H.313

An act relating to near-term and long-term economic development

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

(1) Vermont has lost nearly 15,000 jobs since the cyclical peak in November of 2007, reaching an unemployment rate of 7.2 percent as of April 2009. Broader measures of underemployment, which include workers forced from full time to part time work and marginally attached workers, now exceed 9 percent in Vermont. Revised macro-economic projections anticipate that the Vermont rate of unemployment will reach 9 percent for the first time in more than 30 years.

(2) Initial claims for unemployment insurance have continued to rise, spiking in Vermont in recent months at record levels, with the weekly average of claims in January of 2009 reaching approximately 1,550.

(3) At the national level the unemployment rate has reached 8.5 percent and consumer spending, which accounts for more than two-thirds of all economic activity, has experienced its steepest reversal since the Great Depression, with inflation adjusted spending dropping by more than 10 percent in four of the last five months. Consumption taxes in Vermont are expected to recede accordingly, with sales and use revenues expected to be down 5 percent

in fiscal year 2009 and meals and rooms receipts down 3 percent, with further declines expected in fiscal year 2010, which would comprise the first ever consecutive annual declines for these important revenue sources.

(4) Residential construction in Vermont has come to a virtual halt in Vermont, declining by nearly 70 percent. With weakness in Vermont second home markets mounting in the face of regional job losses, housing price declines are likely in the next four-to-seven quarters, with very low property price appreciation for an extended period of at least four-to-five years. This stagnation in property prices will ultimately have a significant impact on grand list growth and the tax base for the largest component of the education fund.

(5) Federal tax changes resulting from the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, while stimulating to the national economy, will result in reduced state tax revenues in approximately $ 9.1 million in fiscal year 2010.

(6) Despite the many difficulties in the national and Vermont economies at this time, there are several factors leaning against the prevailing winds that offer hope for an emergent recovery. For one, United States and global fiscal and monetary policies are as stimulative as they have ever been, with even additional capacity and willingness if further measures are required to right the economy.

(7) For the first time in 55 years the Consumer Price Index is expected to post an annual decline in 2009, while inflation and related energy prices have been subdued, lowering consumer gas and heating bills, providing additional disposable income.

(8) Business inventories have been dramatically reduced, setting the stage for rapid gains in output and hiring, once demand resumes.

(9) With the passage of ARRA, Vermont is positioned to receive nearly one billion dollars in resources, which will be allocated to state and local government, to Vermont businesses, and to individuals. In addition, federal tax cuts will result in approximately $500 million in savings to Vermont businesses and individuals.

(10) Although state government is limited in its ability in the near-term to initiate new programs and expenditures due to revenue constraints, it can provide targeted support to programs best suited to capitalize on state and federal funding to leverage growth. The state can also improve existing programs, permitting processes, funding mechanisms, and other areas that affect economic development, in order to provide a more efficient and effective role for government to aid Vermont's businesses and individuals and lead the state in its economic recovery.

(11) In the long-term, once the current economic crisis inevitably subsides, Vermont will be prepared to move forward with a focused economic

development strategy based on four principal, interrelated goals generated by the commission on the future of economic development:

(A) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(B) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(C) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(D) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

Sec. 1a. PURPOSE

(a) In the near-term, this act is intended to address the immediate economic crisis facing Vermont. The purposes of this act include the following:

(1) To preserve and create jobs and promote economic recovery.

(2) To assist those most impacted by the recession.

(3) To provide opportunities for investments needed to increase economic efficiency, entrepreneurship, and business growth in traditional and emerging sectors.

(4) To provide oversight and guidance for the expenditure of ARRA funds to ensure that the benefits of the federal stimulus extend to the broadest geographic and demographic range of Vermont businesses and individuals.

(b) In the long term, this act seeks to build a foundation for economic development through targeted investments, modifications, and improved efficiencies in economic development initiatives, environmental and energy permitting, and other state investment and regulatory programs that will provide long-term economic benefits. It is the intent of the general assembly to ultimately channel these economic development efforts through the principal goals and benchmarks identified by the commission on the future of economic development, using both new and existing resources from the state and federal levels to increase prosperity for all Vermonters.

Sec. 1b. SPRINGFIELD REDEVELOPMENT; PILOT PROGRAM

(a) For purposes of this section:

(1) "Redevelopment area" means an area within the town of Springfield that: is identified by the town to accommodate a significant amount of industrial activity, high technology, or other job-producing activity; includes one or more industrial facilities that have been vacant or substantially

underutilized for more than ten years; has at least 15,000 square feet or a minimum of five acres if the site includes an older structure; and does not detract from the planned economic development of the downtown designated district.

(2) "Qualified business" means any business that intends to locate in or expand into the redevelopment area and:

(A) Is in compliance with applicable zoning and other local bylaws and requirements for locating in the redevelopment area.

(B) Is in compliance with applicable federal, state, and local regulations.

(C) Will employ at least ten new full-time employees in positions that are not retail sales within a year of approval.

(D) Will pay wages and benefits to all full-time employees that meet or exceed the prevailing compensation level for that particular employment.

(3) "Qualified redeveloper" means any taxpayer that purchases and redevelops an industrial building in the redevelopment area for sale or lease to a qualified business.

(4) "Secretary" means the secretary of commerce and community development.

(5) "Substantially underutilized" means a property or facility of which less than ten percent has been occupied for uses other than storage or

warehousing for at least ten years and for which active and sustained marketing has produced no significant employment.

(b) There is created a redevelopment pilot program which shall be administered as follows:

(1) The town of Springfield may apply to the secretary for approval of a redevelopment area authorized by this section.

(2) Qualified businesses and qualified redevelopers may apply to the secretary for the benefits provided by this section.

(3) Approval of a redevelopment area under this section shall be for a period of ten years and may be extended by the secretary, upon application by the municipality, for one additional ten-year period.

(4) Applications from the town of Springfield for approval of a redevelopment area and from qualified businesses and qualified redevelopers for approval of benefits shall be made in accordance with guidelines established by the secretary.

(5) The secretary shall issue a written decision granting or denying an application within 45 days of receipt of a completed application. If the secretary denies an application, the decision shall state the reasons for the denial. The town of Springfield, a qualified business, or a qualified redeveloper denied approval may submit a new application at any time.

(6) Decisions of the secretary under this section are not subject to

chapter 25 of Title 3 and shall be final and not reviewable.

(7) Beginning no later than 12 months after approval by the secretary, qualified businesses and qualified redevelopers shall annually submit a written report to the secretary verifying that the business continues to meet all the requirements of this section.

(8) The secretary is authorized to approve one redevelopment area in accordance with this section.

(c) Qualified businesses and qualified redevelopers located in a redevelopment area are eligible for the following benefits:

(1) The sales tax exemption provided under 32 V.S.A. § 9741(48) for the building materials, machinery, equipment, or trade fixtures purchased for use in the Springfield pilot zone or redevelopment area.

(2) A ten-year exemption from the education tax imposed under 32 V.S.A. § 5402 on the nonresidential value of the redeveloped property.

(3) An annual income tax credit equal to three percent of the total wages and salaries paid during the taxable year to employees for services performed within the Springfield pilot zone or redevelopment area.

(4) Priority given to applications by such businesses or redevelopers for state permits and other state approvals over any other pending application.

(5) Priority consideration by any state agency for eligibility for state or federal funding or other aid to industrial development based on a cost-benefit

analysis.

(6) Priority consideration for financing programs available through the Vermont economic development authority under chapter 12 of this title.

(7) Technical support from the department of public safety and the division for historic preservation for the rehabilitation of older and historic buildings.

(d) Property tax exemptions under this section shall commence in the first tax year in which the qualified business or qualified redeveloper has made expenditures in the approved redevelopment area.

(e) Any benefits received by a qualified redeveloper related to the redevelopment, sale, or lease of improved space to a qualified business within a redevelopment area shall not be separately available to a qualified business that purchases or leases all or part of the facility improved by the redeveloper.

(f) Benefits shall not be available for either of the following:

(1) Retail sales activities; or

(2) Relocating a business within Vermont to a redevelopment area.

(g) Benefits granted to a qualified business or a qualified redeveloper may be terminated and recaptured by the secretary upon determination that the qualified business or a qualified redeveloper is no longer in compliance with, or has failed to meet, the requirements of this section. A decision to terminate or recapture benefits shall not be subject to chapter 25 of Title 3 and shall be

final and not reviewable.

(h) The secretary, on or before January 15, 2011, and biennially thereafter, shall report to the general assembly on the progress of the redevelopment pilot program under this section and its impact on new economic development and the creation of new jobs.

Sec. 2. 32 V.S.A. § 9741(48) is added to read:

(48) Sales of building materials, machinery, equipment, or trade fixtures incorporated into an opportunity zone designated by the secretary of commerce and community development.

Sec. 3. 13 V.S.A. § 4014 is amended to read:

§ 4014. PURCHASE OF FIREARMS IN ~~CONTIGUOUS~~ OTHER STATES

Residents of the state of Vermont may purchase rifles and shotguns in ~~a~~ another state ~~contiguous to the state of Vermont~~ provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the ~~contiguous~~ state in which the purchase is made.

Sec. 4. 13 V.S.A. § 4015 is amended to read:

§ 4015. PURCHASE OF FIREARMS BY NONRESIDENTS

Residents of a state ~~contiguous to~~ other than the state of Vermont may purchase rifles and shotguns in the state of Vermont, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the state in which such persons reside.

Sec. 5. REPEAL

Sec. 7(a)(3)(A) and (B) of No. 46 of the Acts of 2007 (specifying how monies appropriated for workforce development is to be apportioned between career exploration programs and alternative and intensive vocations/academic programs) is repealed.

Sec. 6. Sec. 6 of No. 46 of the Acts of 2007 is amended to read:

Sec. 6. WORKFORCE DEVELOPMENT LEADER~~; LEADERSHIP COMMITTEE; CREATED~~

(a) The commissioner of labor shall be the leader of workforce development strategy and accountability. The commissioner of labor shall consult with ~~and chair a subcommittee of the workforce development council~~

~~consisting of the secretary of human services, the commissioner of economic development, the commissioner of education, four business members appointed by the governor, and a higher education member appointed by the governor. Membership on the subcommittee shall be coincident with the members' terms on the workforce development council~~ the workforce development council executive committee in developing the strategy, goals, and accountability measures. The workforce development council shall provide administrative support. The ~~subcommittee~~ executive committee shall assist the leader. The duties of the leader include all the following:

(1) developing a limited number of overarching goals and challenging measurable criteria for the workforce development system that supports the creation of good jobs to build and retain a strong, appropriate, and sustainable economic environment in Vermont;

(2) reviewing reports submitted by each entity that receives funding ~~under Act 46 of the Acts of 2007~~ from the Next Generation fund. The reports shall be submitted on a schedule determined by the executive committee and shall include all the following information:

(A) a description of the mission and programs relating to preparing individuals for employment and meeting the needs of employers for skilled workers;

(B) the measurable accomplishments that have contributed to achieving the overarching goals;

(C) identification of any innovations made to improve delivery of services;

(D) future plans that will contribute to the achievement of the goals;

(E) the successes of programs to establish working partnerships and collaborations with other organizations that reduce duplication or enhance the delivery of services, or both; and

(F) any other information that the committee may deem necessary and relevant.

(3) reviewing information pursuant to subdivision (2) of this section that is voluntarily provided by education and training organizations that are not required to report this information but want recognition for their contributions;

(4) issuing an annual report to the governor and the general assembly on or before December 1, which shall include a systematic evaluation of the accomplishments of the system and the participating agencies and institutions and all the following:

(A) a compilation of the systemwide accomplishments made toward achieving the overarching goals, specific notable accomplishments, innovations, collaborations, grants received, or new funding sources developed

by participating agencies, institutions, and other education and training organizations;

(B) ~~an evaluation~~ identification of each provider's contributions toward achieving the overarching goals;

(C) identification of areas needing improvement, including time frames, expected annual participation, and contributions, and the overarching goals; and

(D) recommendations for the allocating of next generation funds and other public resources.

(5) developing an integrated workforce strategy that incorporates economic development, workforce development, and education to provide all Vermonters with the best education and training available in order to create a strong, appropriate, and sustainable economic environment that supports a healthy state economy; and

(6) developing strategies for both the following:

(A) coordination of public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact; and

(B) more effective communications between the business community and educational institutions, both public and private.

(b) Entities receiving grants through the workforce education and training fund (WETF) and the Vermont training program (VTP) shall provide the Social Security number of each individual who has successfully completed a training program funded through the WETF and the VTP within 30 days. This requirement shall not apply to training seminars lasting no more than two days. On or before July 1 of each year, the department of labor and the department of economic development shall process the information received within the most recent 12 months and prepare the report required in subdivision (a)(4) of this section. The report shall include a table that sets forth quarterly wage information received pursuant to 21 V.S.A. § 1314a at least 18 months following the date on which the individuals completed the program of study. The table shall include the number of individuals completing the program, the number of those individuals who are employed in Vermont, and the median quarterly income of those individuals.

(c) Other entities, including public and private institutions of higher education, postsecondary and secondary programs, and other training providers who wish to receive grants under the WETF and the VTP may do so by making a request in writing to the commissioner of labor and the commissioner of economic development who shall make a decision regarding inclusion of such programs and the process for the collection of the necessary data.

(d) Confidentiality. Notwithstanding any other provision of law, the departments of labor and of economic development shall collect the Social Security numbers of students for the purposes of this section. The departments shall retain Social Security numbers collected from the entities listed in subsection (b) of this section for no more than five years from the date of receipt by the departments. The departments shall retain Social Security numbers collected from the entities listed in subsection (b) of this section for no more than five years from the date of receipt by the departments. Access to the Social Security numbers provided to the department of labor and department of economic development shall be limited to those department individuals creating the table required in subsection (b) of this section and shall be confidential. The departments shall prepare the tables in a way that ensures the confidentiality of all trainee and employer information. A department employee who intentionally communicates or otherwise makes available to the general public a Social Security number collected pursuant to this section or who otherwise disseminates the number for purposes other than those specified in this section shall be subject to the penalties of the Social Security Number Protection Act, subchapter 3 of chapter 62 of Title 9.

Sec. 7. REPEAL

The following are repealed:

(1) Sec. 7(d) of No. 46 of the Acts of 2007 (accountability);

(2) 10 V.S.A. § 543(g) (accountability); and

(3) Section 5.801.1 of No. 192 of the Acts of the 2007 Adj. Sess. (2008).

Sec. 8. WORK-BASED LEARNING REPORT

(a) On or before January 1, 2010, the career and technical education coordinator within the department of education, the commissioner of economic development or his or her designee, and the commissioner of labor or his or her designee, shall submit a report to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor regarding work-based learning programs in Vermont.

(b) The report shall include an inventory of existing career and technical education (CTE) work-based learning programs and other non-CTE work-based learning opportunities, such as registered apprenticeships, high school internships, and postsecondary internships, as well as community-based learning programs. The report also shall include the amount and source of funding for each program; the number of personnel hired to administer each program; participation in each program; categorization of learning opportunities offered; and other relevant standards and outcomes. Finally, the report shall include recommendations relative to statewide and regional coordination; creation of timely skill standards based on emerging or growing industry sectors; credentials that articulate postsecondary training and

education; and the expansion, restructuring, or elimination of existing programs.

Sec. 9. 16 V.S.A. chapter 37, subchapter 7 is added to read:

Subchapter 7. Energy Efficiency Training

§ 1594. ENERGY EFFICIENCY CURRICULUM

(a) The president of Vermont Technical College, director of the office of economic opportunity, commissioner of public service, commissioner of labor, assistant director for adult education, and Efficiency Vermont shall plan for and develop curriculum modules and deliver energy efficiency and renewable energy education and training at all levels, in order to develop a highly skilled workforce in Vermont that is prepared to participate in a growing energy-oriented industry sector.

(b) In all applicable content areas, the curriculum modules shall be designed to meet, at a minimum, the certification standards of the Building Performance Institute, other widely recognized certification standards, or a Vermont-specific certification developed in a process led by Vermont Technical College in collaboration with the aforementioned parties.

(c) The curriculum modules shall be offered through the Center for Sustainable Practices at Vermont Technical College and, on a regional basis, through the regional technical centers and the comprehensive high schools, including adult technical education programs, under agreed-upon terms where

they can be appropriately incorporated into the curriculum, which will help prepare students of all ages for careers in the energy-efficiency industry.

(d) The department of labor shall not fund any single-service contract for the implementation of the modules developed in subsection (a) of this section or for the delivery of electrical and plumbing training programs offered under this section.

(e) Vermont Technical College and the regional technical centers shall request state fiscal stabilization funds available through the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, as well as other state or federal workforce training funds available through the Vermont departments of education and of labor, and through the Vermont Energy Investment Corporation. If sufficient funds are not received, then the Vermont Technical College and the regional technical centers are not required to offer the education and training programs outlined in this section.

Sec. 9a. COMMISSION ON THE FUTURE OF ECONOMIC DEVELOPMENT (CFED)

Regarding CFED, the Senate Committee on Economic Development, Housing and General Affairs endorsed the proposal in H.441 (2009), the big bill, which establishes and interim CFED subcommittee and otherwise suspends the statutory duties of the full commission until January 2010.

Sec. 10. 32 V.S.A. § 5930b(b)(2) is amended to read:

(2) The council shall review each application in accordance with section 5930a of this title, except that the council may provide for ~~a preliminary~~ an initial approval pursuant to the conditions set forth in subsection 5930a(c), followed by a final approval at a later date, before December 31 of the calendar year in which the economic activity commences.

Sec. 11. RETROACTIVE APPLICATION

Sec. 10 of this act shall apply retroactively to all applications received on or after January 1, 2007.

Sec. 12. 32 V.S.A. § 5930a is amended to read:

§ 5930a. VERMONT ECONOMIC PROGRESS COUNCIL

* * *

(b)(1) The Vermont economic progress council, within 60 days of receipt of a complete application, shall approve or deny the following economic incentives:

~~(1)~~(A) tax stabilization agreements and exemptions under subdivision 5404a(a)(2) of this title;

~~(2) applications for allocation to municipalities of a portion of education grand list value and municipal liability from new economic development under subsection 5404a(e) of this title;~~ and

~~(3)~~(B) Vermont employment growth incentives (VEGI) under section 5930b of this title.

(2) All incentives are subject to application of the incentive ratio as determined under subdivision 5930b(b)(3) of this title and no tax stabilization agreement~~,~~ or exemption ~~or allocation~~ shall be approved except in conjunction with the approval of an incentive under subdivision ~~(3)~~(1)(B) of this subsection.

* * *

(d) The council shall apply the cost-benefit model in reviewing applications under subdivisions (b)(1)~~, (2), and (3)~~ (A) and (B) of this section to determine the net fiscal benefit to the state. The cost-benefit model shall be a uniform and comprehensive methodology for assessing and measuring the projected net fiscal benefit or cost to the state of proposed economic development activities. Any modification of the cost-benefit model shall be subject to the approval of the joint fiscal committee. The cost-benefit analysis shall include consideration of the effect of the passage of time and inflation on the value of multi-year fiscal benefits and costs.

(1) In determining the projected net fiscal benefit or cost of the incentives considered under ~~subdivisions~~ subdivision (b)(1) ~~and (2)~~(A) of this section, the council shall calculate the net present value of the enhanced or forgone statewide education tax revenues, reflecting both direct and indirect

economic activity. If the council approves an incentive pursuant to this section, the net fiscal costs, if any, to the state shall be counted as if all those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the annual authorization for such approvals established by the legislature for the applicable calendar year.

(2) In determining the projected net fiscal benefit or cost of the incentives considered under subdivision ~~(b)(3)~~ (b)(1)(B) of this section, the council shall calculate the net present value of the enhanced or forgone state tax revenues attributable to the incentives, reflecting both direct and indirect economic activity over the five-year award period. If the council approves an incentive, the net fiscal costs, if any, to the state shall be counted as if all of those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the council's annual authorization for approval of economic incentives as established by the legislature for the applicable calendar year.

(e) Only a business may apply for approval under subdivision ~~(b)(3)~~ (b)(1)(B) of this section. A municipality and a business must apply jointly for approval of a tax stabilization agreement pursuant to ~~subdivisions~~ subdivision (b)(1) ~~and (2)~~(A) of this section.

* * *

Sec. 13. 32 V.S.A. § 5930b(f) is amended to read:

(f) The property of a business whose authority to earn, apply or retain incentives under this section has been revoked is ineligible for property tax stabilization under subdivision 5404a(a)(2) of this title ~~or allocation of property tax value under subsection 5404a(e) of this title for any education property tax grand list~~ after the date of revocation.

Sec. 13a. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

(a) With respect to federal monies available to the state of Vermont under the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. 111-5, the general assembly establishes the following priorities as outlined in this section.

(b) Burlington International Airport (BTV). The general assembly recognizes the importance of maintaining and upgrading the programs and facilities at BTV, Vermont's primary commercial airport. BTV has an estimated economic impact of over a half billion dollars annually. The general assembly finds that the development of the following list of planned airport projects is a legislative priority:

(1) A new aviation technical center facility.

(2) A new customs border protection office.

(3) The following three south-end taxiway projects:

(A) Completion of taxiway K connection from the new general aviation apron to the end of runway 33;

(B) Rehabilitation of portions of taxiways C and G and construction of a new intersection; and

(C) Completion of a parallel taxiway G from existing taxiway C to runway 1-19.

(4) The building of a green roof on the parking structure.

(c) Agriculture. Agriculture is one of the major drivers of the state's economy. For that reason the general assembly recognizes the crucial role of agriculture in the state of Vermont and expresses the following priorities for federal funding that may become available through ARRA:

(1) The agency of agriculture, food and markets, Vermont agricultural credit corporation, and the Vermont housing and conservation board's farm viability program shall cooperate in seeking ARRA funding from the USDA Farm Service Agency, the USDA Rural Development Program, and other appropriate federal programs and shall prioritize applications for federal stimulus funding based on the goals established in this act. The agency shall further work to educate relevant entities about funding opportunities, provide technical application assistance to priority applicants, and develop a single, common application to be used by applicants for agency funding.

(2) The following are specific agriculture priorities and include the state entities to which funding for these priorities should be directed:

(A) Stabilization of spring planting with loans through the Vermont agricultural credit corporation and the Vermont economic development authority.

(B) Support for in-state slaughter and processing facilities through grants and technical assistance from the agency of agriculture, food and markets.

(C) Funding for regional food hubs and dairy transition through the Vermont housing and conservation board farm viability program and support for the Vermont farm-to-plate investment program, established by Sec. 111 of this act, through the Vermont sustainable jobs fund.

(D) Environmental protection and energy conservation including power modernization and methane digesters through grants and technical assistance from the agency of agriculture, food and markets.

(d) Municipal communications services. Since passage of an act relating to establishing the Vermont telecommunications authority and to advancing broadband and wireless communications infrastructure throughout the state of Vermont, No. 79 of the Acts of 2007, many Vermont towns and cities have affiliated themselves to promote, sponsor, develop, and provide a range of communications services to their respective inhabitants, governments, schools,

and businesses. Through local volunteer initiatives, resources have been collected and directed toward the design, construction, operation, and management of publicly owned communications plants, with minimal dependency on the resources, finances, and credit of the state of Vermont. Access to various forms of public and private credit enhancement will assist towns and cities in further developing and constructing communications plant improvements through lower capital interest and financing costs. Under the ARRA, financial resources will be made available to the state that are suitable for application in assisting municipalities in their communications goals. With respect to these local efforts and the federal stimulus monies, the general assembly establishes the following priorities:

(1) Public projects and enterprises endorsed by the general assembly to receive direct and indirect benefits of ARRA initiatives shall include municipal communications plants whose economic feasibility, need, and readiness to serve Vermont's rural regions have been demonstrated, such as the North-link project launched by Northern Enterprises, Inc. in 2007, the broadband initiative of East Central Vermont Community Fiber, and replacement of the Burke Mountain power line owned and operated by Vermont Public Television.

(2) To the extent possible, allocation of ARRA initiatives available to Vermont shall include direct and indirect credit enhancement assistance to municipalities seeking capital to fund communications plant improvements.

(3) The development, promotion, construction, and operation of public communications plants is declared to be in the best interest of Vermont and an infrastructure priority among capital improvements eligible to receive benefits under the ARRA.

(e) Sterling College. Sterling College is the only independent, liberal arts college in Vermont's Northeast Kingdom. Its four major areas of study include conservation ecology; circumpolar studies; outdoor education and leadership; and sustainable agriculture. The college now has the opportunity to build a new and environmentally innovative residency and program center. Of the $500,000.00–$600,000.00 total cost of this project, $215,000.00 has already been secured or committed. The project's construction start date is mid-August and is projected to employ between 10 and 14 people, in various capacities, for six months. Therefore, the general assembly finds that up to $350,000.00 in ARRA monies for this Sterling College project is a priority.

(f) Vermont Youth Conservation Corps (VYCC). By hiring young people to work on high-priority conservation projects, the VYCC seeks to instill in individuals the values of personal responsibility, hard work, education, and respect for the environment. The VYCC seeks to establish a new program, the Civilian Conservation Corps 2.0, which will enroll 100 young men and women between the ages of 18 and 24 to rehabilitate the Vermont state parks infrastructure and complete high-priority recreation, forest, wildlife, and other

natural resource work. The general assembly finds that spending on such a project is a legislative priority.

Sec. 14. [DELETED]

Sec. 15. SBA LOAN PROGRAMS; STIMULUS PROGRAMS

(a) Significant changes have been made to the Small Business Association (SBA) loan programs pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5. These changes create an opportune time for Vermont entrepreneurs seeking to start, expand, or acquire a small business. Time is of the essence, however, because the new opportunities created by ARRA will sunset at the end of 2009.

(b) The commissioner of economic development, in cooperation with the director of the Vermont district office of the United States SBA, shall work with small business lending companies such as the Vermont economic development authority, the Vermont small business development center, the Vermont bankers association, and the association of Vermont credit unions, to promote favorable SBA-loan program changes among potential borrowers.

(c) Some of the SBA-loan program changes under ARRA include a one-time opportunity at very low risk to lenders (90 percent guaranty) and very low cost for small businesses (no guarantee fee, prime at a low of 3.25 percent) to access lines of credit, contract financing (such as government contracts with

the agency of transportation), export financing, and long-term fixed-asset financing of real estate and equipment.

Sec. 16. VIRTUALIZED INFORMATION TECHNOLOGY INFRASTRUCTURE; STUDY

(a) The legislative director of information technology and the commissioner of the department of information and innovation shall issue a request for proposals no later than July 1, 2009 to evaluate the viability of cloud computing and other virtualized infrastructure options for the state's information technology infrastructure as it pertains to the use of e-mail, spreadsheets, word processing, and calendars in the legislative, executive, and judicial branches of government. Evaluations shall consider the following:

(1) Current service level and scalability to future service needs;

(2) Physical and virtual data security and recovery;

(3) Potential for savings in software licensing and hardware investment in both the near and long term;

(4) Opportunities for improved systems performance and capacity;

(5) Specific vendors and relevant vendor policies; and

(6) Potential for legal and regulatory obstacles.

(b) The legislative director of information technology and the commissioner of the department of information and innovation shall submit the proposals to the legislative information technology committee established

under chapter 22 of Title on or before January 15, 2010. The director and the commissioner are respectively authorized to implement virtualized information technology.

(c) This section supersedes any similar cloud-computing proposal in H.441 (2009).

Sec. 16a. INITIATIVE TO BUILD A MEDIA AND FILM INDUSTRY IN VERMONT

(a)(1) Given its unique blend of creative, cultural, and educational resources, Vermont currently has an opportunity to become a destination for a new media and film industry.

(2) Vermont is home to authors, filmmakers, producers, and young people concentrating their educational and professional development in the emerging fields of communications, multi-media and film production, graphic and digital design, and performing arts.

(3) Vermont's natural and seasonal beauty and the charm and character of its towns and regions equals or surpasses other potential destinations for the media and film industry, and these strengths position Vermont as an ideal location for filming and producing movies, television, commercials, and other media.

(4) Vermont is home to at least five institutions of higher education that provide one or more degrees or certificate programs in media or film sectors,

including Burlington College's cinema studies and film production program; Champlain College's communications and creative media division; the University of Vermont's film and television studies program; Marlboro College's undergraduate programs in media, visual and performing arts; and Castleton State College's concentrations in communication, mass media and digital media.

(b) Considering these substantial resources, it is the intent of the general assembly to encourage and promote the development of a strong and dynamic media and film sector within Vermont's creative economy.

(c) The Vermont film commission, in collaboration with the Vermont film and media coalition and, to the extent possible, the faculty and students of Burlington College, Champlain College, the University of Vermont, Marlboro College, and Castleton State College, shall propose a program to develop a media and film sector within Vermont's economy. The commission should consider the most beneficial role the state can play in supporting the media and film sector, and should consider grants, public-private partnerships, and other appropriate financing mechanisms in order to promote this sector of the creative economy and to retain young Vermonters currently supported by the communications, film, and media programs at Vermont colleges and universities.

(d) On or before January 30, 2010, the commission is invited to deliver a presentation of its program proposal to the Senate committee on economic development, housing and general affairs and the House committee on commerce and economic development.

Sec. 17. [Deleted]

Sec. 18. 16 V.S.A. chapter 125, subchapter 5 is added to read:

Subchapter 5. Tax-Credit Bond Financing

§ 3597. TAX-CREDIT BOND FINANCING; QUALIFIED SCHOOL ACADEMY ZONES; QUALIFIED SCHOOL CONSTRUCTION BONDS

The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, expanded existing and created new tax-credit bond programs available to public schools. Accordingly, school districts are authorized to issue bonds to finance public school building construction and rehabilitation, the purchase of equipment, the development of course materials, and teacher and personnel training, consistent with sections 1397E and 54F of the Internal Revenue Code, pertaining to qualified school academy zones and qualified school construction bonds.

Sec. 19. Sec. 45(b) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(b)(1) Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, if a school district declares its intent to pay for the cost of a school construction project without state aid provided pursuant to chapter 123 of Title 16 and has received voter approval for the project on or after March 7, 2007, then the commissioner of education shall review the project as a preliminary application upon the district's request. In this case, the commissioner shall use the standards and processes of chapter 123 for determining preliminary approval, and shall deduct the portion of education spending that is approved from the calculation of excess spending under 32 V.S.A. § 5401(12). Preliminary approval received pursuant to this subsection is to be used solely for purposes of:

(A) calculating whether the district has exceeded the excess spending threshold ~~and neither~~; or

(B) enabling the district to proceed with a project using funds other than those provided under chapter 123 of Title 16, or both.

(2) Neither preliminary approval nor the provision of technical assistance indicates that the district will receive state aid for school construction or preliminary approval for that aid when school construction aid is again available. Notwithstanding subsection (a) of Sec. 36 of No. 52 of the

Acts of 2007, upon the request of the district, the department shall provide technical assistance regarding the planning and implementation of school renovation and construction.

Sec. 19a. 24 V.S.A. § 1891(7) is amended to read:

(7) "Financing" means the following types of debt and incurred or used by a municipality to pay for improvements in a tax increment financing district:

* * *

(F) Conventional bank loans.

(G) Certificates of participation, approved by the state treasurer.

(H) Lease-purchase, approved by the state treasurer.

(I) Revenue-anticipation notes, approved by the state treasurer.

Sec. 19b. 24 V.S.A. § 1894 is amended to read:

§ 1894. POWER AND LIFE OF DISTRICT

(a) Incurring indebtedness.

(1) A municipality may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to 20 years following the creation of the district, if approved as required under subsection 5404a(h) of Title 32. The creation of the district shall occur at 12:01 a.m. on April 1 ~~of~~ following the year so voted by the legislative body of the municipality. Any indebtedness incurred during this 20-year period may be

retired over any period authorized by the legislative body of the municipality under section 1898 of this title.

(2) If no indebtedness is incurred within the first ~~five~~ ten years after creation of the district, no indebtedness may be incurred unless the municipality obtains reapproval from the Vermont economic progress council under subsection 5404a(h) of Title 32.

(3) The district shall continue until the date and hour the indebtedness is retired.

(b) Use of the education property tax increment. For any debt incurred ~~within the first five years~~ after the creation of the district, or ~~within the first five years~~ after reapproval by the Vermont economic progress council, but for no other debt, the education tax increment may be retained for up to 20 years beginning with the initial date of the creation of the district or on the date of the first debt incurred ~~within the first five years~~, at the discretion of the municipality. The assessed valuation of all taxable real property within the district, as defined in 24 V.S.A. § 1895, shall be re-certified if the municipality chooses to begin retaining the education tax increment more than five years beyond the initial creation of the district.

* * *

Sec. 19c. 24 V.S.A. § 1897(a) is amended to read:

(a) The legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the financing for improvements and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the council, and in the case of infrastructure essential to the development of the district that does not reasonably lend itself to a proportionality formula, the council shall apply a rough proportionality and rational nexus test; provided, that if any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(f), no more than 75 percent of the state property tax increment and no less than an equal percent of the municipal tax increment may be used to service this debt. Bonds shall only be issued if the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, give authority to the legislative body to pledge the credit of the municipality for these purposes. Notwithstanding any provision of any municipal charter, the legal voters of a municipality~~, by a single vote,~~ shall authorize the legislative body to pledge the credit of the municipality up to a specified maximum dollar amount for all debt obligations to be financed with state property tax increment pursuant to approval by the

Vermont economic progress council and subject to the provisions of this section and 32 V.S.A. § 5404a.

Sec. 19d. EFFECTIVE DATE

Secs. 19a, 19b, and 19c shall be retroactive to July 1, 2008.

Sec. 19e. 24 V.S.A. § 1902 is added to read:

§ 1902. OVERLAY OF PREEXISTING DISTRICT

(a) Purpose. Tax increment financing (TIF) is an indispensible tool to help finance public infrastructure. Private development that has followed has created hundreds of jobs for Vermonters; generated significant sales, rooms and meals, and income tax revenue for the state; and has helped stimulate the local, regional, and state economies.

(b) Pursuant to the provisions of this chapter, a municipality may create a new district that includes some or all properties contained within a preexisting district which is no longer eligible to incur debt.

(c) In such event the tax increment for the preexisting district for properties within both the preexisting and the new district shall be calculated as follows: the difference between the property taxes paid based upon the original taxable value (subject to the adjustment upon reappraisal provisions of 24 V.S.A. § 1896(b), where applicable) of real property within the preexisting district and the property taxes paid based upon the original taxable value (subject to the

adjustment upon reappraisal provisions of 24 V.S.A. § 1896(b), where applicable) for that same real property as determined for the new district.

(d) Tax increment for the preexisting district, as calculated under this section, may be appropriated for the financing of debt incurred prior to the creation of the new district consistent with the provisions of this chapter. As provided in 24 V.S.A. § 1894(c)(3), the preexisting district shall expire when the indebtedness is retired.

Sec. 19f. REPEAL

Sec. 2i of No. 184 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 67 of No. 190 of the 2007 Adj. Sess. (2008), is repealed.

Sec. 19g. 24 V.S.A. § 1903 is added to read:

§ 1903. TAX INCREMENT FINANCING DISTRICTS; CAP

Notwithstanding any other provision of law, the Vermont economic progress council may not approve the use of education tax increment financing for more than ten tax increment financing districts and no more than one newly created tax increment financing district in any municipality within the period of ten state fiscal years beginning July 1, 2008. Additionally, no more than one such newly created tax increment financing district shall be approved to use the overlay provisions of section 1902 of this subchapter. Thereafter no tax increment financing districts may be approved without further authorization by the general assembly.

Sec. 20. FINDINGS AND PURPOSE

(a) Over the last decade, Vermont has made significant investments in business development and workforce training and, as a result, has begun to foster innovation and entrepreneurship and cultivate a skilled workforce.

(b) In order to fully reap the benefits of our prior investments, however, the general assembly finds that it is now time to expand upon our economic development initiatives. To that end, the general assembly seeks to encourage investments in young start-up companies specializing in technology, agricultural services and products, and clean energy with the goal of creating both jobs and economic prosperity in this state and of filling a gap in the capital financing spectrum for Vermont businesses.

Sec. 21. 10 V.S.A. chapter 14A is amended to read:

CHAPTER 14A. THE ~~VERMONT~~ ENTREPRENEURS'

SEED CAPITAL FUND

§ 290. DEFINITIONS

For purposes of this chapter:

(1) "Follow-on investment" means any investment in a Vermont firm following the initial investment.

(2) "Fund manager" means the investment management firm responsible for creating the fund, securing capital commitments, and implementing the fund's investment strategy, consistent with the requirements of this section.

The fund manager shall be paid a fee which reflects a percentage of the fund's capital under management and a performance-fee share based on the fund's economic performance, as determined by the authority.

(3) "Seed capital" means first, nonfamily, nonfounder investment in the form of equity or convertible securities issued by a firm which had, in the 12 months preceding the date of the funding commitment, annual gross sales of less than $3,000,000.00.

§ 291. ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND; AUTHORIZATION; LIMITATIONS

(a) The Vermont economic development authority shall cause to be formed a private investment equity fund to be named "the ~~Vermont~~ entrepreneurs' seed capital fund" or "the fund" ~~is authorized~~ for the purpose of increasing the amount of investment capital provided to new Vermont firms or to existing Vermont firms for the purpose of expansion. The authority may contract with one or more persons for the operation of the fund as fund manager. Such contract shall contain the terms and conditions pursuant to which the fund shall be managed to meet the fund's objective of providing seed capital to Vermont firms. The terms of the contract shall require that, if the fund manager does not meet the investment criteria specified in the contract, the fund manager may not be awarded the performance fee established under subdivision (c)(2) of this section.

(b) The ~~Vermont seed capital~~ fund shall be formed as ~~either a business corporation or~~ a limited partnership pursuant to Title 11 and shall be subject to all the following:

(1) The ~~Vermont seed capital~~ fund shall not invest in any firm in which ~~a total of more than a 25 percent~~ any interest in that firm is held by an investor of the ~~Vermont seed capital~~ fund ~~combined with any interest held in the firm~~ or by the spouse ~~or dependent,~~ children, or other relative of the investor.

(2) The fund shall invest at least 40 percent of its total capital in initial investment in firms which had in the 12 months preceding the date of the funding commitment annual gross sales of less than $1,000,000.00 and may reserve the remainder of its capital for follow-on investments in these businesses, as appropriate.

(3) Before the fund makes any investments, the fund shall~~:~~

~~(A) If organized as a corporation, have and thereafter maintain a board of nine directors to be elected by the shareholders.~~

~~(B) If organized as a partnership,~~ have and maintain a board of ~~three~~ five advisors who shall be appointed ~~by the authority~~ as follows: two shall be appointed by the authority, two shall be appointed by the fund manager, and one shall be appointed jointly by the authority and the fund manager. The board of advisors shall represent solely the economic interest of the state with respect to the management of the fund and shall have no civil liability for the

financial performance of the fund. The board of advisors shall be advised of investments made by the fund and shall have access to all information held by the fund with respect to investments made by the fund.

~~(3)~~(4) The ~~Vermont seed capital~~ fund, within 120 days after the close of each fiscal year of its operations, shall issue a report that includes an audited financial statement certified by an independent certified public accountant. The report also shall include a compilation of the firm data required by subsection (d) of this section. These data shall be reported in a manner that does not disclose competitive or proprietary information, as determined by the authority. This report shall be distributed to the governor and the ~~legislative council~~ senate committee on economic development, housing and general affairs and the house committee on commerce and economic development and made available to the public. The report shall include a discussion of the fund's impact on the Vermont economy and employment.

~~(4)~~(5) The ~~Vermont seed capital~~ fund shall not make distributions of more than 75 percent of its net profit to its investors during its first five years of operation.

~~(5)~~(6) No person shall be allocated more than ~~10~~ 20 percent of the available tax credits. For the purposes of determining allocation, the attribution rules of Section 318 of the Internal Revenue Code in effect as of the effective date of this chapter shall apply.

~~(6)~~(7) The capitalization of the fund is not limited under this section; however, only the first ~~$5~~ $10 million ~~of capitalization of the Vermont seed capital fund~~ raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020, shall be eligible for partial tax credits as specified in 32 V.S.A. § 5830b.

~~(7)~~(8) All investments and related business dealings using funds that qualify for partial tax credits under 32 V.S.A. § 5830b shall be subject to the following restrictions:

(A) The investments shall be restricted to Vermont firms, which for the purposes of this chapter means that their Vermont apportionment equals or exceeds 50 percent, using the apportionment rules under 32 V.S.A. § 5833, and they maintain headquarters and a principal facility in Vermont. Any funds invested in Vermont firms shall be used for the purpose of enhancing their Vermont ~~investments~~ operations. Investment shall be restricted to firms that export the majority of their products and services outside the state or add substantial value to products and materials within the state. In its investments, the fund shall give priority to new firms and existing firms that are developing new products, and shall take into consideration any impact on in-state competition and also whether the investment will encourage economic activity that would not occur but for the fund investment.

(B) Each ~~Vermont seed capital~~ fund investment in any one firm, in any 12-month period shall be limited to a maximum of ten percent of the

~~Vermont seed capital~~ fund's capitalization and, for the life of the fund, to a maximum of 20 percent of the fund's total capitalization.

(C) At least two-thirds of the monies invested by the ~~Vermont seed capital~~ fund and qualifying for a tax credit under 32 V.S.A. § 5830b shall at all times be invested in the form of equity or convertible securities~~. This provision shall not prohibit~~ unless the fund manager determines it is reasonable and necessary to pursue temporarily the generally accepted business practice of earning interest on working funds deposited in relatively secure accounts such as savings and money market funds.

(c) Any firm receiving monies from the fund must report to the fund manager the following information regarding its activities in the state over the calendar year in which the investment occurred:

(1) The total amount of private investment received.

(2) The total number of persons employed as of December 31.

(3) The total number of jobs created and retained, which also shall indicate for each job the corresponding job classification, hourly wage and benefits, and whether it is part-time or full-time.

(4) Total annual payroll.

(5) Total sales revenue.

(d) The authority, in consultation with the fund manager, shall establish reasonable standards and procedures for evaluating potential recipients of fund

monies. The authority shall make available to the general public a report of all firms that receive fund investments and also indicate the date of the investment, the amount of the investment, and a description of the firm's intended use of the investment. This report shall be updated at least quarterly.

(e) Information and materials submitted by a business receiving monies from the fund shall be available to the auditor of accounts in connection with the performance of duties under 32 V.S.A. § 163; provided, however, that the auditor of accounts shall not disclose, directly or indirectly, to any person any proprietary business information.

(f) In fiscal year 2010 and again in fiscal year 2011, in two installments of $4,000,000.00, an aggregate of $8,000,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the entrepreneurs' seed capital fund for investment in eligible Vermont firms pursuant to this section. In fiscal year 2010, of the $4,000,000.00 appropriated in this subsection, $250,000.00 shall be transferred to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to be used solely for start-up capital in the sustainable jobs fund's flexible capital fund program.

Sec. 22. REPEAL

10 V.S.A. § 292 (providing for the initial organization of the Vermont seed capital fund) is repealed.

Sec. 23. 32 V.S.A. § 5830b is amended to read:

§ 5830b. TAX CREDITS; ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND

(a) The initial capitalization of the Vermont entrepreneurs' seed capital fund ~~comprising a maximum $5~~, as established in 10 V.S.A. § 291, up to $10 million raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020, shall entitle those taxpayers to a credit against the tax imposed by sections 5822, 5832, 5836, or 8551 of this title and by 8 V.S.A. § 6014. The credit may be claimed for the taxable year in which a contribution is made and each of the four succeeding taxable years. The amount of the credit for each year shall be the lesser of ~~four~~ ten percent of the taxpayer's contribution or 50 percent of the taxpayer's tax liability for that taxable year prior to the allowance of this credit; provided, however, that in no event shall the aggregate credit allowable under this section for all taxable years exceed ~~20~~ 50 percent of the taxpayer's contribution to the initial ~~$5~~ $10 million capitalization of the ~~Vermont seed capital~~ fund. The credit shall be nontransferable except as provided in subsection (b) of this section.

(b) If the taxpayer disposes of an interest in the ~~Vermont seed capital~~ fund within four years after the date on which the taxpayer acquired that interest, any unused credit attributable to the disposed-of interest is disallowed. This disallowance does not apply in the event of an involuntary transfer of the

interest, including a transfer at death to any heir, devisee, legatee, or trustee, or in the event of a transfer without consideration to or in trust for the benefit of the taxpayer or one or more persons related to the taxpayer as spouse, descendant, parent, grandparent, or child.

Sec. 24. 10 V.S.A. chapter 12, subchapter 12 is added to read:

Subchapter 12. Technology Loan Program

§ 280aa. FINDINGS AND PURPOSE

(a) Technology-based companies are a vital source of innovation, employment, and economic growth in Vermont. The continued development and success of this increasingly important sector of Vermont's economy is dependent upon the availability of flexible, risk-based capital. Because the primary assets of technology-based companies sometimes consist almost entirely of intellectual property, such companies frequently do not have access to conventional means of raising capital, such as asset-based bank financing.

(b) To support the growth of technology-based companies and the resultant creation of high-wage employment in Vermont, a technology loan program is established under this subchapter.

§ 280bb. TECHNOLOGY LOAN PROGRAM

There is created a technology (TECH) loan program to be administered by the Vermont economic development authority. The program shall seek to meet the working capital and capital-asset financing needs of technology-based

companies. The Vermont economic development authority shall establish such policies and procedures for the program as are necessary to carry out the purposes of this subchapter. The authority's lending criteria shall include consideration of in-state competition and whether a company has made reasonable efforts to secure capital in the private sector.

Sec. 25. TECHNOLOGY LOAN PROGRAM; APPROPRIATION; FEDERAL FUNDS

In fiscal year 2010 and again in fiscal year 2011, in two installments of $900,000.00, a total of $1,800,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont economic development authority for use in the technology loan program established in this act.

Sec. 25a. VERMONT JOBS FUND; INTEREST-RATE SUBSIDIES

In fiscal year 2010 and again in fiscal year 2011, in two installments of $900,000.00, a total of $1,800,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont economic development authority under section 223 of Title 10 to be used by the authority to provide interest-rate subsidies for the Vermont Jobs Fund.

Sec. 25b. 32 V.S.A. § 5930ee is amended as follows:

§ 5930ee. LIMITATIONS

Beginning in fiscal year ~~2008~~ 2010 and thereafter, the state board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) The total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~$1,600,000.00~~ $1,700,000.00.

Sec. 26. STUDY ON THE VEGI PROGRAM

The VEGI technical working group shall make recommendations to the general assembly regarding the following:

(1) whether the VEGI program should target job creation, in general, and not just the creation of new, high-paying jobs; and

(2) options that are consistent with the integrity of the VEGI cost-benefit model but allow for variation in wage thresholds based on regional prevailing wage rates and unemployment rates.

Sec. 27. [Deleted]

Sec. 28. STUDY ON THE APPLICATION OF VERMONT'S LICENSED-LENDER REQUIREMENTS TO CERTAIN COMMERCIAL LENDING PRACTICES

(a) The commissioner of banking, insurance, securities, and health care administration shall convene a work group to recommend amendments to Vermont's licensed-lender laws, chapter 73 of Title 8, for the purpose of facilitating limited instances of high-risk, secured commercial lending by specialized persons such as venture capital firms, individuals, and partnerships. The work group shall consider proposals such as a limited exemption or an expedited registration process that permits capital investments in and secure commercial loans to technology firms, in a responsible manner.

(b) Members of the work group shall include representatives from the Vermont Bankers Association, the Vermont Bar Association, the department of economic development, the Vermont economic development authority, and the entrepreneurial industry sector of Vermont.

(c) The commissioner shall report the work group's recommendations to the senate committees on economic development, housing and general affairs and on finance and the house committee on commerce and economic development no later than January 1, 2010.

Sec. 29. 21 V.S.A. § 384 is amended to read:

§ 384. PROHIBITION OF EMPLOYMENT

(a) An employer shall not employ an employee at a rate of less than $7.25, and, beginning January 1, 2007, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest $0.01. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than $3.65 an hour, and beginning January 1, 2008, and on each January 1 thereafter, this basic tip wage rate shall be increased at the same percentage rate as the minimum wage rate. For the purposes of this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than $120.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the United States government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the United States government.

(b) Notwithstanding subsection (a) of this section, an employer shall not pay an employee less than one and one-half times the regular wage rate for any work done by the employee in excess of 40 hours during a workweek. However, this subsection shall not apply to:

(1) Employees of any retail or service establishment. A "retail or service establishment" means an establishment 75 percent of whose annual volume of sales of goods or services, or of both, is not for resale and is recognized as retail sales or services in the particular industry.

(2) Employees of an establishment which is an amusement or recreational establishment, if:

(A) it does not operate for more than seven months in any calendar year, or

(B) during the preceding calendar year its average receipts for any six months of that year were not more than one-third of its average receipts for the other six months of the year.

(3) Employees of an establishment which is a hotel, motel, or restaurant.

(4) Employees of hospitals, public health centers, nursing homes, maternity homes, therapeutic community residences, and residential care homes as those terms are defined in Title 18, provided:

(A) the employer pays the employee on a biweekly basis; and

(B) the employer files an election to be governed by this section with the commissioner; and

(C) the employee receives not less than one and one-half times the regular wage rate for any work done by the employee:

(i) in excess of eight hours for any workday; or

(ii) in excess of 80 hours for any biweekly period.

(5) Those employees of a business engaged in the transportation of persons or property to whom the overtime provisions of the Federal Fair Labor Standards Act do not apply, but shall apply to all other employees of such businesses.

(6) Those employees of a political subdivision of this state.

(7) State employees~~,~~ who ~~shall be~~ are covered by the U.S. Federal Fair Labor Standards Act.

(c) However, an employer may deduct from the rates required in subsections (a) and (b) of this section the amounts for board, lodging, apparel, rent, or utilities paid or furnished or other items or services or such other conditions or circumstances as may be usual in a particular employer-employee relationship, including gratuities as determined by the wage order made under this subchapter.

Sec. 29a. AGENCY OF ADMINISTRATION; EMERGENCY RULES; WORKERS' COMPENSATION; STATE CONTRACTS; COMPLIANCE WITH DAVIS-BACON

(a) The agency of administration shall adopt emergency rules to minimize the incidents of miscoding of employees in NCCI job codes and misclassification of the status of works as independent contractors rather than employees by state contractors on projects with a total project cost of more than $250,000.00 by requiring those contractors to provide all the following:

(1) Detailed information including information relating to past violations, convictions, suspensions, and any other information required by the department. This information shall be included with the project bid.

(2) A list of subcontractors on the job along with lists of the subcontractor's subcontractors.

(3) A payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information and similar information for the subcontractors regarding their subcontractors shall also be provided to the department of labor and to the department of banking, insurance, securities, and health care administration, upon request.

(4) Any rules adopted to minimize instances of misclassification through enhanced reporting and greater transparency shall not be unduly burdensome on small businesses and may be flexibly designed to account for the size of the contractor and subcontractor.

(b) The agency shall require that any contractor that violates classification requirements shall be prohibited from bidding on future state contracts for a period of time that corresponds to the seriousness of the classification violation.

(c) The agency shall assure that any state contract funded in whole or in part with American Recovery and Reinvestment Act of 2009 monies shall comply with the payment of prevailing wages as required by the Davis-Bacon Act. In the event Davis-Bacon wages in any county have not been updated in the previous three years, the applicable Davis-Bacon wage for a state contract shall be that of the Vermont county that has most recently updated its Davis-Bacon wages, where not in contravention with federal requirements.

Sec. 30. ARRA AND UNEMPLOYMENT INSURANCE

(a) The American Recovery and Investment Act of 2009 (ARRA), Pub.L. No. 111-5, authorizes the federal government to transfer up to $13,918,000.00 into Vermont's unemployment insurance (UI) trust fund for UI modernization incentive payments.

(b) Vermont already qualifies for one-third of its allotted incentive payments because the state allows for the use of an alternative base period in determining UI eligibility. In order to qualify for the remaining two-thirds of its allotted incentive payments, Vermont's UI program must meet two of four expanded-coverage requirements.

(c) The state already meets one expanded-coverage requirement: namely, coverage of part-time workers. It is the intent of the general assembly to adopt one additional expanded-coverage requirement, namely the training program specified in Sec. 31 of this act, and to apply to the secretary of the United States Department of Labor for certification of UI modernization so that the state may receive its remaining allotment of incentive payments.

Sec. 31. 21 V.S.A. § 1423b is added to read:

§ 1423b. EXTENDED BENEFITS; APPROVED TRAINING PROGRAMS

(a) An individual who is otherwise eligible for benefits under this chapter, but who has exhausted his or her maximum benefit amount under section 1340 of this chapter shall be entitled to an additional 26 weeks of benefits in the same amount as the weekly benefit amount established in the individual's most recent benefit year if the individual is enrolled in and making satisfactory process in a state-approved training program as defined in subsection (b) of this section.

(b) A state-approved training program is any training program or job training program that meets all of the following criteria:

(1) It is authorized by the Workforce Investment Act of 1998.

(2) It is designed to assist individuals who have been separated from a declining occupation or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment.

(3) It is designed to train the individual for entry into a high-demand occupation.

Sec. 32. 10 V.S.A. chapter 15A § 330 is added to read:

§ 330. THE FARM-TO-PLATE INVESTMENT PROGRAM; CREATION; GOALS; TASKS; METHODS

(a) Creation.

(1) The sustainable jobs fund program shall establish the Vermont farm-to-plate investment program to fulfill the goals and carry out the tasks described in this section.

(2) If at least $100,000.00 in funding is not made available for the purpose of this section, the sustainable jobs fund program is encouraged but no longer required to fulfill the provisions of this section.

(b) Goals. The goals of the farm-to-plate investment program are to:

(1) Increase economic development in Vermont's food and farm sector.

(2) Create jobs in the food and farm economy.

(3) Improve access to healthy local foods.

(c) Tasks.

(1) By June 30, 2010, the Vermont farm-to-plate investment program shall create a strategic plan for agricultural economic development, which may be periodically reviewed and updated, based upon the following:

(A) Inventory Vermont's food system infrastructure by gathering existing data, studies, and analysis about the components of Vermont's food system, including:

(i) The types of foods produced in Vermont, the number of producers of each type of food, the amount of each type of food produced, and the financial viability of each food-producing sector.

(ii) The types of food processors in Vermont, how much food produced in Vermont is purchased by Vermont processors, and the financial viability of the food processing sector in Vermont.

(iii) The current and potential markets in which Vermont food producers and processors can sell their products.

(iv) The extent of existing agricultural lands that could be expanded and the resources available to expand Vermont's food production.

(v) The potential for new farmers and food processors to enter the local food economy, the methods for new farmers to acquire land and other

farm infrastructure, and the availability and barriers to farm and processing labor.

(vi) The potential for entirely new local products and the barriers to farmers and processors entering new markets.

(B) Identify gaps in the infrastructure and distribution systems and identify ways to address these gaps.

(2) By June 30, 2010, the Vermont farm-to-plate investment program shall distribute grant funding to support farm-to-table direct marketing, including farmers' markets and community-supported agriculture operations and to support regional community food hubs. Funding shall be provided only to applicants contributing at least 200 percent of the grant amount in matching funds.

(3) As an ongoing task, the farm-to-plate investment program shall use the information gathered for the strategic plan to identify methods and the funding necessary to strengthen the links among producers, processors, and markets including:

(A) Support of the work of existing farm-to-school programs to increase the purchase of local foods by Vermont schools, with a particular emphasis on procurement of nutrient-dense animal foods.

(B) Collaborating with the agency of agriculture, food and markets and the department of buildings and general services to increase procurement of local foods in accordance with 6 V.S.A. § 4601.

(C) Collaborating with the agency of agriculture, food and markets and the sustainable agriculture council to increase procurement of local foods by businesses and institutions.

(D) Supporting initiatives that improve direct marketing of foods from the farm to the consumer.

(E) Informing agricultural lenders of the information collected under subsection (c)(1) of this section in order to facilitate availability of agricultural financing.

(d) Methods. To accomplish the goals and carry out the ongoing tasks stated in this section, the Vermont farm-to-plate investment program may:

(1) Create an advisory panel with representatives from the agricultural and business communities.

(2) Hire or assign staff.

(3) Seek and accept funds from private and public entities.

(4) Utilize technical assistance, loans, grants, or other means approved by the board.

(e) In fiscal year 2010, the amount of $100,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery

and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to be used solely for the farm-to-plate investment program established under this section.

Sec. 33. 10 V.S.A. § 329 is amended to read:

§ 329. ANNUAL REPORT

Prior to January 31 of each year, the corporation formed under section 328 of this title shall submit a report concerning its activities to the governor and the legislative committees on commerce, general affairs, natural resources, ways and means, finance, institutions, and appropriations. The report shall include the following information:

* * *

(5) A summary of work completed in the farm-to-plate investment program, including progress toward meeting the program goals, information regarding any advisory panel meetings, an accounting of all revenues and expenses related to the program, and recommendations regarding future program activity. The report shall also include information regarding the status of state government procurement of local foods.

Sec. 34. 24 V.S.A. § 1898(b) is amended to read:

(b) A municipality shall have power to issue from time to time general obligation ~~and~~ bonds, revenue bonds ~~from time to time~~, or revenue bonds also backed by the municipality's full faith and credit in its discretion to finance the

undertaking of any improvements wholly or partly within such district. If revenue bonds are issued, such bonds shall be made payable, as to both principal and interest, solely from the income proceeds, revenues, tax increments and funds of the municipality derived from, or held in connection with its undertaking and carrying out of improvements under this chapter. So long as any such bonds of a municipality are outstanding the local governing body may deduct, in any one or more years from any net increase in the aggregate taxable valuation of land and improvements in all areas covered by their district the amount necessary to produce tax revenues equal to the current debt service on such bonds, assuming the previous year's total tax rate and full collection. Only the balance, if any, of such net increase shall be taken into account in computing the sums which may be appropriated for other purposes under applicable tax rate limits. But all the taxable property in all areas covered by the district, including the whole of such net increase, shall be subject to the same total tax rate as other taxable property, except as may be otherwise provided by law. Such net increase shall be computed each year by subtracting, from the current aggregate valuation of the land and improvements in all areas covered by the district, the sum of the aggregate valuations of land and improvements in each such area on the date the district was approved under this section. An area shall be deemed to be covered as a district until the date all the indebtedness incurred by the municipality to finance the applicable

improvements have been paid. Notwithstanding any provisions in this chapter to the contrary, any provision of a municipal charter of any municipality which specifies a different debt limit, or which requires a greater vote to authorize bonds, or which prescribes a different computation of appropriations under tax rate limits, or which is otherwise inconsistent with this subsection, shall apply.

Sec. 34a. FINDINGS

The general assembly finds and declares that:

(1) The generation of renewable power within Vermont is critical to the economic development, energy independence, and financial security of the state.

(2) Section 401 of the federal Clean Water Act, 33 U.S.C. § 1341, requires any applicant for a federal permit that may involve a discharge to navigable waters to obtain certification from the state that the permitted activity does not violate the state's water quality standards.

(3) As set forth in 10 V.S.A. § 1004, the secretary of natural resources is the agent that the U.S. Environmental Protection Agency delegated to conduct Clean Water Act § 401 certifications in the state of Vermont.

(4) The secretary of natural resources should be required to adopt procedures establishing an application process for certification of hydroelectric projects in a timely manner that allows for the predictable and affordable development of small-scale hydroelectric power projects.

Sec. 34b. 10 V.S.A. § 1006 is added to read:

§ 1006. CERTIFICATION OF HYDROELECTRIC PROJECTS; APPLICATION PROCESS

(a) As used in this section:

(1) "Bypass reach" means that area in a waterway between the initial point where water has been diverted through turbines or other mechanical means for the purpose of water-powered generation of electricity and the point at which water is released into the waterway below the turbines or other mechanical means of electricity generation.

(2) "Conduit" means any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar constructed water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(3) "Hydroelectric project" means a facility, site, or conduit planned or operated for the generation of water-powered electricity that has a generation capacity of no more than 1 megawatt and does not create a new impoundment.

(4) "Impoundment" means any artificial structure used to collect water in a pond, reservoir, or similar collection area for the purpose of water-powered generation of electricity.

(b) On or before December 15, 2009, the agency of natural resources, after opportunity for public review and comment, shall adopt by procedure an

application process for the certification of hydroelectric projects in Vermont under Section 401 of the federal Clean Water Act.

(c) The application process adopted by the agency of natural resources under subsection (b) of this section may include an application form for a federal Clean Water Act Section 401 certification for a hydroelectric project that meets the requirements of the Vermont water pollution control permit rules. The application form may require information addressing:

(1) a description of the proposed hydroelectric project and the impact of the project on the watershed;

(2) the preliminary terms and conditions that an applicant shall be subject to if a federal Clean Water Act Section 401 certification is issued for a proposed hydroelectric project; and

(3) time frames for the agency of natural resources review of and response to an application for a federal Clean Water Act Section 401 certification of a hydroelectric project.

(d) In adopting the Clean Water Act Section 401 certification application process required by subsection (b) of this section, the agency may, consistent with its authority to waive certifications under 33 U.S.C. § 1341(a)(1), adopt an expedited certification process for:

(1) hydroelectric projects when data provided by an applicant provide reasonable assurance that the project will comply with the state water quality

standards;

(2) hydroelectric projects utilizing conduits; hydroelectric projects without a bypass reach; and hydroelectric projects with a de minimis bypass reach, as defined by the agency of natural resources; and

(3) Previously certified hydroelectric projects operating in compliance with the terms of a Clean Water Act Section 401 certification as demonstrated by existing administrative, monitoring, reporting, or enforcement data.

Sec. 34c. AGENCY OF NATURAL RESOURCES REPORT ON APPLICATION PROCESS FOR CERTIFICATIONS OF HYDROELECTRIC PROJECTS

On or before January 15, 2010, the agency of natural resources shall submit to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, the house committee on fish, wildlife and water resources, and the house and senate committees on natural resources and energy a copy of the application process required under 10 V.S.A. § 1006 for the certification of hydroelectric projects.

Sec. 34d. EXTENSION OF SUNSET

Sec. 10 of No. 140 of the Acts of the 2003 Adj. Sess. (2004), as amended by Sec. 8 of No. 154 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 3 of No. 43 of the Acts of 2007, is further amended to read:

Sec. 10. SUNSET

(a) Sec. 2 of this act (interim permitting authority for regulated stormwater runoff), except for subsection 1264a(e) of Title 10, shall be repealed on January 15, ~~2010~~ 2012.

(b) Sec. 4 of this act (local communities implementation fund) shall be repealed on September 30, 2012.

(c) Sec. 6 of this act (stormwater discharge permits during transition period) shall be repealed on January 15, ~~2010~~ 2012.

Sec. 34e. 24 V.S.A. § 4758 is amended to read:

§ 4758. LOAN PRIORITIES

(a) Periodically, and at least annually, the secretary shall prepare and certify to the bond bank a project priority list of those municipalities whose publicly owned projects, or privately owned wastewater systems, are eligible for financing or assistance under this chapter. In determining financing availability for wastewater projects under this chapter, the secretary of the agency having jurisdiction shall apply the following criteria:

(1) the probable public benefit to be gained or preserved by the project to be financed;

(2) the long-term costs and the resulting benefits to be derived from the project. In determining benefits, induced growth from a project that is not consistent with a town, city, or village plan, duly adopted under chapter 117 of

this title, will not be considered;

(3) the cost of comparable credit or financing alternatives available to the municipality;

(4) the existence of immediate public health, safety and welfare factors, and compliance therewith;

(5) the existence of an emergency constituting a threat to public health, safety and welfare; and

(6) the current area and population to be served by the proposed project.

(b) In determining financing availability for stormwater projects under this chapter, the secretary of the agency having jurisdiction shall apply the following criteria:

(1) that the project is specifically or generally described in Vermont's nonpoint source management plan;

(2) that the project will remedy or prevent the impairment of waters, and the severity of that existing or prevented impairment; and

(3) that the project is consistent with the applicable basin plan for the waters affected by the project.

(c) In determining financing availability for projects funded by federal monies available to the state from the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, the secretary shall assure that municipal stormwater projects in the stormwater-impaired waters of the state

shall be given priority over other projects.

Sec. 34f. SUNSET OF PRIORITY FOR STORMWATER PROJECTS UNDER STATE ENVIRONMENTAL REVOLVING FUND

24 V.S.A. § 4758(c) (state environmental revolving fund financing priority for stormwater projects in impaired waters) is repealed January 15, 2012.

Sec. 34g. ALTERNATIVE GUIDANCE FOR STORMWATER PERMITTING; WIND FACILITIES

To facilitate responsible development of renewable energy projects in high-elevation settings, the Vermont department of environmental conservation shall consult with project developers and interested stakeholders and, by January 15, 2010 or in the process currently under way to update the Vermont stormwater management manual, whichever occurs first, amend its rules or the stormwater management manual, pursuant to chapter 25 of Title 3, to include alternative guidance for operational-phase stormwater permitting of renewable energy projects located in high-elevation settings. Such alternative guidance shall include consideration of measures that minimize the extent and footprint of stormwater-treatment practices so as to preserve vegetation and trees and limit disturbances; that reflect the fragile ecosystems, shallow soils, and sensitive streams found in high-elevation settings; and that reflect the temporary nature and infrequent use of construction and access roads to such projects.

Sec. 34h. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR ~~MULTIPLE~~ COMMUNICATIONS FACILITIES

(a) Notwithstanding any other provision of law, if the applicant ~~in a single application~~ seeks approval for the construction or installation ~~within three years~~ of ~~three or more~~ telecommunications facilities ~~as part of an interconnected network~~ that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

(b) For the purposes of this section:

(1) "Telecommunications facility" means ~~any~~ a communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes and any associated support structure ~~extending more than 50 feet above the ground~~ that is proposed for construction or installation which is primarily for communications purposes ~~and which supports facilities that transmit and~~

~~receive communications signals for commercial, industrial, municipal, county, or state purposes~~, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure.

(2) ~~Telecommunications facilities are "part of an interconnected network" if those facilities would allow one or more communications services to be provided throughout a contiguous area of coverage created by means of the proposed facilities or by means of the proposed facilities in combination with other facilities already in existence~~ An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(c) Before the public service board issues a certificate of public good under this section, it shall find that~~, in the aggregate~~:

(1) ~~the~~ The proposed ~~facilities~~ facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, with due consideration having been given to the relevant criteria specified in subsection 1424a(d) and subdivisions 6086(a)(1) through (8) and (9)(K) of Title 10~~; and~~.

(2) ~~unless~~ Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative

bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively.

(d) When issuing a certificate of public good under this section, the board shall give ~~due consideration~~ substantial deference to all conditions in an existing state or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.

(e) No less than 45 days prior to filing a petition for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the secretary of the agency of natural resources; the commissioner of the department of public service and its director for public advocacy; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. Upon motion or otherwise, the public service board shall direct that further public or personal notice be provided if the board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(f) Unless the public service board identifies that an application raises a

~~substantial~~ significant issue, the board shall issue a final determination on an application filed pursuant to this section within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If the board rules that an application raises a ~~substantial~~ significant issue, it shall issue a final determination on an application filed pursuant to this section within 180 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 180 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(g) Nothing in this section shall be construed to prohibit an applicant from executing a letter of intent or entering into a contract before the issuance of a certificate of public good under this section, provided that the obligations under that letter of intent or contract are made subject to compliance with the requirements of this section.

(h) An applicant using the procedures provided in this section shall not be required to obtain a ~~local zoning~~ permit or a permit amendment or other approval under the provisions of chapter 117 of Title 24 or chapter 151 of Title 10 for the facilities subject to the application or to a certificate of public good issued pursuant to this section. Ordinances adopted pursuant to subdivision 2291(19) of Title 24 or a municipal charter that would otherwise

apply to the construction or installation of facilities subject to this section are preempted. Disputes over jurisdiction under this section shall be resolved by the public service board, subject to appeal as provided by section 12 of this title. An applicant that has obtained or been denied a permit or permit amendment under the provisions of Title 24 or chapter 151 of Title 10 for the construction of a telecommunications facility may not apply for approval from the board for the same or substantially the same facility, except that an applicant may seek approval for a modification to such a facility.

(i) Effective July 1, ~~2010~~ 2011, no new applications for certificates of public good under this section may be considered by the board.

(j)(1) The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings required by any provision other than subdivision (2) of this subsection if the board finds that such facilities will be of limited size and scope, and the petition does not raise a significant issue with respect to the substantive criteria of this section. If an applicant requests approval of multiple telecommunications facilities in a single application under this section, the board may issue a certificate of public good in accordance with the provisions of this subsection for all or some of the telecommunications facilities described in the petition.

(2)(A) Any party seeking to proceed under the procedures authorized by

this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition, and provide notice and a copy of the petition, proposed certificate of public good, and proposed findings of fact to the commissioner of the department of public service and its director for public advocacy, the secretary of the agency of natural resources, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. The applicant shall give written notice of the proposed certificate to the landowners of record of property adjoining the project site or sites unless the board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the board within 21 days of the notice on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the board finds that a petition raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

(B) Any waiver or modification of notice to adjoining landowners under this subsection shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such landowners would constitute a significant administrative burden without corresponding public

benefit.

(C) If the board accepts a request to consider an application under the procedures of this subsection, then unless the public service board subsequently determines that an application raises a significant issue, the board shall issue a final determination on an application filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 45 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(D) If the board denies a request to consider an application under the procedures of this subsection, a filing made under this subsection that the board has found to be complete shall be deemed to satisfy notice requirements of subsection (e) of this section, and the periods stated under subsection (f) of this section shall run from the date of the board's denial of such request.

(k) The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall

seek to simplify the application and review process as appropriate, consistently with the requirements of this section.

Sec. 34i. 24 V.S.A. § 4412(8)(C) is amended to read:

(C) The regulation ~~of antennae that are part~~ of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal ~~bylaw review~~ approval under this chapter when and to the extent jurisdiction is assumed by the public service board according to the provisions of that section.

Sec. 34j. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

* * *

(l) A district commission may reject an application under this chapter that misrepresents any material fact and may after notice and opportunity for hearing award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 34k. 24 V.S.A. § 4455 is added to read:

§ 4455. REVOCATION

On petition by the municipality and after notice and opportunity for hearing, the environmental court may revoke a municipal land use permit issued under this chapter, including a permit for a telecommunications facility, on a determination that the permittee violated the terms of the permit or obtained

the permit based on misrepresentation of material fact.

Sec. 34l. 24 V.S.A. § 4470a is added to read:

§ 4470a. MISREPRESENTATION; MATERIAL FACT

An administrative officer or appropriate municipal panel may reject an application under this chapter, including an application for a telecommunications facility, that misrepresents any material fact. After notice and opportunity for hearing in compliance with section 809 of Title 3, an appropriate municipal panel may award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 34m. 30 V.S.A. § 202c is amended to read:

§ 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

(a) The general assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the state improved communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d

of this title to:

(1) Strengthen the state's role in telecommunications planning.

(2) Support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data.

(3) Support the availability of modern mobile wireless telecommunications services along the state's travel corridors and in the state's communities.

(4) Provide for high-quality, reliable telecommunications services for Vermont businesses and residents.

(5) Provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses.

(6) Support competitive choice for consumers among telecommunications service providers.

(7) Support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the state.

(8) Support, to the extent practical and cost-effective, deployment of broadband infrastructure that:

(A) Uses the best commercially available technology.

(B) Does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in

widespread installation of technology that becomes outmoded within a short period after installation.

Sec. 34n. 30 V.S.A. § 8060 is amended to read:

§ 8060. LEGISLATIVE FINDINGS AND PURPOSE

(a) The general assembly finds that:

(1) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(2) Private entities have brought mobile telecommunications and broadband services to many households, businesses and locations in the state, but significant gaps remain.

(3) A new level of creative and innovative strategies (including partnerships and collaborations among and between state entities, nonprofit organizations, municipalities, the federal government, and the private sector) is necessary to extend and complete broadband coverage in the state, and to ensure that Vermont maintains a telecommunications infrastructure that allows residents and businesses to compete fairly in the national and global economy.

(4) When such partnerships and collaborations fail to achieve the goal of providing high-quality broadband access and service to all areas and

households, or when some areas of the state fall behind significantly in the variety and quality of services readily available in the state, it is necessary for an authority of the state to support and facilitate the construction of infrastructure and access to broadband service through financial and other incentives.

(5) Small broadband enterprises now offering broadband service in Vermont have limited access to financial capital necessary for expansion of broadband service to unserved areas of the state. The general assembly recognizes these locally based broadband providers for their contributions to date in providing broadband service to unserved areas despite the limitations on their financial resources.

(6) The universal availability of adequate mobile telecommunications and broadband services promotes the general good of the state.

(7) Vermonters should be served by broadband infrastructure that, to the extent practical and cost-effective, uses the best commercially available technology and does not involve widespread installation of technology that becomes outmoded within a short period after installation.

(b) Therefore, it is the goal of the general assembly to ensure:

(1) that all residences and business in all regions of the state have access to affordable broadband services not later than the end of the year 2010~~:~~, and that this goal be achieved in a manner that, to the extent practical and

cost-effective, does not negatively affect the future installation of the best commercially available broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

(2) the ubiquitous availability of mobile telecommunication services including voice and high-speed data throughout the state by the end of the year 2010.

(3) the investment in telecommunications infrastructure in the state which will support the best available and economically feasible service capabilities.

(4) that telecommunications and broadband infrastructure in all areas of the state is continuously upgraded to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband services needed by persons, businesses, and institutions in the state.

(5) the most efficient use of both public and private resources through state policies by encouraging the development of open access telecommunications infrastructure that can be shared by multiple service providers.

Sec. 34o. 30 V.S.A. § 8077 is amended to read:

§ 8077. ESTABLISHMENT OF MINIMUM TECHNICAL SERVICE CHARACTERISTIC OBJECTIVES

(a) The department of public service~~,~~ shall, as part of the state telecommunications plan prepared pursuant to section 202d of this title, identify minimum technical service characteristics which ought to be available as part of broadband services commonly sold to residential and small business users throughout the state. For the purposes of this chapter, "broadband" means high speed internet access. The department shall consider the performance characteristics of broadband services needed to support current and emerging applications of broadband services. The department shall review and update the minimum characteristics established under this section no less than every three years starting in 2009. In the event such review is conducted separately from an update of the state telecommunications plan pursuant to subsection 202d(f) of this title, the department shall issue revised minimum characteristics as an amendment to the plan.

(b) The authority shall give priority in its activities toward projects which expand the availability of broadband services that meet the minimum technical services characteristics established by the state telecommunications plan.

(c) Until the department of public service adopts ~~a revision to the state telecommunications plan~~ minimum service characteristics under subsection (a)

of this section, the authority shall give priority to the expansion of broadband services which deploy equipment capable of a data transmission rate of not less than three megabits per second and offer a service plan with a data transmission rate of not less than 1.5 megabits per second in at least one direction to unserved areas.

Sec. 34p. 10 V.S.A. § 6001(3)(D) is amended to read:

(D) The word "development" does not include:

(i) The construction of improvements for farming, logging or forestry purposes below the elevation of 2,500 feet.

(ii) The construction of improvements for an electric generation or transmission facility that requires a certificate of public good under ~~section~~ 30 V.S.A. § 248 ~~or~~, a natural gas facility as defined in ~~subdivision~~ 30 V.S.A. § 248(a)(3), or a telecommunications facility issued a certificate of public good under 30 V.S.A. § 248a.

(iii) [Repealed.]

(iv) The construction of improvements for agricultural fairs that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

(v) The construction of improvements for the exhibition or showing of equines at events that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more

buildings.

(vi) The construction of improvements for any one of the following:

(I) A remedial or removal action for which the secretary of natural resources has authorized disbursement under section 1283 of this title.

(II) Abating a release or threatened release, as directed by the secretary of natural resources under section 6615 of this title.

(III) A remedial or removal action directed by the secretary of natural resources under section 6615 of this title.

(IV) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under section 6615b of this title.

(V) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under subchapter 3 of chapter 159 of this title.

Sec. 34q. 10 V.S.A. § 6081(d) is amended to read:

(d) For purposes of this section, the following construction of improvements to preexisting municipal, county, or state projects shall not be considered to be substantial changes~~, regardless of the acreage involved,~~ and shall not require a permit as provided under subsection (a) of this section:

(1) ~~essential~~ municipal, county, or state wastewater treatment facility enhancements that do not expand the capacity of the facility by more than ~~10~~

25 percent, excluding the extension of a wastewater collection system or an expansion of the service-area boundaries of a wastewater treatment facility.

(2) ~~essential~~ municipal ~~waterworks~~, county, or state water supply enhancements that do not expand the capacity of the facility by more than ~~10~~ 25 percent.

(3) ~~essential~~ public school reconstruction or expansion that does not expand the student capacity of the school by more than ~~10~~ 25 percent.

(4) ~~essential~~ municipal, county, or state building renovations or reconstruction ~~or expansion~~ that does not expand the floor space of the building by more than ~~10~~ 25 percent.

(5) construction of improvements to preexisting municipal, county, or state roads and bridges, provided such construction receives funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

Sec. 34r. SUNSET

Effective July 1, 2011, each occurrence of "25" in 10 V.S.A. § 6081(d) and (e) is amended to "10". Also effective July 1, 2011, 10 V.S.A. § 6086(d)(5) (exemption for ARRA-funded road and bridge improvements) shall cease to be effective. However, the construction of improvements commenced prior to July 1, 2011 shall not require a permit by operation of this section if such construction was exempt under Sec. 34q of this act.

Sec. 34s. PERMIT EXPEDITING; FEDERAL STIMULUS

Notwithstanding any other provision of law, an application for a state or local permit or other approval pertaining to a project that will receive all or part of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5 may be given priority over any other pending application.

Sec. 34t. [Deleted]

Sec. 34u. 10 V.S.A. § 6523 is hereby amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(b) Definitions. For purposes of this section, the following definitions shall apply:

* * *

(4) "Emerging energy-efficient technologies" means technologies that are both precommercial but near commercialization and that have already entered the market but have less than five percent of current market share; that use less energy than existing technologies and practices to produce the same product or otherwise conserve energy and resources, regardless of whether or not they are connected to the grid; and that have additional non-energy benefits such as reduced environmental impact, improved productivity and worker safety, or reduced capital costs.

(5) "Renewable energy" has the meaning established under 30 V.S.A. § 8002(2), and shall include the following: solar photovoltaic and solar thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer methane recovery; low emission, advanced biomass power, and combined heat and power technologies using biomass fuels such as wood, agricultural or food wastes, energy crops, and organic refuse-derived waste, but not municipal solid waste; advanced biomass heating technologies and technologies using biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power resources, and emerging energy-efficient technologies using funds received through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, for the long-term benefit of Vermont electric customers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The general assembly expects and intends that the public service board, public service department, and the state's power and efficiency utilities will actively implement the authority granted in Title 30 to acquire all reasonably available cost-effective energy efficiency resources and for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

~~(1) This fund shall be administered by the department of public service~~

~~to facilitate the development and implementation of clean energy resources.~~

~~(2) The department shall assure an open public process in the administration of the fund for the purposes established in this subchapter.~~

~~(3) By January 15 of each year, commencing in 2007, the department of public service shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce a report detailing the revenues collected and the expenditures made under this subchapter, together with recommended principles to be followed in the allocation of funds and a proposed five-year plan for future expenditures from the fund.~~

~~(4)~~(1) Projects for funding may include the following:

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

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

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

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

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

(F) projects under the agricultural economic development special

account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

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

(H) emerging energy-efficient technologies using funds received through ARRA; and

(I) effective projects that are not likely to be established in the absence of funding under the program.

~~(5)~~(2) If during a particular year, the ~~department~~ clean energy development board determines that there is a lack of high value projects eligible for funding, as identified in the five-year plan, or as otherwise identified, the ~~department~~ clean energy development board may consult with the public service board, and shall consider transferring funds to the energy efficiency fund established under the provisions of 30 V.S.A. § 209(d). Such a transfer may take place only in response to an opportunity for a particularly cost-effective investment in energy efficiency, and only as a temporary supplement to funds collected under that subsection, not as replacement funding.

~~(6)~~(3) The sum of $20,000.00 shall be transferred annually from the clean energy development fund to the general fund to support the cost of the solar energy income tax credits.

(e) Management of fund.

(1)~~(A)~~ There is created the clean energy development ~~fund advisory committee~~ board, which shall consist of ~~the commissioner of public service, or a designee, and the chairs of the house and senate committees on natural resources and energy, or their designees.~~ the following nine directors:

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

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

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

(D) The state treasurer, ex officio.

~~(B) There is created the clean energy development fund investment committee, which shall consist of seven persons appointed by the clean energy development fund advisory committee.~~

(2) ~~The commissioner of public service shall:~~

~~(A) by no later than October 30, 2006:~~

~~(i) develop a five year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process;~~

~~(ii) develop an annual operating budget;~~

~~(iii) develop proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive~~

~~programs and strategies); and~~

~~(iv) submit the plans, budget, and program designs to the clean energy development fund advisory committee for review and to the clean energy development fund investment committee for approval;~~

~~(B) adopt rules by no later than January 1, 2007 to carry out the program approved under this subdivision;~~

~~(C) explore pursuing joint investments in clean energy projects with other state funds and private investors to increase the effectiveness of the clean energy development fund;~~

~~(D) acting jointly with the members of the clean energy development fund investment committee, make decisions with respect to specific grants and investments, after the plans, budget, and program designs have been approved by the clean energy development fund investment committee. This subdivision (D) shall be repealed upon the effective date of rules adopted under subdivision (2)(B) of this subsection.~~

~~(3)~~ During fiscal years after FY 2006, up to five percent of amounts appropriated to the public service department from the fund may be used for administrative costs related to the clean energy development fund and after FY 2007~~, another five percent of amounts appropriated to the public service department from the fund not to exceed $300,000.00 in any fiscal year shall be transferred to the secretary of the agency of agriculture, food, and markets for~~

~~agricultural and farm-based energy project development activities~~.

(3) A quorum of the clean energy development board shall consist of five directors. The directors of the board shall select a chair and vice chair.

(4) In making appointments of at-large directors to the clean energy development board, the appointing authorities shall give consideration to citizens of the state with knowledge of relevant technology, regulatory law, infrastructure, finance, and environmental permitting. The at-large directors of the board shall serve terms of four years beginning July 1 of the year of appointment. However, one at-large director appointed by the speaker and one at-large director appointed by the president pro tempore shall serve an initial term of two years. Any vacancy occurring among the at-large directors shall be filled by the respective appointing authority and shall be filled for the balance of the unexpired term. A director may be reappointed.

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

(6) At least every three years, the clean energy development board shall commission a detailed financial audit by an independent third party of the fund

and the activities of the fund manager, which shall make available to the auditor its books, records, and any other information reasonably requested by the board or the auditor for the purpose of the audit.

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

(8) By January 15 of each year, commencing in 2010, the clean energy development board shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce and economic development a report detailing the revenues collected and the expenditures made under this subchapter.

(9) By January 15, 2010, after public notice and opportunity for comment, the clean energy development board shall update the fund's five-year strategic plan adopted in May 2007 with any changes to the criteria, principles, and other matters addressed in that plan, and submit the updated strategic plan to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce and economic development.

(10) At least quarterly, the clean energy development board shall hold a public meeting to review and discuss the status of the fund, fund projects, the performance of the fund manager, any reports, information, or inquiries submitted by the fund manager or the public, and any additional matters the clean energy development board deems necessary to fulfill its obligations under this section.

(f) Clean energy development fund manager. The clean energy development fund shall have a fund manager who shall be a state employee retained and supervised by the board and housed within the office of the treasurer.

Sec. 34v. TRANSITION; POSITION TRANSFER

(a) It is the intent of the general assembly that the seven members of the clean energy development fund investment committee appointed prior to the effective date of this act shall be eligible for appointment as directors of the clean energy development fund board for a full term or until the terms of their original appointments expire.

(b) Upon the effective date of this act, the fund manager currently retained for the clean energy development fund shall be deemed the fund manager retained by the clean energy development board pursuant to 10 V.S.A. § 6523(f). Upon appointment of the clean energy development board, the position occupied by that fund manager shall be transferred to the board and

become subject to the board's supervision.

Sec. 34w. 19 V.S.A. § 1607 is added to read:

§ 1607. FEDERAL REIMBURSEMENT FOR CERTAIN UTILITY RELOCATIONS

(a) As a result of appropriations for infrastructure enhancement and development contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, and other federal transportation-aid programs, significant highway construction projects are expected to be constructed in the near future.

(b) To ensure that projects are not delayed or canceled because of the inability of utilities and municipalities to pay for utility relocation costs and to ensure that available federal funds are utilized on shovel-worthy projects, it is the intent of the general assembly to reimburse utilities with infrastructure, including municipally owned drinking water facilities and municipally owned wastewater infrastructure, up to 80 percent of the approved relocation costs, if the relocation is necessitated by a highway construction project funded by ARRA or other federal transportation-aid programs.

(c) Eligible relocation costs under subsection (b) of this section shall be reimbursed by the state agency or other entity primarily responsible for managing or directing the construction project on the condition that federal stimulus funds or other federal funds are available and eligible to pay for the

relocation costs.

(d) The state and municipalities shall not be obligated to pay to utilities the state or local share of a federally funded project.

(e) The state shall not be obligated to pay the state or local share to a municipality for the relocation of municipal drinking water and municipal wastewater infrastructure.

Sec. 34x. [Deleted]

Sec. 34y. 10 V.S.A. § 556(i) is added to read:

(i) Notwithstanding any provisions of this section, any rule of the secretary requiring permits for the construction or modification of indirect sources, including any building, structure, facility, installation, or combination thereof that has or leads to associated mobile source activity as a result of which any air contaminant is or may be emitted, is hereby repealed.

Sec. 35. 10 V.S.A. chapter 165 is added to read:

CHAPTER 165. GENERAL PERMIT AUTHORITY

§ 7500. PURPOSE AND DEFINITIONS

(a) This chapter is intended to provide for the protection of human health and the environment while allowing the secretary to utilize general permits as appropriate to streamline permitting processes and gain administrative efficiencies.

(b) When used in this chapter:

(1) "Agency" means the agency of natural resources.

(2) "Commissioner" means the commissioner of the department or the commissioner's duly authorized representative.

(3) "Department" means the department of environmental conservation.

(4) "General permit" means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire state or a region of the state. For a class or category to be eligible to be placed under a general permit under this chapter, the class or category must meet each of the following:

(A) The discharges, emissions, disposal, facilities, or activities must share the same or substantially similar qualities.

(B) Those qualities must be such that the requirements of statute and rule applicable to the discharges, emissions, disposal, facilities, or activities can be met and human health and the environment protected by imposition of the same or substantially similar permit conditions on the class or category.

(5) "Individual permit" means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.

(6) "Secretary" means the secretary of the agency or the secretary's duly

authorized representative.

§ 7501. GENERAL PERMITS

(a) When the secretary deems it to be appropriate and consistent with the purpose of this chapter, the secretary may issue a general permit under the following chapters, as specified, of this title: chapter 23 (air pollution control) for stationary source construction and operation permits; chapter 37 (water resources management) for aquatic nuisance control permits; chapter 41 (regulation of stream flow) for stream alteration permits; chapter 56 (public water supply) for construction permits; and chapter 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications.

(b) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and conditions may include providing for specific emission or effluent limitations and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

(c) This chapter is in addition to any other authority granted to the agency or department.

(d) The secretary may adopt rules to implement this chapter.

§ 7502. ISSUANCE OF GENERAL PERMITS; PUBLIC PARTICIPATION

(a) When, under section 7501 of this title, the secretary determines to issue a general permit, the secretary shall prepare a proposed general permit and shall provide for public notice of the permit in a manner designed to inform interested and potentially interested persons of the proposed general permit.

(1) Notice of the proposed general permit shall be circulated within each geographic area to which the permit would apply and shall include at least all of the following:

(A) Written notice to the clerk of each municipality within the geographic area.

(B) Written notice to each affected Vermont state agency and such other government agencies as the secretary deems appropriate.

(C) Publication of notice of the proposed permit in a newspaper or newspapers that circulate generally within each geographic area to which the permit would apply.

(D) Posting of notice and a copy of the proposed general permit prominently on the web page of the department.

(E) Mailing of notice and a copy of the proposed general permit to any individual, group, or organization upon request.

(F) The inclusion in any notice issued under this subsection of a

summary of the proposed general permit, including a summary of the activities to which it would apply and its terms and conditions; the deadlines by which comments are to be submitted and a public information meeting requested; the procedure for submitting comments and requesting a public information meeting; the contact information for the agency or department concerning the proposed permit; and a statement of how a copy of the proposed general permit may be obtained.

(2) The secretary shall provide a period of not less than 30 days following the date of publication in a newspaper or newspapers of general circulation during which any person may submit written comments on the proposed general permit.

(b) The secretary shall provide an opportunity for any person, state, province, or country potentially affected by the proposed general permit to request a public informational meeting with respect to the proposed permit.

(1) The deadline for any request under this subsection shall be no earlier than the deadline for submitting written comments set under subdivision (a)(2) of this section. The secretary shall hold an informational meeting if there is a significant public interest in holding a meeting.

(2) The secretary shall provide public notice of any informational meeting in at least the same manner as public notice of the proposed general permit was given under subsection (a) of this section, except that the secretary

need not set a new comment deadline or provide, with the notice of the meeting, a copy of the proposed general permit to any person or entity to which the secretary has already provided a copy.

(3) Any person shall be permitted to submit oral or written statements and data concerning the proposed general permit at the informational meeting.

(4) All statements, comments, and data presented at the meeting shall be retained by the secretary and considered in the formulation of the secretary's determinations regarding the final general permit.

(c) Whether or not requested, the secretary may hold a public informational meeting on a proposed general permit at any time prior to final decision on and issuance of the general permit. The provisions of subdivisions (b)(2) through (4) of this section shall apply to such a meeting.

(d) The secretary may finally adopt a general permit following consideration of any written comments submitted on the general permit and any statements, comments, and data presented at a public information meeting on the permit. Where the secretary decides, in finally adopting a proposed general permit, to overrule substantial arguments and considerations raised for or against the original proposal, the secretary's final adoption of the general permit shall include a responsiveness summary stating the reasons for the secretary's decision.

(e) On final adoption of a general permit, the secretary shall provide notice

of the permit's final adoption and an accompanying responsiveness summary in at least the same manner as notice of the proposed general permit was issued under subdivision (a)(1) of this section, except that the secretary need not set or include further deadlines for comment or requesting an informational meeting.

§ 7503. AUTHORIZATION UNDER A GENERAL PERMIT

(a) Any person wishing to discharge, emit, dispose, or operate a facility or engage in activity subject to a general permit under this chapter shall file an application for authorization under the general permit on a form provided by the secretary. Each application shall be accompanied by a fee as specified by section 2822 of Title 3.

(b) For each application under this section, the applicant shall provide notice, on a form provided by the secretary, to the clerk of the municipality in which the discharge, emission, disposal, facility, or activity is located. The applicant shall provide a copy of this notice to the secretary, with such confirmation as the secretary deems adequate to demonstrate that the clerk has received the notice. Following receipt of that confirmation, the secretary shall provide an opportunity of at least ten working days for written comment regarding whether the application complies with the terms and conditions of the general permit under which coverage is sought.

(c) The secretary may grant an application for authorization to discharge,

emit, dispose, operate a facility, or engage in activity to which a general permit under this chapter applies only after determining that each of the following applies:

(1) The filings required in subsections (a) and (b) of this section are complete.

(2) The discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit.

(d) The secretary may:

(1) Allow a transfer from one person or entity to another of an authorization to discharge, emit, dispose, operate a facility, or engage in activity under a general permit issued under this chapter.

(2) Require notification to the secretary for changes to a discharge, emission, disposal, facility, or activity for which authorization has been issued under a general permit under this chapter.

(3) Under the procedures specified in subsection 814(c) of Title 3, revoke or suspend authorization to discharge, emit, dispose, operate a facility, or engage in activity under a general permit issued under this chapter.

§ 7504. REQUIRING AN INDIVIDUAL PERMIT

The secretary may require any applicant for or permittee authorized under a general permit issued under this chapter to apply for an individual permit. Any interested person may petition the secretary to take action under this section.

The secretary may require an individual permit if any one of the following applies:

(1) The discharge, emission, disposal, facility, or activity is a significant contributor of pollution as determined by consideration of each of the following factors:

(A) The location of the discharge with respect to waters of the state of Vermont.

(B) The size and scope of the applicant's or permittee's activities or operation.

(C) The quantity and nature of the pollutants.

(D) Other relevant factors.

(2) The permittee is not in compliance with the terms and conditions of a general permit issued under this chapter.

(3) The application does not qualify for a general permit issued under this chapter.

(4) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of wastes or pollutants applicable to the discharge, emission, disposal, facility, or activity.

(5) Federal requirements have been adopted that conflict with one or more provisions of a general permit issued under this chapter.

§ 7505. REQUIRING AUTHORIZATION UNDER A GENERAL PERMIT

The secretary may require that a discharge, emission, disposal, facility, or activity for which issuance or reissuance of an individual permit is sought be subject to a general permit issued under this chapter if the secretary finds that the discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit and that authorization of the discharge, emission, disposal, facility, or activity under a general permit will protect human health and the environment.

Sec. 36. REPORT AND SUNSET

(a) On April 1, 2011, and again on April 1, 2014, the secretary of natural resources shall submit a report to the senate committees on natural resources and on economic development, housing and general affairs, the house committees on natural resources and on commerce and economic development, and the governor regarding the implementation, compliance, and enforcement of general permits under chapter 165 of Title 10.

(b) Chapter 165 of Title 10 shall sunset on July 1, 2014; however, the sunset shall not affect any permit granted prior to July 1, 2014 under chapter 165 of Title 10.

Sec. 37. 10 V.S.A. § 8019 is added to read:

§ 8019. ENVIRONMENTAL TICKETING

(a) The secretary and the board each shall have the authority to adopt rules

for the issuance of civil complaints for violations of their respective enabling statutes or rules adopted under those statutes that are enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4. Any proposed rule under this section shall include both the full and waiver penalty amounts for each violation. The maximum civil penalty for any violation brought under this section shall not exceed $3,000.00 exclusive of court fees.

(b) A civil complaint issued under this section shall preclude the issuing entity from seeking an additional monetary penalty for the violation specified in the complaint when any one of the following occurs: the waiver penalty is paid, judgment is entered after trial or appeal, or a default judgment is entered. Notwithstanding this preclusion, the agency and the board may issue additional complaints or initiate an action under chapter 201 of this title, including a monetary penalty when a violation is continuing or is repeated, and may also bring an enforcement action to obtain injunctive relief or remediation and, in such additional action, may recover the costs of bringing the additional action and the amount of any economic benefit the respondent obtained as a result of the underlying violation in accordance with 10 V.S.A. § 8010(b)(7) and (c)(1).

(c) The secretary or board chair and his or her duly authorized representative shall have the authority to amend or dismiss a complaint by so marking the complaint and returning it to the judicial bureau or by notifying the judge at the hearing.

(d) Subsequent to the issuance of a civil complaint under this section and the conclusion of any hearing and appeal regarding that complaint, the following shall be considered part of the respondent's record of compliance when calculating a penalty under section 8010 of this title:

(1) The respondent's payment of the full or waiver penalty stated in the complaint.

(2) The respondent's commission of a violation after the hearing before the judicial bureau on the complaint.

(3) The respondent's failure to appear or answer the complaint resulting in the entry of a default judgment.

(4) A finding, after appeal, that the respondent committed a violation.

Sec. 38. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(17) Violations of the statutes listed in 10 V.S.A. § 8003, any rules or permits issued under those statutes, and any assurances of discontinuance or orders issued under chapter 201 of Title 10, provided that a rule has been adopted and a civil complaint issued concerning such a violation under 10 V.S.A. § 8019.

* * *

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except ~~that~~:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to section 1979 of Title 24. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall indicate the appropriate full and waiver penalties on the complaint.

Sec. 39. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

* * *

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the state or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence

which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the department of motor vehicles, the agency of natural resources, or the natural resources board and presented by the issuing officer or other person shall be admissible without testimony by a representative of the department of motor vehicles, the agency of natural resources, or the natural resources board.

* * *

(e) A state's attorney may dismiss or amend a complaint, except that dismissal or amendment of a complaint subject to subdivision 1102(b)(17) of this title shall be governed by 10 V.S.A. § 8019(c).

(f) The supreme court shall establish rules for the conduct of hearings under this chapter.

Sec. 40. 4 V.S.A. § 1107 is amended to read:

§ 1107. APPEALS

(a) A decision of the hearing officer may be appealed to the district court, except for a decision in a proceeding under subdivision 1102(b)(17) of this title. The proceeding before the district court shall be on the record, or at the option of the defendant, de novo. The defendant shall have the right to trial by jury. An appeal shall stay payment of a penalty and the imposition of points.

(b) ~~If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state and the state's attorney, grand juror~~

~~or municipal attorney shall represent the municipality~~ A decision of the hearing officer in a proceeding under subdivision 1102(b)(17) of this title may be appealed to the environmental court created under chapter 27 of this title. The proceedings before the environmental court shall be on the record. The defendant shall not have a right to a jury trial. An appeal shall stay the payment of a penalty.

(c) If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state, and the state's attorney, grand juror, or municipal attorney shall represent the municipality. In an appeal to the environmental court from a decision under subdivision 1102(b)(17) of this title, an attorney from the agency of natural resources or the natural resources board shall represent the state.

(d) No appeal as of right exists to the supreme court. On motion made to the supreme court by a party, the supreme court may allow an appeal to be taken to it from the district court or environmental court.

Sec. 41. 20 V.S.A. § 2063 is amended to read:

§ 2063. CRIMINAL HISTORY RECORD FEES; CRIMINAL HISTORY RECORD CHECK FUND

* * *

(b) Requests made by criminal justice agencies for criminal justice purposes or other purposes authorized by state or federal law shall be exempt

from all record check fees. The following types of requests shall be exempt from the Vermont criminal record check fee:

* * *

(5) Requests made by environmental enforcement officers employed by the agency of natural resources.

* * *

Sec. 42. PERMIT EXPEDITING; FEDERAL STIMULUS

(a) Notwithstanding any other provision of law, the following shall apply to an application for a permit, certificate, or other approval to the agency of natural resources, the agency of transportation, an appropriate municipal panel under 24 V.S.A. chapter 117, or a district environmental commission under 10 V.S.A. chapter 151 with respect to a project for municipal, county, or state purposes that will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5:

(1) The application shall be given priority over any other pending application.

(2) An appropriate municipal panel shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 45 days after the adjournment of the hearing, and failure of the panel to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

(3) A district commission shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 90 days after the adjournment of the hearing, and failure of the commission to issue a decision within this period shall be deemed approval and shall be effective on the 91st day.

(b) This section shall be repealed on July 1, 2012.

Sec. 43. EXPIRED PERMITS; FEDERAL STIMULUS

A permit, certificate, or approval that, by operation of law or other means, has lapsed or expired because the project subject to the permit, certificate, or approval has not been constructed shall be deemed effective if all of the following apply:

(1) The project subject to the permit, certificate, or other approval will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

(2) The permit, certificate, or other approval was issued within the five-year period preceding the date this section is enacted by the agency of natural resources, the agency of transportation, a municipality or appropriate municipal panel under 24 V.S.A. chapter 117, a district commission under 10 V.S.A. chapter 151, or an appellate court or other tribunal on appeal from such an agency, municipality, panel, or commission.

(3) No change is proposed to the project as approved by the permit,

certificate, or other approval.

Sec. 44. 32 V.S.A. § 5930a(a) is amended as follows:

(a) There is created ~~an economic incentive review board~~ a Vermont economic progress council which shall be attached to the department of economic development for administrative support, including an executive director who shall be appointed by the governor with the advice and consent of the senate, who shall be knowledgeable in subject areas of the ~~board's~~ council's jurisdiction, and hold the status of an exempt state employee, and administrative staff employed in the state classified service. The ~~board~~ council shall consist of 11 members, nine of whom shall be residents of the state appointed by the governor with the advice and consent of the senate. The governor shall appoint residents to the ~~board~~ council who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, state fiscal affairs, property taxation, or entrepreneurial ventures, and shall make appointments to the ~~board~~ council insofar as possible as to provide representation to the various geographical areas of the state and municipalities of various sizes. Members of the ~~board~~ council appointed by the governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms. All ~~board~~ council members' terms shall be four-year terms upon the expiration of their initial terms and ~~board~~ council members may be

reappointed to serve successive terms. All terms shall commence on April 1 of each odd-numbered year. The governor shall select a chair from among the ~~board's~~ council 's members. In addition the ~~board~~ council shall include one member selected by the speaker of the house, who shall be a member of the house; and one member selected by the committee on committees of the senate, who shall be a member of the senate. Legislative members shall be voting members. There shall also be two regional members from each region of the state; one shall be designated by the regional development corporation of the region and one shall be designated by the regional planning commission of the region. Regional members shall be nonvoting members and shall serve during consideration by the ~~board~~ council of applications from their respective regions. For attendance at meetings and for other official duties, appointed members shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that members who are members of the legislature shall be entitled to compensation for services and reimbursement for expenses as provided in section 406 of Title 2. A regional member who does not otherwise receive compensation and reimbursement for expenses from his or her regional development or planning organization shall also be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

Sec. 45. REPEAL AND TRANSITION

(a) Sec. 44 of this act shall take effect upon passage, at which time the economic incentive review board shall be re-named the Vermont economic progress council. The council shall have the responsibilities and authority of the economic incentive review board with respect to administering and monitoring the Vermont employment growth incentives (VEGI) program and the tax increment financing program and property tax allocations under sections 2a through 2h of Act No. 184 of 2005 (Adj. Sess.). The Legislative Council is directed to make necessary revisions to the Vermont Statutes Annotated to reflect the changes made in Secs. 44 and 45 of this act.

Sec. 46. 32 V.S.A. chapter 151 subchapter 11L is added to read:

Subchapter 11L. Research and Development Tax Credit

§ 5930ii. ENHANCEMENT TO THE FEDERAL RESEARCH AND DEVELOPMENT TAX CREDIT

(a) A credit against the income tax liability imposed under this chapter for the taxable year shall be an amount equal to 30 percent of the amount of the federal tax credit received for the same taxable year for eligible research and development expenses under 26 U.S.C. § 41(a).

(b) Any excess credit under this subchapter not used for the taxable year in which the credit is earned may be carried forward for up to ten years.

(c) For purposes of this section, "eligible research and development expenses" means expenditures:

(1) made within the state of Vermont;

(2) that meet the definition contained in 26 U.S.C. § 41(b); and

(3) that have been claimed as eligible expenditures for the same taxable year for a federal tax credit under 26 U.S.C. § 41(a), provided that the taxable year begins on or after January 1, 2010.

Sec. 47. EFFECTIVE DATE

This act shall be effective upon passage.