have been  
3 adopted in other jurisdictions and shall solicit the comments and  
4 recommendations of one or more mortgage lenders; builders; building  
5 designers; architects; civil, mechanical, and electrical engineers; utility  
6 representatives; environmental organizations; consumer advocates; energy  
7 efficiency experts; the attorney general; and other persons who are potentially  
8 affected or have relevant expertise.

9 (2) No later than ~~June 30, 2012~~ December 31, 2013, by means of  
10 administrative rules adopted in accordance with 3 V.S.A. chapter 25:

11 (A) Establish active training and enforcement programs to meet the  
12 energy standards adopted under this subchapter.

13 (B) Establish a system for measuring the rate of compliance each  
14 year with the energy standards adopted under this chapter. Following  
15 establishment of this system, the commissioner also shall provide for such  
16 annual measurement.

17 \* \* \* Electronic Filings and Case Management \* \* \*

18 Sec. 7. 30 V.S.A. § 11(a) is amended to read:

19 (a) The forms, pleadings, and rules of practice and procedure before the  
20 board shall be prescribed by it. The board shall promulgate and adopt rules  
21 which include, among other things, provisions that:

1 ~~(1) A utility whose rates are suspended under the provisions of section~~  
2 ~~226 of this title shall, within 30 days from the date of the suspension order, file~~  
3 ~~with the board 10 copies of all exhibits it intends to use in the hearing thereon~~  
4 ~~together with the names of witnesses it intends to produce in its direct case and~~  
5 ~~a short statement of the purposes of the testimony of each witness. Except in~~  
6 ~~the discretion of the board, a utility shall not be permitted to introduce into~~  
7 ~~evidence in its direct case exhibits which are not filed in accordance with this~~  
8 ~~rule.~~

9 \* \* \*

10 Sec. 8. 30 V.S.A. § 11a is added to read:

11 § 11a. ELECTRONIC FILING AND ISSUANCE

12 (a) As used in this section:

13 (1) "Document" means information inscribed on a tangible medium or  
14 stored in an electronic or other medium and retrievable in perceivable form.

15 (2) "Electronic filing" means the transmission of documents to the board  
16 by electronic means.

17 (3) "Electronic filing system" means a board-designated system that  
18 provides for the electronic filing of documents with the board and for the  
19 electronic issuance of documents by the board.

20 (4) "Electronic issuance" means:

1 ~~(A) the transmission by electronic means of a document that the~~  
2 ~~board has issued, including an order, proposal for decision, or notice; or~~

3 ~~(B) the transmission of a message from the board by electronic~~  
4 ~~means informing the recipients that the board has issued a document, including~~  
5 ~~an order, proposal for decision, or notice, and that it is available for viewing~~  
6 ~~and retrieval from an electronic filing system.~~

7 ~~(5) "Electronic means" means any board-authorized method of~~  
8 ~~electronic transmission of a document.~~

9 ~~(b) The board by order, rule, procedure, or practice may:~~

10 ~~(1) provide for electronic issuance of any notice, order, proposal for~~  
11 ~~decision, or other process issued by the board, notwithstanding any other~~  
12 ~~service requirements set forth in this title or in 10 V.S.A. chapter 43;~~

13 ~~(2) require electronic filing of documents with the board;~~

14 ~~(3) for any filing or submittal to the board for which the filing or~~  
15 ~~submitting entity is required to provide notice or a copy to another state agency~~  
16 ~~under this title or under 10 V.S.A. chapter 43, waive such requirement if the~~  
17 ~~state agency will receive notice of and access to the filing or submittal through~~  
18 ~~an electronic filing system; and~~

19 ~~(4) for any filing, order, proposal for decision, notice, or other process~~  
20 ~~required to be served or delivered by first-class mail or personal delivery under~~  
21 ~~this title or under 10 V.S.A. chapter 43, waive such requirement to the extent~~

1 ~~the required recipients will receive the filing, order, proposal of decision,~~  
2 ~~notice, or other process by electronic means or will receive notice of and~~  
3 ~~access to the filing, order, proposal for decision, notice, or other process~~  
4 ~~through an electronic filing system.~~

5 (c) Any order, rule, procedure, or practice issued under subsection (b) of  
6 this section shall include exceptions to accommodate parties and other  
7 participants who are unable to file or receive documents by electronic means.

8 (d) Subsection (b) of this section shall not apply to the requirements for  
9 service of citations and notices in writing as set forth in 30 V.S.A. §§ 111(b),  
10 111a(i), and 2804.

11 Sec. 9. 30 V.S.A. § 20(a) is amended to read:

12 (a)(1) The board or department may authorize or retain legal counsel,  
13 ~~official stenographers,~~ expert witnesses, advisors, temporary employees, and  
14 other research services:

15 \* \* \*

16 (4) The board or department may authorize or retain official  
17 stenographers in any proceeding within their jurisdiction, including  
18 proceedings listed in subsection (b) of this section.

~~\*\*\* Condemnation Hearing: Service of Citation \*\*\*~~

Sec. 10. 30 V.S.A. § 111(b) is amended to read:

(b) The citation shall be served upon each person having any legal interest in the property, ~~including each municipality and each planning body where the property is situate like a summons,~~ or on absent persons in such manner as the supreme court may by rule provide for service of process in civil actions. The board also shall give notice of the hearing to each municipality and each planning body where the property is located. The board, in its discretion, may schedule a joint hearing of some or all petitions relating to the same project and concerning properties or rights located in the same town or abutting towns.

~~\*\*\* Filing Rate Schedules with the Board \*\*\*~~

Sec. 11. 30 V.S.A. § 225 is amended to read:

§ 225. RATE SCHEDULES

(a) Within a time to be fixed by the board, each company subject to the provisions of this chapter shall file with the board and the department, with separate filings to the directors for regulated utility planning and public advocacy, schedules which shall be open to public inspection, showing all rates including joint rates for any service performed or any product furnished by it within the state, and as a part thereof shall file the rules and regulations that in any manner affect the tolls or rates charged or to be charged for any such service or product. Those schedules, or summaries of the schedules approved

1 ~~by the department, shall be published by the company in two newspapers with~~  
2 general circulation in the state within 15 days after such filing. A change shall  
3 not thereafter be made in any such schedules, including schedules of joint rates  
4 or in any such rules and regulations, except upon 45 days notice to the board  
5 and to the department of public service, and such notice to parties affected by  
6 such schedules as the board shall direct. The board shall consider the  
7 department's recommendation and take action pursuant to sections 226 and  
8 227 of this title before the date on which the changed rate is to become  
9 effective. All such changes shall be plainly indicated upon existing schedules,  
10 or by filing new schedules in lieu thereof 45 days prior to the time the same are  
11 to take effect. Subject only to temporary increases, rates may not thereafter be  
12 raised without strictly complying with the notice and filing requirements set  
13 forth in this section. In no event may a company amend, supplement or alter an  
14 existing filing or substantially revise the proof in support of such filing in order  
15 to increase, decrease or substantiate a pending rate request, unless, upon  
16 opportunity for hearing, the company demonstrates that such a change in filing  
17 or proof is necessary for the purpose of providing adequate and efficient  
18 service. However, upon application of any company subject to the provisions  
19 of this chapter, and with the consent of the department of public service, the  
20 board may for good cause shown prescribe a shorter time within which such  
21 change may be made; but a change which in effect decreases such tolls or rates

1 ~~may be made upon five days' notice to the board and the department of public~~  
2 service and such notice to parties affected as the board shall direct.

3 \* \* \*

4 \* \* \* CPG: Recommendations of Municipal and Regional Planning

5 Commissions \* \* \*

6 Sec. 12. 30 V.S.A. § 248 is amended to read:

7 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND  
8 FACILITIES; CERTIFICATE OF PUBLIC GOOD

9 \* \* \*

10 (f) However, the plans for the construction of such a facility within the  
11 state must be submitted by the petitioner to the municipality and regional  
12 planning commissions no less than 45 days prior to application for a certificate  
13 of public good under this section, unless the municipal and regional planning  
14 commissions shall waive such requirement. Such municipal or regional  
15 planning commission may hold a public hearing on the proposed plans. Such  
16 commissions ~~shall~~ may make recommendations, ~~if any,~~ to the public service  
17 board and to the petitioner ~~at least seven days prior to filing of the petition~~  
18 within 21 days after the date the petition is filed with the public service board.

19 \* \* \*

1 \*\*\* Universal Service Fund Study \*\*\*

2 Sec. 13. 30 V.S.A. § 7515 is amended to read:

3 § 7515 HIGH-COST BASIC TELECOMMUNICATIONS SERVICE

4 (a) The general assembly intends that the universal service charge be used  
5 in the future as a means of keeping basic telecommunications service  
6 affordable in all parts of this state, thereby maintaining universal service. ~~In~~  
7 ~~the future, and after this section has been amended by further act of legislation,~~  
8 ~~payments may be made to reduce the cost of basic telecommunications service~~  
9 ~~in areas where that cost would otherwise jeopardize universal service or~~  
10 ~~uniform economic development.~~

11 (b) The commissioner of public service, in conjunction with the public  
12 service board, shall conduct a study of the costs and other factors affecting the  
13 delivery of local exchange service. ~~The study shall be conducted either as an~~  
14 ~~independent inquiry or as part of a proceeding on docket affecting other matters~~  
15 include an informal workshop process to be conducted by the board. The study  
16 shall:

17 (1) After considering information on how various factors affect the costs  
18 of providing telecommunications service in Vermont and elsewhere, estimate,  
19 on a forward-looking basis, the differential costs of providing local exchange  
20 service to various customer groups throughout Vermont.

1 ~~(2) Estimate the relationship between basic telecommunications service~~  
2 ~~charges and universal service, and the threshold level beyond which universal~~  
3 ~~residential service is likely to be harmed.~~

4 (3) Estimate the relationship between basic telecommunications service  
5 charges and opportunities for uniform economic development throughout the  
6 state, and the threshold prices beyond which such opportunities may be  
7 adversely affected.

8 (4) Estimate the potential effects of local exchange competition on  
9 uniform and affordable basic telecommunications service charges in all parts  
10 of the state.

11 (5) Examine policy options by which the cost to customers may be  
12 managed so as not to jeopardize universal service and the uniform economic  
13 development opportunities, including at least the following:

14 (A) establishing a maximum price for basic telecommunications  
15 service, beyond which customers would have access, without regard to income,  
16 to credits or vouchers negotiable for local exchange service from a local  
17 exchange provider or competitive access provider;

18 (B) broadening eligibility for the lifeline program; and

19 (C) establishing a mechanism to adjust the level of support for higher  
20 cost customers over time to reflect legal rights, recover historic costs, and  
21 reflect the advantages of improved technology and increased efficiency.

1 ~~(6) Examine the actions, if any, of the Federal Communications~~  
2 Commission (FCC) in revising its universal service fund, and the need, if any,  
3 for additional action in Vermont. In particular, the study shall examine the  
4 impact on Vermont services caused by the FCC's report and order released  
5 November 18, 2011, which, among other things, expands the federal universal  
6 service fund to include broadband deployment in unserved areas.

7 (7) Propose mechanisms to support universal service and rural economic  
8 development while securing the benefits of telecommunications competition  
9 for Vermont households and businesses.

10 (8) Include an audit of the universal service fund to examine, among  
11 other things, the contributions made to the fund in terms of the categories of  
12 telecommunications service providers covered as well as the specific services  
13 charged. In addition, the audit shall assess the disbursements made from the  
14 fund.

15 (c) The results of the study, together with any plan for amending and  
16 distributing funds under this section, shall be submitted to the ~~general~~  
17 ~~assembly~~ house committee on commerce and economic development and the  
18 senate committee on finance on or before January 15, 1996 December 1, 2012.

19 (d) The department may contract with a consultant to conduct the study  
20 required by this section. Costs incurred in conducting the study shall be  
21 reimbursed from the state universal service fund up to \$15,000.00.

1 ~~\*\*\* Effective Date \*\*\*~~

2 Sec. 14. EFFECTIVE DATE

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

*\*\*\* Effective Date of the CBES \*\*\**

*Sec. 1. 21 V.S.A. § 268 is amended to read:*

*§ 268. COMMERCIAL BUILDING ENERGY STANDARDS*

*\*\*\**

*(c) Revision and interpretation of energy standards. No later than January 1, 2011, the commissioner shall complete rulemaking to amend the commercial building energy standards to ensure that commercial building construction must be designed and constructed in a manner that complies with ANSI/ASHRAE/IESNA standard 90.1-2007 or the 2009 edition of the IECC, whichever provides the greatest level of energy savings. These amendments shall be effective ~~three months~~ one year after final adoption and shall apply to construction commenced on and after the date they become effective. At least every three years after January 1, 2011, the commissioner of public service shall amend and update the CBES by means of administrative rules adopted in accordance with 3 V.S.A. chapter 25. The commissioner shall ensure that appropriate revisions are made promptly after the issuance of updated standards for commercial construction under the IECC or ASHRAE/ANSI/IESNA standard 90.1, whichever provides the greatest level of*

*energy savings. Prior to final adoption of each required revision of the CBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders; builders; building designers; architects; civil, mechanical, and electrical engineers; utility representatives; and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner of public service with additional recommendations for revision of the CBES.*

\* \* \*

*(2) ~~Except for the amendments required by this subsection to be adopted by January 1, 2011, each~~ Each time the CBES are amended by the commissioner of public service, the amended CBES shall become effective upon a date specified in the adopted rule, a date that shall not be less than ~~three months~~ one year after the date of adoption. Except for the amendments required by this subsection to be adopted by January 1, 2011, persons submitting an application for any local permit authorizing commercial construction, or an application for construction plan approval by the commissioner of public safety pursuant to 20 V.S.A. chapter 173, before the effective date of the amended CBES shall have the option of complying with the applicable provisions of the earlier or the amended CBES. After the effective date of the original or the amended CBES, any person submitting such an*

*application for commercial construction in an area subject to the CBES shall comply with the most recent version of the CBES.*

\* \* \*

*Sec. 2. RETROACTIVE APPLICATION*

*Sec. 1 of this act shall apply to rules adopted under 21 V.S.A. § 268 (commercial building energy standards) on or after September 1, 2011. The department of public service shall conform to the provisions of Sec. 1 of this act, the effective date contained in those rules under 21 V.S.A. § 268 most recently adopted prior to the effective date of this section. The department shall file a conforming copy of the rules with the secretary of state and the legislative committee on administrative rules. The filing shall be deemed to comply with 3 V.S.A. § 843 (filing of adopted rules) as long as the sole rule revision contained in the filing is the change in the effective date required by this section.*

\* \* \* *Coordination of Energy Planning* \* \* \*

*Sec. 3. 30 V.S.A. § 202 is amended to read:*

*§ 202. ELECTRICAL ENERGY PLANNING*

*(a) The department of public service, through the director for regulated utility planning, shall constitute the responsible utility planning agency of the state for the purpose of obtaining for all consumers in the state proper utility service at minimum cost under efficient and economical management*

*consistent with other public policy of the state. The director shall be responsible for the provision of plans for meeting emerging trends related to electrical energy demand, supply, safety and conservation.*

*(b) The department, through the director, shall prepare an electrical energy plan for the state. The plan shall be for a 20-year period and shall serve as a basis for state electrical energy policy. The electric energy plan shall be based on the principles of “least cost integrated planning” set out in and developed under section 218c of this title. The plan shall include at a minimum:*

*(1) an overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for electrical energy, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, modifications in housing types and design, conservation and other trends and factors which, as determined by the director, will significantly affect state electrical energy policy and programs;*

*(2) an assessment of all energy resources available to the state for electrical generation or to supply electrical power, including among others, fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy and strategies for minimizing the economic and environmental costs of energy supply, including the production of pollutants, by means of efficiency and emission improvements, fuel shifting, and other appropriate means;*

*(3) estimates of the projected level of electrical energy demand;*

*(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; and*

*(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate ~~five-year~~ six-year period, for the next succeeding ~~five-year~~ six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont.*

*(c) In developing the plan, the department shall take into account the protection of public health and safety; preservation of environmental quality; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.*

*(d) In establishing plans, the director shall:*

*(1) Consult with:*

*(A) the public;*

- (B) Vermont municipal utilities;*
  - (C) Vermont cooperative utilities;*
  - (D) Vermont investor-owned utilities;*
  - (E) Vermont electric transmission companies;*
  - (F) environmental and residential consumer advocacy groups active in electricity issues;*
  - (G) industrial customer representatives;*
  - (H) commercial customer representatives;*
  - (I) the public service board;*
  - (J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;*
  - (K) other interested state agencies; and*
  - (L) other energy providers.*
- (2) To the extent necessary, include in the plan surveys to determine needed and desirable plant improvements and extensions and coordination between utility systems, joint construction of facilities by two or more utilities, methods of operations, and any change that will produce better service or reduce costs. To this end, the director may require the submission of data by each company subject to supervision, of its anticipated electrical demand, including load fluctuation, supplies, costs, and its plan to meet that demand and such other information as the director deems desirable.*

*(e) The department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final plan. The plan shall be adopted no later than January 1, ~~2004~~ 2012 and readopted in accordance with this section by every sixth January 1 thereafter, and shall be submitted to the general assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the submission to be made under this subsection.*

*(f) After adoption by the department of a final plan, any company seeking board authority to make investments, to finance, to site or construct a generation or transmission facility or to purchase electricity or rights to future electricity, shall notify the department of the proposed action and request a determination by the department whether the proposed action is consistent with the plan. In its determination whether to permit the proposed action, the board shall consider the department's determination of its consistency with the plan along with all other factors required by law or relevant to the board's decision on the proposed action. If the proposed action is inconsistent with the plan, the board may nevertheless authorize the proposed action if it finds that there is good cause to do so. The department shall be a party to any proceeding on the proposed action, except that this section shall not be construed to require a hearing if not otherwise required by law.*

(g) *The director shall annually review that portion of a plan extending over the next ~~five~~ six years. The department, through the director, shall ~~annually~~ biennially extend the plan by ~~one~~ two additional ~~year~~ years; and from time to time, ~~but in no~~ and in any event ~~less than~~ every ~~five years~~ sixth year, institute proceedings to review a plan and make revisions, where necessary. The ~~five-year~~ six-year review and any interim revisions shall be made according to the procedures established in this section for initial adoption of the plan. The six-year review and any revisions made in connection with that review shall be performed contemporaneously with readoption of the comprehensive energy plan under section 202b of this title.*

(h) *The plans adopted under this section ~~shall be submitted to the energy committees of the general assembly and~~ shall become the electrical energy portion of the state energy plan.*

(i) *It shall be a goal of the electrical energy plan to assure, by 2028, that at least 60 MW of power are generated within the state by combined heat and power (CHP) facilities powered by renewable fuels or by nonqualifying SPEED resources, as defined in section 8002 of this title. In order to meet this goal, the plan shall include incentives for development and strategies to identify locations in the state that would be suitable for CHP. The plan shall include strategies to assure the consideration of CHP potential during any process related to the expansion of natural gas services in the state.*

*Sec. 4. 30 V.S.A. § 202b is amended to read:*

*§ 202b. STATE COMPREHENSIVE ENERGY PLAN*

*(a) The department of public service, in conjunction with other state agencies designated by the governor, shall prepare a comprehensive state energy plan covering at least a 20-year period. The plan shall seek to implement the state energy policy set forth in section 202a of this title. The plan shall include:*

*(1) A comprehensive analysis and projections regarding the use, cost, supply and environmental effects of all forms of energy resources used within Vermont.*

*(2) Recommendations for state implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan.*

*(b) In developing or updating the plan's recommendations, the department of public service shall seek public comment by holding public hearings in at least five different geographic regions of the state on at least three different dates, and by providing notice through publication once a week and at least seven days apart for two or more successive weeks in a newspaper or newspapers of general circulation in the regions where the hearings will be held, and by delivering notices to all licensed commercial radio and television*

*stations with transmitting facilities within the state, plus Vermont Public Radio and Vermont Educational Television.*

*(c) The department shall adopt a state energy plan by ~~no later than~~ January 1, ~~1994~~ 2012 and shall readopt the plan by every sixth January 1 thereafter. On adoption or readoption, the plan shall be submitted to the general assembly. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to such submission.*

*(1) Upon adoption of the plan, analytical portions of the plan may be updated ~~annually~~ and published biennially.*

*(2) Every fourth year after the adoption or readoption of a plan under this section, the department shall publish the manner in which the department will engage the public in the process of readopting the plan under this section.*

*(3) The publication requirements of subdivisions (1) and (2) of this subsection may be met by inclusion of the subject matter in the department's biennial report.*

*(4) The plan's implementation recommendations shall be updated by the department no less frequently than every ~~five~~ six years. These recommendations shall be updated prior to the expiration of ~~five~~ six years if the general assembly passes a joint resolution making a request to that effect. If the department proposes or the general assembly requests the revision of*

*implementation recommendations, the department shall hold public hearings on the proposed revisions.*

*(d) ~~Any distribution~~ Distribution of the plan to members of the general assembly shall be in accordance with the provisions of 2 V.S.A. § 20(a)-(c).*

*Sec. 5. INTENT; RETROACTIVE APPLICATION*

*In enacting Secs. 3 (20-year electric plan) and 4 (comprehensive energy plan) of this act, the general assembly intends to set the readoption of these plans by the department of public service (the department) on a regular six-year cycle beginning with the comprehensive energy plan adopted by the department in December 2011. The department's adoption of that plan in December 2011 shall be deemed to satisfy the requirements of 30 V.S.A. §§ 202 and 202b, as amended by Secs. 3 and 4 of this act, to adopt plans by January 1, 2012.*

*Sec. 6. 21 V.S.A. § 269 is amended to read:*

*§ 269. COMPLIANCE PLAN*

*The commissioner of public service shall perform all of the following:*

*(1) No later than September 1, 2011, issue a plan for achieving compliance with the energy standards adopted under this subchapter no later than February 1, 2017 in at least 90 percent of new and renovated residential and commercial building space. In preparing this plan, the department shall review enforcement mechanisms for building energy codes that have been*

*adopted in other jurisdictions and shall solicit the comments and recommendations of one or more mortgage lenders; builders; building designers; architects; civil, mechanical, and electrical engineers; utility representatives; environmental organizations; consumer advocates; energy efficiency experts; the attorney general; and other persons who are potentially affected or have relevant expertise.*

*(2) No later than ~~June 30, 2012~~ December 31, 2013, by means of administrative rules adopted in accordance with 3 V.S.A. chapter 25:*

*(A) Establish active training and enforcement programs to meet the energy standards adopted under this subchapter.*

*(B) Establish a system for measuring the rate of compliance each year with the energy standards adopted under this chapter. Following establishment of this system, the commissioner also shall provide for such annual measurement.*

*\* \* \* Electronic Filings and Case Management \* \* \**

*Sec. 7. 30 V.S.A. § 11(a) is amended to read:*

*(a) The forms, pleadings, and rules of practice and procedure before the board shall be prescribed by it. The board shall promulgate and adopt rules which include, among other things, provisions that:*

*(1) A utility whose rates are suspended under the provisions of section 226 of this title shall, within 30 days from the date of the suspension order, file*

*with the board ~~10 copies of~~ all exhibits it intends to use in the hearing thereon together with the names of witnesses it intends to produce in its direct case and a short statement of the purposes of the testimony of each witness. Except in the discretion of the board, a utility shall not be permitted to introduce into evidence in its direct case exhibits which are not filed in accordance with this rule.*

\* \* \*

*Sec. 8. 30 V.S.A. § 11a is added to read:*

*§ 11a. ELECTRONIC FILING AND ISSUANCE*

*(a) As used in this section:*

*(1) “Confidential document” means a document containing confidential information that is filed with the board and parties in a proceeding subject to a protective order duly issued by the board.*

*(2) “Document” means information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.*

*(3) “Electronic filing” means the transmission of documents to the board by electronic means.*

*(4) “Electronic filing system” means a board-designated system that provides for the electronic filing of documents with the board and for the electronic issuance of documents by the board. If the system provides for the filing or issuance of confidential documents, it shall be capable of maintaining*

the confidentiality of confidential documents and of limiting access to confidential documents to individuals explicitly authorized to access such confidential documents.

(5) "Electronic issuance" means:

(A) the transmission by electronic means of a document that the board has issued, including an order, proposal for decision, or notice; or

(B) the transmission of a message from the board by electronic means informing the recipients that the board has issued a document, including an order, proposal for decision, or notice and that the document is available for viewing and retrieval from an electronic filing system.

(6) "Electronic means" means any board-authorized method of electronic transmission of a document.

(b) The board, in consultation with the commissioner of information and innovation or designee, by order, rule, procedure, or practice may:

(1) provide for electronic issuance of any notice, order, proposal for decision, or other process issued by the board, notwithstanding any other service requirements set forth in this title or in 10 V.S.A. chapter 43;

(2) require electronic filing of documents with the board;

(3) for any filing or submittal to the board for which the filing or submitting entity is required to provide notice or a copy to another state agency under this title or under 10 V.S.A. chapter 43, waive such requirement

if the state agency will receive notice of and access to the filing or submittal through an electronic filing system; and

(4) for any filing, order, proposal for decision, notice, or other process required to be served or delivered by first-class mail or personal delivery under this title or under 10 V.S.A. chapter 43, waive such requirement to the extent the required recipients will receive the filing, order, proposal of decision, notice, or other process by electronic means or will receive notice of and access to the filing, order, proposal for decision, notice, or other process through an electronic filing system.

(c) Any order, rule, procedure, or practice issued under subsection (b) of this section shall include exceptions to accommodate parties and other participants who are unable to file or receive documents by electronic means.

(d) Subsection (b) of this section shall not apply to the requirements for service of citations and notices in writing as set forth in 30 V.S.A. §§ 111(b), 111a(i), and 2804.

Sec. 9. 30 V.S.A. § 20(a) is amended to read:

(a)(1) The board or department may authorize or retain legal counsel, ~~official stenographers,~~ expert witnesses, advisors, temporary employees, and other research services:

\* \* \*

(4) The board or department may authorize or retain official stenographers in any proceeding within its jurisdiction, including proceedings listed in subsection (b) of this section.

Sec. 10. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

(a) In addition to the duties expressly set forth elsewhere by law the secretary shall:

\* \* \*

(9) Submit to the general assembly concurrent with the governor's annual budget request required under 32 V.S.A. § 306, a strategic plan for information technology and information security which outlines the significant deviations from the previous year's ~~information technology~~ plan, and which details the plans for information technology activities of state government for the following fiscal year as well as the administration's financing recommendations for these activities. For purposes of this section, "information security" shall mean protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide integrity, confidentiality, and availability. All such plans shall be reviewed and approved by the commissioner of information and innovation prior to being included in the governor's annual budget request. The plan shall identify the proposed sources of funds for each project

*identified. The plan shall also contain a review of the state's information technology and information security and an identification of priority projects by agency. The plan shall include, for any proposed information technology activity with a cost in excess of \$100,000.00:*

*(A) a life-cycle costs analysis including planning, purchase and development of applications, the purchase of hardware and the ~~on-going~~ ongoing operation and maintenance costs to be incurred over the expected life of the systems; and a cost-benefit analysis which shall include acquisition costs as well as operational and maintenance costs over the expected life of the system;*

*(B) the cost savings ~~and/or~~ or service delivery improvements or both which will accrue to the public or to state government;*

*(C) a statement identifying any impact of the proposed new computer system on the privacy or disclosure of individually identifiable information;*

*(D) a statement identifying costs and issues related to public access to nonconfidential information;*

*(E) a statewide budget for all information technology activities with a cost in excess of ~~\$100,000~~ \$100,000.00.*

*(10) The secretary shall annually submit to the general assembly a five-year information technology and information security plan which indicates the anticipated information technology activities of the legislative,*

*executive, and judicial branches of state government. For purposes of this section, “information technology activities” shall mean:*

*(A) the creation, collection, processing, storage, management, transmission, or conversion of electronic data, documents, or records;*

*(B) the design, construction, purchase, installation, maintenance, or operation of systems, including both hardware and software, which perform these activities.*

\* \* \*

*Sec. 11. 22 V.S.A. § 901 is amended to read:*

*§ 901. DEPARTMENT OF INFORMATION AND INNOVATION*

*The department of information and innovation, created in 3 V.S.A. § 2283b, shall have all the responsibilities assigned to it by law, including the following:*

*(1) to provide direction and oversight for all activities directly related to information technology and information security, including telecommunications services, information technology equipment, software, accessibility, and networks in state government. For purposes of this section, “information security” is defined as in 3 V.S.A. § 2222(a)(9);*

*(2) to manage GOVnet;*

*(3) to review all information technology and information security requests for proposal in accordance with agency of administration policies;*

(4) *to review and approve information technology activities in all departments with a cost in excess of \$100,000.00, and annually submit to the general assembly a strategic plan and a budget for information technology and information security as required of the secretary of administration by 3 V.S.A. § 2222(a)(9). For purposes of this section, "information technology activities" is defined in 3 V.S.A. § 2222(a)(10);*

(5) *to administer the independent review responsibilities of the secretary of administration described in 3 V.S.A. § 2222(g);*

(6) *to perform the responsibilities of the secretary of administration under 30 V.S.A. § 227b;*

(7) *to administer communication, information, and technology services, which are transferred from the department of buildings and general services;*

(8) *to inventory technology assets within state government;*

(9) *to coordinate information technology and information security training within state government;*

\* \* \*

(11) *to provide technical support and services to the department of human resources and of finance and management for the statewide central accounting and encumbrance system, the statewide budget development system, the statewide human resources management system, and other agency of administration systems as may be assigned by the secretary; and*

(12) Not later than July 1, 2013, to adopt rules requiring the auditing and updating of state websites.

Sec. 12. 22 V.S.A. § 904 is added to read:

§ 904. STATE WEBSITE AUDITING

Any state agency that maintains or operates a state website shall cause that website to be audited and updated pursuant to rules adopted by the department of information and innovation under subdivision 901(12) of this chapter.

\* \* \* *Condemnation Hearing: Service of Citation* \* \* \*

Sec. 13. 30 V.S.A. § 111(b) is amended to read:

*(b) The citation shall be served upon each person having any legal interest in the property, ~~including each municipality and each planning body where the property is situate like a summons,~~ or on absent persons in such manner as the supreme court may by rule provide for service of process in civil actions. The board also shall give notice of the hearing to each municipality and each planning body where the property is located. The board, in its discretion, may schedule a joint hearing of some or all petitions relating to the same project and concerning properties or rights located in the same town or abutting towns.*

\* \* \* *Rate Recovery; Utility Energy Efficiency Investments* \* \* \*

Sec. 13a. 30 V.S.A. § 218 is amended to read:

§ 218. JURISDICTION OVER RATES AND CHARGES

\* \* \*

(h) Notwithstanding any other provision of law, no electric distribution company subject to jurisdiction under section 203 of this title may recover in rates any investment or expenditure related to energy efficiency including weatherization, or a rate of return thereon, if the costs of the investment or expenditure exceed its benefits to the electric system. However, if the costs of the investment or expenditure do exceed its benefits to the electric system, an electric distribution company may recover an amount of those costs that is not greater than the amount of the benefits to the electric system from the investment or expenditure.

(1) For the purpose of this subsection, "benefits to the electric system" means benefits related to the generation, purchase, transmission, distribution, or consumption of electricity.

(2) This subsection shall apply to a company regardless of whether the company is under traditional or alternative regulation.

(3) This subsection does not apply to the costs of an electric energy efficiency program or measure implemented pursuant to subsections 209(d) and (e) of this title by an entity appointed under subdivision 209(d)(2) (energy efficiency utilities) of this title, if funded by a charge established under subdivision 209(d)(3) (energy efficiency charge) of this title.

**Sec. 13b. APPLICATION; PROSPECTIVE REPEAL**

(a) 30 V.S.A. § 218(h) shall apply to investments and expenditures by an electric distribution company made on and after the effective date of this act.

(b) 30 V.S.A. § 218(h) shall be repealed on July 1, 2013.

*Sec. 13c. WORKING GROUP; REPORT*

Within 30 days of this section's effective date, the public service board shall convene an informal working group to research and make recommendations on policy issues regarding the funding of thermal energy efficiency by electric distribution companies, including what relationship, if any, such measures should have to the consumption of electricity. The department of public service shall participate in the working group. By January 15, 2013, the public service board, in consultation with the department of public service, shall submit to the general assembly its report and recommendations on the funding of thermal energy efficiency by electric distribution companies.

*\* \* \* Filing Rate Schedules with the Board \* \* \**

*Sec. 14. 30 V.S.A. § 225 is amended to read:*

*§ 225. RATE SCHEDULES*

*(a) Within a time to be fixed by the board, each company subject to the provisions of this chapter shall file with the board and the department, with separate filings to the directors for regulated utility planning and public advocacy, schedules which shall be open to public inspection, showing all rates including joint rates for any service performed or any product furnished*

*by it within the state, and as a part thereof shall file the rules and regulations that in any manner affect the tolls or rates charged or to be charged for any such service or product. Those schedules, or summaries of the schedules approved by the department, shall be published by the company in two newspapers with general circulation in the state within 15 days after such filing. A change shall not thereafter be made in any such schedules, including schedules of joint rates or in any such rules and regulations, except upon 45 days notice to the board and to the department of public service, and such notice to parties affected by such schedules as the board shall direct. The board shall consider the department's recommendation and take action pursuant to sections 226 and 227 of this title before the date on which the changed rate is to become effective. All such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 45 days prior to the time the same are to take effect. Subject only to temporary increases, rates may not thereafter be raised without strictly complying with the notice and filing requirements set forth in this section. In no event may a company amend, supplement or alter an existing filing or substantially revise the proof in support of such filing in order to increase, decrease or substantiate a pending rate request, unless, upon opportunity for hearing, the company demonstrates that such a change in filing or proof is necessary for the purpose of providing adequate and efficient service. However, upon*

*application of any company subject to the provisions of this chapter, and with the consent of the department of public service, the board may for good cause shown prescribe a shorter time within which such change may be made; but a change which in effect decreases such tolls or rates may be made upon five days' notice to the board and the department of public service and such notice to parties affected as the board shall direct.*

\* \* \*

*\* \* \* CPG: Recommendations of Municipal and  
Regional Planning Commissions \* \* \**

*Sec. 15. 30 V.S.A. § 248 is amended to read:*

*§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND  
FACILITIES; CERTIFICATE OF PUBLIC GOOD*

\* \* \*

*(f) However, the plans for the construction of such a facility within the state must be submitted by the petitioner to the municipality and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement. Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions ~~shall~~ may make recommendations, ~~if any,~~ to the public service*

~~board and to the petitioner at least seven days prior to filing of the petition  
within 21 days after the date the petition is filed with the public service board.~~

\* \* \*

\* \* \* *Universal Service Fund Studies* \* \* \*

*Sec. 16. 30 V.S.A. § 7515 is amended to read:*

*§ 7515. HIGH-COST BASIC TELECOMMUNICATIONS SERVICE*

*(a) The general assembly intends that the universal service charge be used in the future as a means of keeping basic telecommunications service affordable in all parts of this state, thereby maintaining universal service. ~~In the future, and after this section has been amended by further act of legislation, payments may be made to reduce the cost of basic telecommunications service in areas where that cost would otherwise jeopardize universal service or uniform economic development.~~*

*(b) The commissioner of public service, in conjunction with the public service board, shall conduct a study of the costs and other factors affecting the delivery of local exchange service by the incumbent local exchange carriers (the providers of last resort). ~~The study shall be conducted either as an independent inquiry or as part of a proceeding or docket affecting other matters~~ include an informal workshop process to be conducted by the board. Such process shall be noticed to the general public and structured to allow*

written and verbal comments by the general public, service providers, public officials, and others as determined by the board. The study shall:

(1) After considering information on how various factors affect the costs of providing telecommunications service in Vermont and elsewhere, estimate the current costs and estimate, on a forward-looking basis, the differential costs of providing local exchange service to various customer groups throughout Vermont.

(2) Estimate the relationship between basic telecommunications service charges and universal service, and the threshold level beyond which universal residential service is likely to be harmed.

(3) Estimate the relationship between basic telecommunications service charges and opportunities for uniform economic development throughout the state, and the threshold prices beyond which such opportunities may be adversely affected.

(4) Estimate the potential effects of local exchange competition on uniform and affordable basic telecommunications service charges in all parts of the state.

(5) Examine policy options by which the cost to customers may be managed so as not to jeopardize universal service and the uniform economic development opportunities, including at least the following:

*(A) establishing a maximum price for basic telecommunications service, beyond which customers would have access, without regard to income, to credits or vouchers negotiable for local exchange service from a local exchange provider or competitive access provider;*

*(B) broadening eligibility for the lifeline program; and*

*(C) establishing a mechanism to adjust the level of support for higher cost customers over time to reflect legal rights, recover historic costs, and reflect the advantages of improved technology and increased efficiency.*

*(6) Examine the actions, if any, of the Federal Communications Commission (FCC) in revising its universal service fund, and the need, if any, for additional action in Vermont. In particular, the study shall examine the impact on Vermont services caused by the FCC's report and order released November 18, 2011, which, among other things, expands the federal universal service fund to include broadband deployment in unserved areas. Further, the study shall consider the potential impact of various legal challenges to the FCC action on the federal universal service fund.*

*(7) Propose mechanisms to support universal service and rural economic development while securing the benefits of telecommunications competition for Vermont households and businesses.*

*(8) Include an audit of the universal service fund to examine, among other things, the contributions made to the fund in terms of the categories of*

telecommunications service providers covered as well as the specific services charged. In addition, the audit shall assess the disbursements made from the fund.

(9) Consider any other relevant issues that may arise during the course of the study.

(c) The results of the study, together with any plan for amending and distributing funds under this section, shall be submitted to the ~~general assembly~~ house committee on commerce and economic development and the senate committee on finance on or before ~~January 15, 1996~~ December 1, 2012.

(d) The commissioner of public service may contract with a consultant to conduct the study required by this section. Costs incurred in conducting the study shall be reimbursed from the state universal service fund up to \$75,000.00.

(e) To the extent this study may require disclosure of confidential information by a telecommunications service provider, such confidential information shall be disclosed to a third party pursuant to a protective agreement. In no event shall the third party be a person or persons employed by a business competitor or whose primary duties engage them in business competition with a telecommunications service provider submitting the confidential information. The third party may be the consultant retained by the commissioner under subsection (d) of this section or may be another third

party agreed upon by the commissioner and the telecommunications service providers. The third party shall be responsible for aggregating the information and, once aggregated, may publicly disclose such information consistent with the purposes of this section. The confidentiality requirements of this subsection shall not affect whether information provided to an agency of the state or a political subdivision of the state pursuant to other laws is or is not subject to disclosure.

*Sec. 17. STUDY ON THE STATE USE AND PREPAID WIRELESS*

*TELECOMMUNICATIONS SERVICES*

(a) The commissioner of public service or designee, in consultation with the commissioner of taxes or designee, shall convene a work group to study issues related to application of the state's universal service charge established under 30 V.S.A. chapter 88 to prepaid wireless telecommunications services. The work group shall include representatives of prepaid wireless telecommunications service providers, Vermont retailers of prepaid wireless telecommunications services, consumers, the enhanced-911 program, and any other stakeholders identified by the commissioner. The study shall consider:

- (1) the retail transactions subject to the charge;
- (2) the amount of the charge;
- (3) application of the charge to bundled telecommunications services;
- (4) the effective date of any adjustments to the charge;

(5) billing and collection procedures, including:

(A) notice of charges to consumers; and

(B) various payment and collection methods, including payment and collection procedures similar to those used for the sales and use tax imposed under 32 V.S.A. chapter 233;

(6) the ability of retailers or the department of taxes, if applicable, to retain a percentage of the fees collected to offset collection and administration costs and, if so, the percentage which may be retained; and

(7) any other matter deemed relevant by the commissioner.

(b) The commissioner, on behalf of the work group established under subsection (a) of this section, shall report his or her findings and recommendations to the house committee on commerce and economic development and the senate committee on finance not later than December 1, 2012. The report shall include draft legislation for consideration during the 2013 legislative session.

(c) It is the intent of the general assembly that the study authorized under this section shall not circumscribe any obligation which may be imposed on a wireless telecommunications service provider in pending or future proceedings before the public service board concerning designation as an eligible telecommunications carrier.

*\* \* \* Effective Dates \* \* \**

*Sec. 17a. ADVOCACY IN REGULATORY PROCEEDINGS BEFORE THE  
PUBLIC SERVICE BOARD; WORK GROUP*

*(a) Findings and purpose. Many Vermonters believe there is a need for additional independent voices in regulatory proceedings before the public service board representing residential ratepayers, businesses, and municipalities, many of whom do not have the financial resources or expertise to fully participate in and advance their interests in such proceedings.*

*(b) Work group. There is created a work group to be convened by the Vermont attorney general. The purpose of the work group shall be to develop one or more proposals for a mechanism that will support advocacy by and for residential ratepayers, businesses, and municipalities, in matters before the public service board. The work group shall consider and make findings and recommendations regarding:*

*(1) The effectiveness of consumer advocacy models implemented in other jurisdictions.*

*(2) The current consumer advocacy role, processes, and resources of the department of public service, including the department's public advocate and its division of consumer affairs and public information, as well as the mediation provisions in the department's 2011 comprehensive energy plan.*

(3) Eligibility criteria and resource allocation for parties seeking independent representation.

(4) Access to records in regulatory proceedings.

(5) The distribution of the costs of independent representation among the department, the utility or utilities which initiated the proceeding, and other sources.

(6) Any other matters deemed relevant by the work group.

(c) Membership. The work group shall include the attorney general or designee, the commissioner of public service or designee, two members selected by the public service board, and three members selected by the attorney general. In selecting members, the attorney general and public service board shall consider selecting representatives of regulated utilities, consumer advocacy organizations, and other stakeholders and interested parties so that a diverse range of interests and opinions is represented. The members of the work group shall elect a chair.

(d) Report. The work group shall prepare a report detailing its findings and recommendations, including alternative approaches and the rationale for each, and any draft legislation or rules. The report and any draft legislation or rules shall be submitted to the house committees on commerce and economic development and on natural resources and energy, and to the senate

committees on finance and on natural resources and energy not later than  
January 15, 2013.

(e) Meetings. The work group shall meet at least four times or at the call  
of the chair and shall cease to exist upon the completion of its duties under this  
section. The meetings of the work group shall be publicly announced and open  
to the public, and reasonable opportunity shall be given to the public to  
express its opinion on the matters being considered by the work group.  
Administrative and staff support shall be provided by the office of the attorney  
general.

*Sec. 18. EFFECTIVE DATES*

This act shall take effect on passage, except that Sec. 12 (relating to state  
website auditing) shall take effect 60 days after the department of information  
and innovation adopts rules pursuant to 22 V.S.A. § 901(12).