H.56

Introduced by Representatives Klein of East Montpelier and Cheney of Norwich

Referred to Committee on

Date:

Subject: Energy; public service; taxation; air quality; renewable electricity generation; energy efficiency; heating oil; sulfur content

Statement of purpose: This bill proposes to enact various statutes and session law relating to energy and the use of renewable electricity generation to meet Vermont's needs and support its economy, including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

An act relating to the Vermont Energy Act of 2011

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

Sec. 1. DESIGNATION OF ACT

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

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

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

§ 8002. DEFINITIONS

* * *

~~(4) "New renewable energy" means renewable energy produced by a~~ generating resource coming into service after December 31, 2004. ~~This~~ With respect to a system of generating resources that includes renewable energy, the percentage of the system that constitutes new renewable energy shall be determined through dividing the plant capacity of the system's generating resources coming into service after December 31, 2004 that produce renewable energy by the total plant capacity of the system. "New renewable energy" also may include the additional energy from an existing renewable facility retrofitted with advanced technologies or otherwise operated, modified, or expanded to increase the kwh output of the facility in excess of an historical baseline established by calculating the average output of that facility for the 10-year period that ended December 31, 2004. If the production of new renewable energy through changes in operations, modification, or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions. For the purposes of this chapter, renewable energy refers to either "existing renewable energy" or "new renewable energy."

* * *

(10) "Board" means the public service board under section 3 of this title, except when used as part of the phrase "clean energy development board" or when the context clearly refers to the latter board.

* * *

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

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

(18) "GWH" means gigawatt hour or hours.

(19) "kW" means kilowatt or kilowatts (AC).

(20) "kWh" means kW hour or hours.

(21) "MW" means megawatt or megawatts (AC).

(22) "MWH" means MW hour or hours.

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

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

§ 8005. SUSTAINABLY PRICED ENERGY ENTERPRISE DEVELOPMENT (SPEED) PROGRAM

(a) In order to achieve the goals of section 8001 of this title, there is created the Sustainably Priced Energy Enterprise Development (SPEED) program. The SPEED program shall have two categories of projects: qualifying SPEED resources and nonqualifying SPEED resources.

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

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

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

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

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

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

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

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

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

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

(cc) Is a qualifying SPEED resource;

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

(ee) Is not a net metering system under section 219a of this title; and

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

(II) The price for a standard offer under this subdivision (2)(A)(iii) shall be the avoided cost of the Vermont composite electric utility system. With respect to a given plant proposed for a standard offer, the board shall adjust this avoided cost to reflect benefits provided by the plant's location or technology such as relief of a transmission supply constraint or availability at times of peak demand. In setting this avoided cost, the board may consider adjusting that cost to account for an incentive such as a grant or tax credit that is available to a plant using the same generation technology as long as the incentive is not rationed. The only provisions of board rule 4.100 (small power production and cogeneration) that shall apply are rules 4.109 (exemption from utility regulation) and 4.110 (reporting requirements).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

* * *

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

* * *

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

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

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

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

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

(B) No later than January 1, 2022:

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

* * *

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

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

* * *

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

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

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

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

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

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

Sec. 4. COMMENCEMENT OF NEW STANDARD OFFER; BOARD ALLOCATION PROCEEDINGS; RPS/SPEED STUDY REPEAL

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

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

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

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

(2) The board may combine these proceedings.

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

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

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

* * * Clean Energy Development Fund;
Grid Parity Support Charge * * *

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

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

(a) Creation of fund.

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

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

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

~~(C) Any other monies that may be appropriated to or deposited into~~ the fund.

* * *

(d) Expenditures authorized.

* * *

(2) If during a particular year, the ~~clean energy development board~~ commissioner of public service 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 ~~clean energy development board may~~ commissioner shall consult with the ~~public service~~ clean energy development 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.

(3) ~~A sum equal to the cost of the business solar energy income tax credits authorized in 32 V.S.A. § 5822(d) and 5930z(a) shall be transferred annually from the clean energy development fund to the general fund.~~

(e) Management of fund.

(1) ~~There is created the clean energy development board, which shall consist of 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.~~ This fund shall be administered by the department of public service to facilitate the development and implementation of clean energy resources. The department is authorized to expend moneys from the clean energy development fund in accordance with this section. The commissioner of the department shall make all decisions necessary to implement this section and administer the fund except those decisions committed to the clean energy development board under this subsection.

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

~~(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.~~ There is created the clean energy development fund advisory committee, which shall consist of the commissioner of public service or designee, and the chairs of the house and senate committees on natural resources and energy or their designees.

~~(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. A director shall recuse himself or herself from all matters and decisions pertaining to a company or corporation of which the director is an employee, officer, partner, proprietor, or board member. 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.~~ There is created the clean energy development board, which shall consist of seven persons appointed for four-year terms by the clean energy development fund advisory committee. The advisory

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

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

(6) At least every three years, the ~~clean energy development board~~ department 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 public service shall provide the clean energy development board ~~and its fund manager~~ with administrative services.

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

(A) By January 15 of each year, commencing in 2010, 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.

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

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

(D) Develop, and submit to the clean energy development board for review and approval, 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).

(9) At least ~~quarterly~~ semiannually, the clean energy development board and the commissioner jointly 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~~ they deem necessary to fulfill ~~its~~ their obligations under this section.

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

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

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

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

* * *

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

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

* * *

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

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

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

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

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

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

Sec. 6. CLEAN ENERGY DEVELOPMENT BOARD; TRANSITION; TERM EXPIRATION; NEW APPOINTMENTS

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

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

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

§ 6524. ARRA ENERGY MONEYS

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

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

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

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

§ 6525. GRID PARITY SUPPORT CHARGE

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

Sec. 9. RECODIFICATION; REDESIGNATION

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

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

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

~~Subchapter 1. General Provisions~~

(2) §§ 8015–8017 shall be within subchapter 2 and designated to read:

Subchapter 2. Clean Energy Development Fund

Sec. 10. STATUTORY REVISION

In all provisions of 30 V.S.A. chapter 89 except 30 V.S.A. § 8002(10), (16), and (18)–(20), the office of legislative council shall substitute "board" for "public service board," "department" for "department of public service," "kW" for "kilowatt" or "kilowatts (AC)," "kWh" for "kilowatt hours," and "MW" for "megawatt" or "megawatts."

* * * Renewable Energy Investment Vermont * * *

Sec. 11. 30 V.S.A. chapter 89, subchapter 3 is added to read:

Subchapter 3. Renewable Energy Investment Vermont

§ 8021. RENEWABLE ENERGY INVESTMENT VERMONT PROGRAM; ESTABLISHMENT; PURPOSE

The renewable energy investment Vermont program is established. The purposes of this program are to:

(1) Build renewable energy plants in Vermont at lower long-term cost by avoiding or substantially reducing financing costs.

(2) Build renewable energy plants that will provide electric energy to Vermont consumers for the life of the plant.

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

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

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

§ 8022. DEFINITIONS

In this subchapter:

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

(2) "CEDB" means the clean energy development board established under section 8015 of this title.

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

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

~~(5) "REI Vermont" or "program" means the renewable energy~~ investment Vermont program established under this subchapter.

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

§ 8023. RENEWABLE ENERGY INVESTMENT VERMONT FUND; CREATION

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

§ 8024. RENEWABLE INVESTMENT CONTRIBUTION; CUSTOMER ELECTION TO REVISE OR DECLINE

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

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

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

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

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

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

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

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

§ 8025. RENEWABLE CONTRIBUTION CHARGE MONEYS; PLACEMENT INTO FUND

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

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

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

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

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

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

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

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

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

§ 8027. PLANT SELECTION

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

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

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

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

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

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

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

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

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

~~§ 8028. OWNERSHIP AND ALLOCATION OF ELECTRICITY~~

PRODUCTS

(a) Plants of retail electricity provider.

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

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

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

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

(b) Plants by the state of Vermont.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 8030. REPORTING; AUDIT

(a) By February 1 of each year, commencing in 2013, the commissioner 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 that includes each of the following for the reporting period: a complete operating and financial statement covering its activities related to the account; the account's revenues and expenditures; an identification of each plant funded by the account, including the energy generation type, plant capacity, location, and ownership; a summary of requests for proposals issued, responses, and dispositions; and a summary of applications for funding from the REI-Vermont program received independently of a request for proposals and the disposition of those applications.

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

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

§ 8031. LIMITATION OF LIABILITY

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

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

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

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

~~§ 8032. TRIENNIAL REPORT~~

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

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

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

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

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

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

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

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

* * * Net Metering * * *

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

§ 219a. SELF-GENERATION AND NET METERING

(a) As used in this section:

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

* * *

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

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

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

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

~~a charge on a customer's bill for electricity supplied by the electric company~~. Power reverting to the electric company under this subdivision (3) shall be considered SPEED resources under section 8005 of this title.

* * *

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

* * *

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

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

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

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

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

* * *

(h)(1) An electric company:

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

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

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

* * *

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

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

* * *

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

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

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

* * *

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

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

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

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

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

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

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

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

~~(C) only the amount assigned to net metering is assessed to the cap provided in subdivision (h)(1)(A) of this section~~.

* * *

(m) A facility for the generation of electricity to be consumed primarily by the military department established under 3 V.S.A. § 212 and 20 V.S.A. § 361(a) or the National Guard as defined in 32 U.S.C. § 101(3), and installed on property of the military department or National Guard located in Vermont, shall be considered a net metering system for purposes of this section if it has a capacity of 2.2 MW ~~(AC)~~ or less and meets the provisions of subdivisions (a)(3)(B) through (E) of this section. Such a facility shall not be subject to and shall not count toward the capacity limits of ~~subdivisions~~ subdivision (a)(3)(A) (no more than ~~250~~ 500 kW) ~~and (h)(1)(A) (two percent of peak demand)~~ of this section.

* * * Renewable Energy; State Facilities and Lands * * *

Sec. 13. 3 V.S.A. § 2291c is added to read:

§ 2291c. STATE FACILITIES AND LANDS; AVAILABILITY; RENEWABLE ENERGY

(a) The commissioner of buildings and general services and any other state agency that owns or controls state facilities or lands shall offer Vermont retail electricity providers an ongoing option to install a plant that generates

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

(b) For the purpose of this section:

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

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

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

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

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

~~* * * Energy Efficiency Programs;~~

Customer Approach to Energy Use * * *

Sec. 14. 30 V.S.A. § 209(e) is amended to read:

(e) The board shall:

* * *

(16) Require that entities appointed under subdivision (d)(2) of this section implement energy efficiency programs that are designed to promote and encourage customers to modify their approach to the manner in which they use and consume energy. Such program designs may address the size of equipment that uses energy, the timing of when such equipment is used, and the use of services that analyze a customer's use and potential waste of energy, including review of whether equipment and sensors work properly and whether heating and cooling systems operate in a contradictory manner. Such program designs shall include means to assure that customers in fact modify their approach to energy consumption and to verify associated energy savings.

Sec. 15. PROGRAM DESIGN REVIEW; IMPLEMENTATION

No later than July 31, 2011, the entities appointed under 30 V.S.A. § 209(d)(2) shall submit to the public service board proposed program designs or modification or both to implement Sec. 14 of this act, 30 V.S.A. § 209(e)(16). By December 31, 2012, the board shall conduct and complete its review of these submissions and require the establishment of programs to

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

* * * Weatherization * * *

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

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

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

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

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

* * * Heating Oil; Low Sulfur * * *

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

§ 2697b. HEATING OIL SULFUR REQUIREMENTS

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

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

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

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

* * * Renewable Fuels; Tax Provisions * * *

Sec. 18. BIODIESEL; EXCISE TAX; TEMPORARY EXEMPTION

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

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

~~Sec. 19. 32 V.S.A. § 9741 is amended to read:~~

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(48) Sales of equipment used in the production of electric energy from biomass. For the purpose of this subdivision, "biomass" means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of 30 V.S.A. § 8002(2).

Sec. 20. BUSINESS SOLAR TAX CREDITS; INVESTMENTS ELIGIBLE BUT FOR $9.4-MILLION CAP; PROSPECTIVE REPEAL

(a) This section pertains to business solar energy tax credits for investments that met the terms of 32 V.S.A. § 5930z(c)(1) as amended by Sec. 11 of No. 159 of the Acts of the 2009 Adj. Sess. (2010) and for which such tax credits under 32 V.S.A. § 5822(d) or 5930z, as amended effective June 4, 2010, would have been available but for the $9.4-million limit on certification placed in the first sentence of 32 V.S.A. § 5930z(c) by that Sec. 11 (the $9.4-million cap).

(b) A taxpayer may take, in accordance with this section, the full amount of the business solar energy tax credits described in subsection (a) of this section. This full amount shall be divided into five equal portions. The taxpayer may

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

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

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

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

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

Sec. 21. EFFECTIVE DATES; RETROACTIVE APPLICATION

(a) The following shall take effect on passage:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) July 1, 2012.

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

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

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

** * * Net Metering * * **

Sec. 1. 30 V.S.A. § 219a is amended to read:

§ 219a. SELF-GENERATION AND NET METERING

(a) As used in this section:

* * *

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

(A) is of no more than ~~250 kilowatts (AC)~~ 500 kW capacity;

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

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

(D) is located on the customer's premises or, in the case of a group net metering system, on the premises of a customer who is a member of the group; and

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

(ii) is a qualified micro-combined heat and power system of 20 ~~kilowatts~~ kW or fewer that meets the definition of combined heat and power in 10 V.S.A. § 6523(b) and may use any fuel source that meets air quality standards.

(4) ~~"Farm system" means a facility of no more than 250 kilowatts (AC) output capacity, except as provided in subdivision (k)(5) of this section, that generates electric energy on a farm operated by a person principally engaged in the business of farming, as that term is defined in Regulation 1.175-3 of the Internal Revenue Code of 1986, from the anaerobic digestion of agricultural products, byproducts, or wastes, or other renewable sources as defined in subdivision (3)(E) of this subsection, intended to offset the meters designated under subdivision (g)(1)(A) of this section on the farm or has entered into a contract as specified in subsection (k) of this section.~~ "Facility" means a structure or piece of equipment and associated machinery and fixtures that generates electricity. A group of structures or pieces of equipment shall be considered one facility if it uses the same fuel source and infrastructure and is located in close proximity. Common ownership shall be relevant but not sufficient to determine that such a group constitutes a facility.

(5) "kW" means kilowatt or kilowatts (AC).

(6) "kWh" means kW hour or hours.

(7) "MW" means megawatt or megawatts (AC).

(b) A customer shall pay the same rates, fees, or other payments and be subject to the same conditions and requirements as all other purchasers from the electric company in the same rate-class, except as provided for in this section, and except for appropriate and necessary conditions approved by the board for the safety and reliability of the electric distribution system.

(c) The board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. A net metering system shall be deemed to promote the public good of the state if it is in compliance with the criteria of this section, and board rules or orders. In developing such rules or orders, the board:

(1) With respect to a solar net metering system of 5 kW or less, shall provide that the system may be installed ten days after the customer's submission to the board and the interconnecting electric company of a completed registration form and certification of compliance with the applicable interconnection requirements. Within that ten-day period, the

interconnecting electric company may deliver to the customer and the board a letter detailing any issues concerning the interconnection of the system. The customer shall not commence construction of the system prior to the passage of this ten-day period and, if applicable, resolution by the board of any interconnection issues raised by the electric company in accordance with this subsection. If the ten-day period passes without delivery by the electric company of a letter that raises interconnection issues in accordance with this subsection, a certificate of public good shall be deemed issued on the 11th day without further proceedings, findings of fact, or conclusions of law, and the customer may commence construction of the system. On request, the clerk of the board promptly shall provide the customer with written evidence of the system's approval. For the purpose of this subdivision, the following shall not be included in the computation of time: Saturdays, Sundays, state legal holidays under 1 V.S.A. § 371(a), and federal legal holidays under 5 U.S.C. § 6103(a).

(2) With respect to a net metering system for which a certificate of public good is not deemed issued under subdivision (1) of this subsection:

(A) may waive the requirements of section 248 of this title that are not applicable to net metering systems, including, but not limited to, criteria that are generally applicable to public service companies as defined in this title;

~~(2)~~(B) may modify notice and hearing requirements of this title as it deems appropriate;

~~(3)~~(C) shall seek to simplify the application and review process as appropriate; and

~~(4)~~(D) shall find that such rules are consistent with state power plans.

(d)(1) An applicant for a certificate of public good for a net metering system shall be exempt from the requirements of subsection 202(f) of this title.

(2) Any certificate issued under this section shall be automatically transferred to any subsequent owner of the property served by the net metering system, provided, in accordance with rules adopted by the board, the board and the electric company are notified of the transfer, and the subsequent owner agrees to comply with the terms and conditions of the certificate.

(3) Nonuse of a certificate of public good for a period of one year following the date on which the certificate is issued or, under subdivision (c)(1) of this section, deemed issued shall constitute an abandonment of the net metering system and the certificate shall be considered expired. For the purpose of this section, for a certificate to be considered "used," installation of the net metering system must be completed within the one-year period,

unless installation is delayed by litigation or unless, at the time the certificate is issued or in a subsequent proceeding, the board provides that installation may be completed more than one year from the date the certificate is issued.

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

* * *

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

(A) ~~The customer shall be billed for the appropriate charges for that month, in accordance with subsection (b) of this section~~ The electric company shall calculate a monetary credit to the customer by multiplying the excess kWh generated during the billing period by the kWh rate paid by the customer for electricity supplied by the company and shall apply the credit to any remaining charges on the customer's bill for that period;

(B) ~~The customer shall be credited for the excess kilowatt hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period~~ If application to such charges does not use the entire balance of the credit, the remaining balance of the credit shall appear on the customer's bill for the following billing period; and

(C) Any accumulated ~~kilowatt hour~~ credits shall be used within 12 months, or shall revert to the electric company, without any compensation to the customer. Power reverting to the electric company under this subdivision (3) shall be considered SPEED resources under section 8005 of this title.

* * *

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

(1) Net metering customers that are ~~farm or~~ group net metering systems may credit on-site generation against all meters designated to the ~~farm system or~~ group net metering system under subdivision (g)(1)(A) of this section.

(2) Electric energy measurement for ~~farm or~~ group net metering systems shall be calculated by subtracting total usage of all meters included in the ~~farm or~~ group net metering system from total generation by the ~~farm or~~ group net metering system. If the electricity generated by the ~~farm or~~ group net metering system is less than the total usage of all meters included in the ~~farm or~~ group net metering system during the billing period, the ~~farm or~~ group net metering system shall be credited for any accumulated kilowatt-hour credit

and then billed for the net electricity supplied by the electric company, in accordance with the procedures in subsection (g) (group net metering) of this section.

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

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

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

~~(C) Any accumulated kilowatt hour credits shall be used within 12 months or shall revert to the electric company without any compensation to the farm or group net metering system. Power reverting to the electric company under this subdivision (3) shall be considered SPEED resources under section 8005 of this title~~ the provisions of subdivision (e)(3) (credit for excess generation) of this section shall apply, with credits allocated to and appearing on the bill of each member of the group net metering system in accordance with subsection (g) (group net metering) of this section.

(g)(1) In addition to any other requirements of section 248 of this title and this section and board rules thereunder, before a ~~farm or~~ group net metering system including more than one meter may be formed and served by an electric company, the proposed ~~farm or~~ group net metering system shall file with the board, with copies to the department and the serving electric company, the following information:

(A) the meters to be included in the ~~farm or~~ group net metering system, which shall be associated with the buildings and residences owned or occupied by the person operating the ~~farm or~~ group net metering system, or the person's family or employees, or other members of the group, identified by account number and location;

(B) a procedure for adding and removing meters included in the ~~farm or~~ group net metering system, and direction as to the manner in which the electric company shall allocate any accrued credits among the meters included in the system, which allocation subsequently may be changed only on written notice to the electric company in accordance with subdivision (4) of this subsection;

(C) a designated person responsible for all communications from the ~~farm or~~ group net metering system to the serving electric company~~, for receiving and paying bills for any service provided by the serving electric~~

~~company for the farm or group net metering system, and for receiving any other communications regarding the farm or group net metering system~~ except for communications related to billing, payment, and disconnection; and

(D) a binding process for the resolution of any disputes within the ~~farm or~~ group net metering system relating to net metering that does not rely on the serving electric company, the board, or the department. However, this subdivision (D) shall not apply to disputes between the serving electric company and individual members of a group net metering system regarding billing, payment, or disconnection.

(2) The ~~farm or~~ group net metering system shall, at all times, maintain a written designation to the serving electric company of a person ~~who shall be the sole person authorized to receive and pay bills for any service provided by the serving electric company, and~~ to receive any ~~other~~ communications regarding ~~the farm system,~~ the group net metering system~~,~~ or net metering that do not relate to billing, payment, or disconnection.

(3) The serving electric company shall bill directly and send all communications regarding billing, payment, and disconnection directly to the customer name and address listed for the account of each individual meter designated under subdivision (1)(A) of this subsection as being part of a group net metering system. The usage charges for any account so billed shall be based on the individual meter for the account. The credit applied on that bill for electricity generated by the group net metering system shall be calculated in the manner directed by the system under subdivision (1)(B) of this subsection.

(4) The serving ~~utility~~ electric company shall implement appropriate changes to the ~~farm or~~ group net metering system within 30 days after receiving written notification from the designated person. However, written notification of a change in the person designated under subdivision (2) of this subsection shall be effective upon receipt by the serving ~~utility~~ electric company. The serving ~~utility~~ electric company shall not be liable for action based on such notification, but shall make any necessary corrections and bill adjustments to implement revised notifications.

~~(4)~~(5) Pursuant to subsection 231(a) of this title, after such notice and opportunity for hearing as the board may require, the board may revoke a certificate of public good issued to a ~~farm or~~ group net metering system.

~~(5)~~(6) A group net metering system may consist only of customers that are located within the service area of the same electric company. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net metering system. A union or district school facility shall be considered in the

same group net metering system with buildings of its member municipalities that are located within the service area of the same electric company that serves the facility. If it determines that it would promote the general good, the board shall permit a noncontiguous group of net metering customers to comprise a group net metering system.

(h)(1) An electric company:

(A) Shall make net metering available to any customer using a net metering system~~,~~ or group net metering system~~, or farm system~~ on a first-come, first-served basis until the cumulative output capacity of net metering systems equals ~~2.0~~ 4.0 percent of the distribution company's peak demand during 1996; or the peak demand during the most recent full calendar year, whichever is greater. The board may raise the ~~2.0~~ 4.0 percent cap. In determining whether to raise the cap, the board shall consider the following:

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

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

* * *

(E) May require a customer to comply with generation interconnection, safety, and reliability requirements, as determined by the public service board by rule or order, and may charge reasonable fees for interconnection, establishment, special metering, meter reading, accounting, account correcting, and account maintenance of net metering arrangements of greater than 15 ~~kilowatt (AC)~~ kW capacity;

* * *

(J) May in its rate schedules offer credits or other incentives that may include monetary payments to net metering customers. These credits or incentives shall not displace the benefits provided to such customers under subsections (e) and (f) of this section.

(K) Except as provided in subdivision (1)(K)(v) of this subsection, shall in its rate schedules offer a credit to each net metering customer using solar energy that shall apply to each kWh generated by the customer's solar net metering system and that shall not displace the benefits provided to such customers under subsections (e) and (f) of this section.

(i) The credit required by this subdivision (K) shall be $0.20 minus the highest residential rate per kWh ~~paid~~ charged by the company as of the date it files with the board a proposed modification to its rate schedules to

effect this subdivision (K) or to revise a credit previously instituted under this subdivision (K). Notwithstanding the basis for this credit calculation, the amount of the credit shall not fluctuate with changes in the underlying residential rate used to calculate the amount.

(ii) The electric company shall apply the credit calculated in accordance with subdivision (1)(K)(i) of this subsection to generation from each net metering system using solar energy regardless of the customer's rate class. A credit under this subdivision (K) shall be applied to all charges on the customer's bill from the electric company and shall be subject to the provisions of subdivisions (e)(3)(B) (credit for unused balance) and (C) (12-month reversion) and (f)(3) (credit for excess generation; group net metering) of this section.

(iii) An electric company's proposed modification to a rate schedule to offer a credit under this subdivision (K) and any investigation initiated by the board or party other than the company of an existing credit contained in such a rate schedule shall be reviewed in accordance with the procedures set forth in section 225 of this title, except that:

(I) A company's proposed modification shall take effect on filing with the board and shall not be subject to suspension under section 226 of this title;

(II) Such a modification or investigation into an existing credit shall not require review of the company's entire cost of service; and

(III) Such a modification or existing credit may be altered by the board for prospective effect only commencing with the date of the board's decision.

(iv) Within 30 days of this subdivision's effective date, each electric company shall file a proposed modification to its rate schedule that complies with this subdivision (K). Such proposed modification, as it may be revised by the board, shall not be changed for two years starting with the date of the board's decision on the modification. After the passage of that two-year period, further modifications to the amount of a credit under this subdivision may be made in accordance with subdivisions (1)(K)(i)-(iii) of this subsection.

(v) An electric company shall not be required to offer a credit under this subdivision (K) if, as of the effective date of this subdivision, the result of the calculation described in subdivision (1)(K)(i) of this subsection is zero or less.

(vi) A solar net metering system shall receive the amount of the credit under this subdivision (K) that is in effect for the service territory in which the system is installed as of the date of the system's installation and

shall continue to receive that amount for not less than 10 years after that date regardless of any subsequent modification to the credit as contained in the electric company's rate schedules.

(vii) Not later than 30 days after board approval of an electric company's first rate schedule proposed to comply with this subdivision (1)(K), the company shall offer the amount of the credit contained in such rate schedule to each solar net metering system placed into service prior to the date on which the company submitted the proposed schedule to the board. Each system that accepts this offer shall receive the credit for not less than 10 years after the date of such acceptance, provided that the system remains in service, and regardless of any subsequent modification to the credit as contained in the company's rate schedules. Should an additional meter at the premises of the net metering customer be necessary to implement this subdivision (vii), the net metering customer shall bear the cost of the additional meter.

(2) All such requirements or credits or other incentives shall be pursuant to and governed by a tariff approved by the board and any applicable board rule, which tariffs and rules shall be designed in a manner reasonably likely to facilitate net metering. With respect to a credit or incentive under subdivision (1)(J) (optional credit or incentive) or (K) (solar credit) of this subsection that is provided to a net metering system that constitutes new renewable energy under subdivision 8002(4) of this title:

(A) If the credit or incentive applies to each kWh generated by the system, then the system's energy production shall count toward the goals and requirements of subsection 8005(d) of this title.

(B) If the credit or incentive applies only to the system's net energy production supplied to the company, then the increment of net energy production supplied by the customer to the company through a net metering system that is supported by such additional credit or incentive shall count toward the goals and requirements of subsection 8005(d) of this title.

* * *

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

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

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

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

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

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

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

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

(C) only the amount assigned to net metering is assessed to the cap provided in subdivision (h)(1)(A) of this section.

* * *

(m) A facility for the generation of electricity to be consumed primarily by the military department established under 3 V.S.A. § 212 and 20 V.S.A. § 361(a) or the National Guard as defined in 32 U.S.C. § 101(3), and installed on property of the military department or National Guard located in Vermont, shall be considered a net metering system for purposes of this section if it has a capacity of 2.2 MW ~~(AC)~~ or less and meets the provisions of subdivisions (a)(3)(B) through (E) of this section. Such a facility shall not be subject to and shall not count toward the capacity limits of subdivisions (a)(3)(A) (no more than ~~250~~ 500 kW) and (h)(1)(A) (~~two~~ four percent of peak demand) of this section.

Sec. 2. IMPLEMENTATION; RETROACTIVE APPLICATION

(a) In Sec. 1 of this act, 30 V.S.A. § 219a(h)(1)(J) (optional credits or incentives) and (K) (required credit; solar systems) shall apply to petitions pertaining to net metering systems filed by an electric company with the public service board on and after May 1, 2010. Notwithstanding 30 V.S.A. § 225(a), an electric company may amend the proof in support of such a petition that is pending as of the effective date of this section if the amendment is to effect compliance with Sec. 1, 30 V.S.A. § 219a(h)(1)(K).

(b) With respect to farm net metering systems under 30 V.S.A. § 219a as it existed prior to the effective date of this section, each such system for which a certificate of public good was issued prior to or for which an application for a certificate of public good is pending as of that date shall be deemed to be a group net metering system under Sec. 1 of this act.

(c) With respect to group net metering systems under Sec. 1 of this act in existence as of the effective date of this section:

(1) Within 30 days of that date, each electric distribution company subject to jurisdiction under 30 V.S.A. § 203 shall provide notice to each such

system that it serves, in a form acceptable to the commissioner of public service, of the provisions respecting such systems contained in Sec. 1 of this act and this section, and shall request the system's allocation of credits pursuant to Sec. 1, 30 V.S.A. § 219a(g)(1)(B).

(2) Within 60 days of that date, each such system shall provide direction to the serving electric company of the allocation of credits pursuant to Sec. 1, 30 V.S.A. § 219a(g)(1)(B).

(d) Within 60 days of the effective date of this section, each electric distribution company subject to jurisdiction under 30 V.S.A. § 203 shall take all actions necessary to implement Sec. 1 of this act, 30 V.S.A. § 219a(e)(3) (credit for excess generation), (f)(3) (credit for excess generation), and (g) (group net metering; allocation of credits; direct billing of group members).

(e) No later than 180 days after the effective date of this section, the public service board shall revise its rules and take all actions necessary to implement the amendments to 30 V.S.A. § 219a(c)(1) (systems of 5 kW or less) contained in Sec. 1 of this act. For the purpose of this subsection, the board is authorized to ~~and shall~~ use the procedures for emergency rules pursuant to 3 V.S.A. § 844, except that the board need not determine that there exists an imminent peril to public health, safety, or welfare, and the provisions of 3 V.S.A. § 844(b) (expiration of emergency rules) shall not apply. Prior to adopting the rule revisions, the board shall issue a draft of the revisions and provide notice of and opportunity to comment on the draft revisions in a manner that is consistent with the time frame for adoption required by this subsection.

** * * Self-Managed Energy Efficiency Programs * * **

Sec. 3. 30 V.S.A. § 209(h) is amended to read:

(h)(1) ~~No later than September 1, 2009, the department shall recommend to the board a three year pilot project for~~ There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The board ~~will review the department's recommendation and~~, by order, shall enact ~~a~~ this class of ~~self-managed energy efficiency~~ programs ~~by December 31, 2009, to take effect for a three year period beginning January 1, 2010~~.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section that support energy efficiency programs performed by or on behalf of Vermont electric utilities.

(4) All of the following shall apply to a class of programs under this subsection:

* * *

(D) An applicant shall commit to ~~a three-year minimum energy efficiency investment of~~ an annual average energy efficiency investment during each three-year period that the applicant participates in the program of no less than $1 million.

* * *

(H) Upon approval of an application by the board, the applicant shall be able to participate in the class of self-managed energy efficiency programs ~~for a three-year period~~.

* * *

(N) If, at the end of ~~the~~ every third year after an applicant's approval to participate in the self-managed efficiency program (the three-year period), the applicant has not met the commitment required by subdivision (4)(D) of this subsection, the applicant shall pay to the electric efficiency fund described in subdivision (d)(3) of this section the difference between the investment the applicant made while in the self-managed energy efficiency program and the charges the applicant would have incurred under subdivision (d)(3) of this section during the three-year period had the applicant not been a participant in the program. This payment shall be made no later than 90 days after the end of the three-year period.

Sec. 4. RETROACTIVE APPLICATION

(a) Sec. 3 of this act shall apply to the public service board's order on the self-managed energy efficiency program entered December 28, 2009 and its clarifying order on the same program entered April 7, 2010, including the approval in those orders of an entity's participation in the program. Such approval shall be ongoing under the terms and conditions of 30 V.S.A. § 209(h) as amended by Sec. 3 of this act and shall not be limited to the three years commencing January 1, 2010.

(b) Within 60 days of this section's effective date, the board shall take all appropriate steps to implement Sec. 3 of this act.

** * * Section 248 Certificates; Long-term Electricity Purchases, Out-of-State Resources * * **

Sec. 5. 30 V.S.A. § 248 is amended to read:

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

(a)(1) No company, as defined in section 201 of this title, may:

(A) in any way purchase electric capacity or energy from outside the state:

(i) for a period exceeding five years, that represents more than ~~one~~ three percent of its historic peak demand, unless the purchase is from a plant as defined in subdivision 8002(12) of this title that produces electricity from renewable energy as defined under subdivision 8002(2); or

(ii) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant as defined in subdivision 8002(12) of this title that produces electricity from renewable energy as defined under subdivision 8002(2); or

(B) invest in an electric generation or transmission facility located outside this state unless the public service board first finds that the same will promote the general good of the state and issues a certificate to that effect.

* * *

(c)(1) Except as otherwise provided in subdivision (j)(3) of this section, in the case of a municipal plant or department formed under local charter or chapter 79 of this title or a cooperative formed under chapter 81 of this title, any proposed investment, construction or contract which is subject to this section shall be approved by a majority of the voters of a municipality or the members of a cooperative voting upon the question at a duly warned annual or special meeting to be held for that purpose. However, in the case of a cooperative formed under chapter 81 of this title, an investment in or construction of an in-state electric transmission facility shall not be subject to the requirements of this subsection if the investment or construction is solely for reliability purposes and does not include new construction or upgrades to serve a new generation facility.

(2) The municipal department or cooperative shall provide to the voters or members, as the case may be, written assessment of the risks and benefits of the proposed investment, construction, or contract which were identified by the public service board in the certificate issued under this section. The municipal department or cooperative also may provide to the voters an assessment of any other risks and benefits.

* * *

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

Sec. 6. 30 V.S.A. § 8001 is amended to read:

§ 8001. RENEWABLE ENERGY GOALS

(a) The general assembly finds it in the interest of the people of the state to promote the state energy policy established in section 202a of this title by:

(1) Balancing the benefits, lifetime costs, and rates of the state's overall energy portfolio to ensure that to the greatest extent possible the economic benefits of renewable energy in the state flow to the Vermont economy in general, and to the rate paying citizens of the state in particular.

(2) Supporting development of renewable energy and related planned energy industries in Vermont, ~~in particular~~ and the jobs and economic benefits associated with such development, while retaining and supporting existing renewable energy infrastructure.

(3) Providing an incentive for the state's retail electricity providers to enter into affordable, long-term, stably priced renewable energy contracts that mitigate market price fluctuation for Vermonters.

(4) Developing viable markets for renewable energy and energy efficiency projects.

(5) Protecting and promoting air and water quality by means of renewable energy programs.

(6) Contributing to reductions in global climate change and anticipating the impacts on the state's economy that might be caused by federal regulation designed to attain those reductions.

(7) Supporting and providing incentives for small, distributed renewable energy generation, including incentives that support locating such generation in areas that will provide benefit to the operation and management of the state's electric grid.

* * *

Sec. 7. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

* * *

(4) "New renewable energy" means renewable energy produced by a generating resource coming into service after December 31, 2004. ~~This~~ With respect to a system of generating resources that includes renewable energy, the percentage of the system that constitutes new renewable energy shall be determined through dividing the plant capacity of the system's generating resources coming into service after December 31, 2004 that produce renewable energy by the total plant capacity of the system. "New renewable energy" also may include the additional energy from an existing renewable facility retrofitted with advanced technologies or otherwise operated, modified,

or expanded to increase the kwh output of the facility in excess of an historical baseline established by calculating the average output of that facility for the 10-year period that ended December 31, 2004. If the production of new renewable energy through changes in operations, modification, or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions. For the purposes of this chapter, renewable energy refers to either "existing renewable energy" or "new renewable energy."

* * *

(10) "Board" means the public service board under section 3 of this title~~, except when used as part of the phrase "clean energy development board" or when the context clearly refers to the latter board~~ .

* * *

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

(17) "kW" means kilowatt or kilowatts (AC).

(18) "kWh" means kW hour or hours.

(19) "MW" means megawatt or megawatts (AC).

(20) "MWH" means MW hour or hours.

Sec. 8. 30 V.S.A. § 8005 is amended to read:

§ 8005. SUSTAINABLY PRICED ENERGY ENTERPRISE DEVELOPMENT (SPEED) PROGRAM

* * *

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

* * *

(2) ~~No later than September 30, 2009, put into effect, on behalf of all Vermont retail electricity providers,~~ Issue standard offers for qualifying SPEED resources with a plant capacity of 2.2 MW or less. These standard offers shall be available until the cumulative plant capacity of all such resources commissioned in the state that have accepted a standard offer under this subdivision (2) equals or exceeds 50 MW; provided, however, that a plant owned and operated by a Vermont retail electricity provider shall count toward this 50-MW ceiling if the plant has a plant capacity of 2.2 MW or less

and is commissioned on or after September 30, 2009. The term of a standard offer required by this subdivision (2) shall be 10 to 20 years, except that the term of a standard offer for a plant using solar power shall be 10 to 25 years. The price paid to a plant owner under a standard offer required by this subdivision shall include an amount for each kilowatt-hour (kWh) generated that shall be set as follows:

* * *

(G) Notwithstanding the requirement of this subsection (b) that a standard offer be available for qualifying SPEED resources, the board shall make a standard offer available under this subdivision (2) to an existing hydroelectric plant that does not exceed the 2.2 MW plant capacity limit of this subsection. To such plants, the board shall not allocate more of the cumulative 50-MW plant capacity under this subdivision (2) than exceeds the amount of such capacity that is unsubscribed as of January 1, 2012. Before making this standard offer available, the board shall notify potentially eligible plants known to it and shall publish broad public notice of the future availability of the standard offer. The notice shall direct that all potentially eligible plants shall file with the board a statement of interest in the standard offer by a date to be no less than 30 days from the date of the notice. No plant may participate in this standard offer unless it timely files such a statement. The filing of such a statement shall constitute the consent of the plant owner to produce such information as the board may reasonably require to carry out this subdivision (2)(G), including information the board deems necessary to determine a generic cost in setting the price. The board shall have authority to require the production of such information from a plant that files a statement of interest. For the purpose of this subdivision (2)(G):

(i) "Existing hydroelectric plant" means a hydroelectric plant located in the state that was in service as of January 1, 2009 and does not, as of the effective date of this subdivision (2)(G), have an agreement with the public service board's purchasing agent for the purchase of its power pursuant to subdivision 209(a)(8) of this title and board rules adopted under that subdivision. The term includes hydroelectric plants that have never had such an agreement and hydroelectric plants for which such an agreement expired prior to the effective date of this subdivision (2)(G).

(ii) The provisions of subdivisions (2)(B)(i)(I)–(III) of this subsection (standard offer pricing criteria) shall apply, except that:

(I) The term "generic cost," when applied by the board to determine the price of a standard offer for an existing hydroelectric plant, shall mean the cost to own, reliably operate, and maintain such a plant for the duration of the standard offer contract. In determining this cost, the board

shall consider including a generic assumption with respect to rehabilitation costs based on relevant factors such as the age of the potentially eligible plants; recently constructed or currently proposed rehabilitations to such plants; the investment that a reasonably prudent person would have made in such a plant to date under the circumstances of the plant, including the price received for power; and the availability for such a plant of improved technology.

(II) The incentive described under subdivision (2)(B)(i)(III) of this subsection shall be an incentive for continued safe, efficient, and reliable operation of existing hydroelectric plants.

* * *

(5) Require all Vermont retail electricity providers to purchase ~~through~~ from the SPEED ~~program~~ facilitator, in accordance with subdivision (g)(2) of this section, the power generated by the plants that accept the standard offer required to be issued under subdivision (2) of this subsection. For the purpose of this subdivision (5), the board and the SPEED facilitator constitute instrumentalities of the state.

* * *

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

* * *

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

* * *

(2) The SPEED facilitator shall distribute the electricity purchased ~~and any associated costs~~ to the Vermont retail electricity providers at the price paid to the plant owners, allocated to the providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay the SPEED facilitator for ~~those costs~~ the electricity. ~~For the purpose of this subdivision, a Vermont retail electricity provider shall receive a credit toward its share of those costs for any plant with a plant capacity of 2.2 MW or less that it owns or operates and that is commissioned on or after September 30, 2009. The amount of such credit shall be the amount that the plant owner otherwise would be eligible to

~~*receive, if the owner were not a retail electricity provider, under a standard offer in effect at the time of commissioning. The amount of any such credit shall be redistributed to the Vermont retail electricity providers on a basis such that all providers pay for a proportionate volume of plant capacity up to the 50 MW ceiling for standard offer contracts stated in subdivision (b)(2) of this section.*~~

* * *

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

* * *

Sec. 9. IMPLEMENTATION; BOARD PROCEEDINGS

(a) By October 1, 2011, the board shall take all appropriate steps to effect the notice required by Sec. 8, 30 V.S.A. § 8005(b)(2)(G) (existing hydroelectric plants).

(b) By March 1, 2012, the board shall conduct and complete such proceedings and issue such orders as necessary to effect the standard offer required by Sec. 8 of this act, 30 V.S.A. § 8005(b)(2)(G) (existing hydroelectric plants). The board shall not be required to conduct such proceedings as a contested case under 3 V.S.A. chapter 25.

(c) Commencing April 1, 2012, the board shall make available the standard offer required by Sec. 8 of this act, 30 V.S.A. § 8005(b)(2)(G) (existing hydroelectric plants).

Sec. 10. 30 V.S.A. § 30 is amended to read:

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

(a)(1) A person, company or corporation subject to the supervision of the board or the department of public service, who refuses the board or the department of public service access to the books, accounts or papers of such person, company or corporation within this state, so far as may be necessary under the provisions of this title, or who fails, other than through negligence, to furnish any returns, reports or information lawfully required by it, or who willfully hinders, delays or obstructs it in the discharge of the duties imposed upon it, or who fails within a reasonable time to obey a final order or decree of the board, or who violates a provision of ~~chapters~~ chapter 7 ~~or~~, 75, or 89 of this title, or a provision of section 231 or 248 of this title, or a rule of the

board, shall be required to pay a civil penalty as provided in subsection (b) of this section, after notice and opportunity for hearing.

* * *

** * * Baseload Renewable Portfolio Requirement * * **

Sec. 11. 30 V.S.A. § 8009 is added to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO REQUIREMENT

(a) In this section:

(1) "Baseload renewable power" means a plant that generates electricity from renewable energy; that, during normal operation, is capable of taking all or part of the minimum load on an electric transmission or distribution system; and that produces electricity essentially continuously at a constant rate.

(2) "Baseload renewable power portfolio requirement" means an annual average of 175,000 MWh of baseload renewable power from an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011.

(3) "Biomass" means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of 30 V.S.A. § 8002(2).

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

(b) Notwithstanding subsection 8004(a) and subdivision 8005(d)(1) of this title, commencing November 1, 2012, the electricity supplied by each Vermont retail electricity provider to its customers shall include the provider's pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, 2022.

(c) A plant used to satisfy the baseload renewable power portfolio requirement shall be a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292.

(d) The board shall determine the price to be paid to a plant used to satisfy the baseload renewable power portfolio requirement. The board shall not be required to make this determination as a contested case under 3 V.S.A. chapter

25. The price shall be the avoided cost of the Vermont composite electric utility system. For the purpose of this subsection, the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase from the plant proposed to satisfy the baseload renewable power portfolio requirement, such providers would obtain from a ~~new~~ source using the same generation technology as the proposed plant. For the purpose of this subsection, the term "avoided cost" also includes the board's consideration of each of the following:

(1) The relevant cost data of the Vermont composite electric utility system.

(2) The terms of the potential contract, including the duration of the obligation.

(3) The availability, during the system's daily and seasonal peak periods, of capacity or energy from a proposed plant.

(4) The relationship of the availability of energy or capacity from the proposed plant to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(5) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the proposed plant.

(6) The supply and cost characteristics of the proposed plant, including the costs of operation and maintenance of an existing plant during the term of a proposed contract.

(e) In determining the price under subsection (d) of this section, the board may require a plant proposed to be used to satisfy the baseload renewable power portfolio requirement to produce such information as the board reasonably deems necessary.

(f) With respect to a plant used to satisfy the baseload renewable power portfolio requirement:

~~*(1) The electricity purchased and any associated costs shall be allocated to the Vermont retail electricity providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay those costs.*~~

(1) The SPEED facilitator shall purchase the baseload renewable power, and the electricity purchased and any associated costs shall be allocated by the SPEED facilitator to the Vermont retail electricity providers based on their pro rata share of total Vermont retail kWh sales for the

previous calendar year, and the Vermont retail electricity providers shall accept and pay those costs.

(2) Any tradeable renewable energy credits attributable to the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection.

(3) All capacity rights attributable to the plant capacity associated with the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection.

(4) All reasonable costs of a Vermont retail electricity provider incurred under this section shall be included in the provider's revenue requirement for purposes of ratemaking under sections 218, 218d, 225, and 227 of this title. In including such costs, the board shall appropriately account for any credits received under subdivision (2) of this subsection. Costs included in a retail electricity provider's revenue requirement under this subdivision shall be allocated to the provider's ratepayers as directed by the board.

(g) A retail electricity provider shall be exempt from the requirements of this section if, and for so long as, one-third of the electricity supplied by the provider to its customers is from a plant that produces electricity from woody biomass.

(h) The board may issue rules or orders to carry out this section.

(i) The state and its instrumentalities shall not be liable to a plant owner or retail electricity provider with respect to any matter related to the baseload renewable power portfolio requirement or a plant used to satisfy such requirement, including costs associated with a contract related to such a plant or any damages arising from the breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid. For the purpose of this section, the board and the SPEED facilitator constitute instrumentalities of the state.

** * * Clean Energy Development Fund and Support Charge * * **

Sec. 12. 10 V.S.A § 6523 is amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

(a) Creation of fund.

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

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

(B) The proceeds of the clean energy support charge established under Sec. 15 of this act.

(C) Any other monies that may be appropriated to or deposited into the fund.

* * *

(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 and thermal energy or geothermal resources~~, and emerging energy efficient technologies,~~ for the long-term benefit of Vermont consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The fund also may be used to support natural gas vehicles in accordance with subdivision (d)(1)(K) of this section. 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 for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

* * *

(2) If during a particular year, the ~~clean energy development board~~ commissioner of public service 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 ~~clean energy development board may~~ commissioner shall consult with the ~~public service~~ clean energy development 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.

(3) A sum equal to the cost for the 2010 and preceding tax years of the business solar energy income tax credits authorized in 32 V.S.A. § 5822(d) and 5930z(a), net of any such costs for which a transfer has already been made

~~*under this subdivision, shall be transferred annually from the clean energy*~~ *development fund to the general fund.*

(c) Management of fund.

(1) ~~*There is created the clean energy development board, which shall consist of 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.*~~ *This fund shall be administered by the department of public service to facilitate the development and implementation of clean energy resources. The department is authorized to expend moneys from the clean energy development fund in accordance with this section. The commissioner of the department shall make all decisions necessary to implement this section and administer the fund except those decisions committed to the clean energy development board under this subsection. The department shall assure an open public process in the administration of the fund for the purposes established in this subchapter.*

(2) 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) 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.*~~ *There is created the clean energy development board, which shall consist of seven persons appointed in accordance with subdivision (4) of this subsection. The clean energy development board shall have decision-making and approval authority with respect to the plans, budget, and program designs described in subdivisions (7)(B)–(D) of this subsection. The clean energy development board shall function in an advisory capacity to the commissioner on all other aspects of this section's implementation.*

B) During a board member's term and for a period of one year after the member leaves the board, the clean energy development fund shall not make any award of funds to and shall confer no financial benefit on a company or corporation of which the member is an employee, officer, partner, proprietor, or board member or of which the member owns more than 10

~~percent of the outstanding voting securities. This prohibition shall not apply to~~ a financial benefit that is available to any person and is not awarded on a competitive basis or offered only to a limited number of persons.

(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. A director shall recuse himself or herself from all matters and decisions pertaining to a company or corporation of which the director is an employee, officer, partner, proprietor, or board member. 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.~~ The commissioner of public service shall appoint three members of the clean energy development board, and the chairs of the house and senate committees on natural resources and energy each shall appoint two members of the clean energy development board. The terms of the members of the clean energy development board shall be four years, except that when appointments to this board are made for the first time after the effective date of this act, each appointing authority shall appoint one member for a two-year term and the remaining members for four-year terms. When a vacancy occurs in the board during the term of a member, the authority who appointed that member shall appoint a new member for the balance of the departing member's term.

(5) Except for those ~~directors~~ members of the clean energy development board otherwise regularly employed by the state, the compensation of the ~~directors~~ members shall be the same as that provided by ~~subsection~~ 32 V.S.A. § 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 public service shall provide the clean energy development board ~~and its fund manager~~ with administrative services.

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

(A) By January 15 of each year, ~~commencing in 2010,~~ 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 for the fiscal year ending the preceding June 30 detailing the activities undertaken, the revenues collected, and the expenditures made under this subchapter.

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

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

(D) Develop, and submit to the clean energy development board for review and approval, 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). Prior to any approval of a new program or of a substantial modification to a previously approved program of the clean energy development fund, the department of public service shall publish online the proposed program or modification, shall provide an opportunity for public comment of no less than 30 days, and shall provide to the clean energy development board copies of all comments received on the proposed program or modification. For the purpose of this subdivision (D), "substantial modification" shall include a change to a program's application criteria or application deadlines and shall include any change to a program if advance knowledge of the change could unfairly benefit one applicant over another applicant. For the purpose of 3 V.S.A. § 831(b) (initiating rulemaking on request), a new program or substantial modification of a previously approved program shall be treated as if it were an existing practice or procedure.

~~(9)~~(8) At least ~~quarterly~~ annually, the clean energy development board and the commissioner or designee jointly 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~~ they deem necessary to fulfill ~~its~~ their obligations under this section.

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

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

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

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

* * *

(4) $2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. For the purpose of this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process. ~~On or before January 15, 2011, the clean energy development board shall report to the general assembly on the status of this program, including each award made and, for each such award, the expected energy savings or generation and the actual energy savings or generation achieved.~~

* * *

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

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

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

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

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

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

Sec. 13. CLEAN ENERGY DEVELOPMENT BOARD; TRANSITION; TERM EXPIRATION; NEW APPOINTMENTS

(a) The terms of all members of the clean energy development board under 10 V.S.A. § 6523 appointed prior to the effective date of this section shall expire on September 30, 2011.

(b) No later than August 31, 2011, the appointing authorities under Sec. 12 of this act, 10 V.S.A. § 6523(e)(4), shall appoint the members of the clean energy development board created by Sec. 12, 10 V.S.A. § 6523(e)(3). The terms of the members so appointed shall commence on October 1, 2011. The appointing authorities may appoint members of the clean energy development board as it existed prior to the effective date of this section. 10 V.S.A. § 6523(e)(3)(B) (board members; prohibition; financial benefits) shall apply only to members of the clean energy development board appointed to terms commencing on and after October 1, 2011.

~~*(c) With respect to the clean energy development fund established under 10 V.S.A. § 6523, as of October 1, 2011:*~~

(1) The department of public service shall be the successor to the clean energy development board as it existed on September 30, 2011, and any legal obligations incurred by the clean energy development board as of September 30, 2011 shall become legal obligations of the department of public service.

(2) The clean energy development board shall exercise prospectively such functions and authority as this act confers on that board.

Sec. 14. 10 V.S.A. § 6524 is amended to read:

§ 6524. ARRA ENERGY MONEYS

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

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

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

Sec. 15. CLEAN ENERGY SUPPORT CHARGE

(a) Each Vermont retail electricity provider as defined in 30 V.S.A. § 8002(9) shall assess on each customer for a period of 12 months commencing with the provider's August 2011 billing cycle a clean energy support charge of $0.55 per month.

(b) For the purpose of this section, "customer" shall mean a meter that measures the flow of electricity from the provider to a consumer. If a person consumes electricity that flows through more than one meter, each meter shall be assessed the charge under subsection (a) of this section.

(c) At the end of each monthly billing cycle during the period described in subsection (a) of this section, a Vermont retail electricity provider shall

transmit to the clean energy development fund the total amount of the clean energy support charge assessed to the provider's customers during the immediately preceding monthly billing cycle.

(d) The amount of the clean energy support charge shall be part of the total payment due on the customer's electric bill during the period described in subsection (a) of this section and shall be subject to the deposit and disconnection rules of the board.

Sec. 16. NOTICE

A Vermont retail electricity provider within the meaning of 30 V.S.A. § 8002(9) during its July 2011 billing cycle shall provide notice to its customers, in a form directed by the commissioner of public service, of the clean energy support charge under Sec. 15 of this act.

Sec. 17. RECODIFICATION; REDESIGNATION

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

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

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

Subchapter 1. General Provisions

(2) §§ 8015–8016 shall be within subchapter 2 and designated to read:

Subchapter 2. Clean Energy Development Fund

(c) In 30 V.S.A. § 8015(a)(1)(B) (clean energy support charge), the office of legislative council shall revise "Sec. 15 of this act" to refer to Sec. 15 of the act number of this session assigned to this act on passage.

Secs. 12–17. [Deleted.]

Sec. 18. STATUTORY REVISION

In all provisions of 30 V.S.A. chapter 89, except 30 V.S.A. § 8002(10) and (16)–(20), the office of legislative council shall substitute "board" for "public service board," "department" for "department of public service," "kW" for "kilowatt" or "kilowatts (AC)," "kWh" for "kilowatt hours," and "MW" for "megawatt" or "megawatts."

** * * Property Assessed Clean Energy * * **

Sec. 18a. 24 V.S.A. § 3255 is amended to read:

§ 3255. COLLECTION OF ASSESSMENTS; LIENS

(a) Special assessments under this chapter shall constitute a lien on the property against which the assessment is made in the same manner and to the same extent as taxes assessed on the grand list of a municipality, and all procedures and remedies for the collection of taxes shall apply to special assessments.

(b) Notwithstanding subsection (a) of this section, a lien for an assessment under subchapter 2 of this chapter shall be subordinate to all liens on the property in existence at the time the lien for the assessment is filed on the land records, shall be subordinate to a first mortgage on the property recorded after such filing, and shall be superior to any other lien on the property recorded after such filing. In no way shall this subsection affect the status or priority of any municipal lien other than a lien for an assessment under subchapter 2 of this chapter.

Sec. 18b. REDESIGNATION

24 V.S.A. chapter 87, subchapter 2 is redesignated to read:

Subchapter 2. Property-Assessed Clean Energy ~~Assessments~~

Sec. 18c. 24 V.S.A. § 3261 is amended to read:

§ 3261. PROPERTY-ASSESSED CLEAN ENERGY ~~ASSESSMENT~~ DISTRICTS; APPROVAL OF VOTERS

(a)(1) In this subchapter, "district" means a property-assessed clean energy district.

(2) The legislative body of a town, city, or incorporated village may submit to the voters of the municipality the question of whether to designate the municipality as a property-assessed clean energy ~~assessment~~ district. In a ~~clean energy assessment~~ district, only those property owners who have entered into written agreements with the municipality under section 3262 of this title would be subject to a special assessment, as set forth in section 3255 of this title.

(b) Upon a vote of approval by a majority of the qualified voters of the municipality voting at an annual or special meeting duly warned for that purpose, the municipality may incur indebtedness for or otherwise finance projects relating to renewable energy, as defined in 30 V.S.A. § 8002(2), or to eligible projects relating to energy efficiency as defined by section 3267 of this title, undertaken by owners of ~~real property~~ dwellings, as defined in Section 103(v) of the federal Truth in Lending Act, within the boundaries of the town, city, or incorporated village.

Sec. 18d. 24 V.S.A. § 3262 is amended to read:

§ 3262. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS; ENERGY SAVINGS ANALYSIS

(a) Upon an affirmative vote made pursuant to section 3261 of this title and the performance of an energy savings analysis pursuant to subsection (b) of this section, an owner of ~~real property~~ a dwelling, as defined in Section 103(v) of the federal Truth in Lending Act, within the boundaries of a ~~clean energy assessment~~ district may enter into a written agreement with the municipality that shall constitute the owner's consent to be subject to a special assessment, as set forth in section 3255 of this title. Entry into such an agreement may occur only after January 1, 2012. A participating municipality shall follow underwriting criteria~~, consistent with responsible underwriting and credit standards as~~ established by the department of banking, insurance, securities, and health care administration, and shall establish other qualifying criteria to provide an adequate level of assurance that property owners will have the ability to meet assessment payment obligations. A participating municipality shall refuse to enter into a written agreement with a property owner who fails to meet the underwriting or other qualifying criteria.

* * *

(c) A written agreement shall provide that:

* * *

(2) ~~At~~ Notwithstanding any other provision of law:

(A) At the time of a transfer of property ownership ~~excepting~~ including foreclosure, the past due balances of any special assessment under this subchapter shall be due for payment, but future payments shall continue as a lien on the property.

(B) In the event of a foreclosure action, the past due balances described in subdivision (A) of this subdivision (2) shall include all payments on an assessment under this subchapter that are due and unpaid as of the date the action is filed, and all payments on the assessment that become due after that date and that accrue up to and including the date title to the property is transferred to the mortgage holder, the lien holder, or a third party in the foreclosure action. The person or entity acquiring title to the property in the foreclosure action shall be responsible for payments on the assessment that become due after the date of such acquisition.

(3) A participating municipality shall disclose to participating property owners ~~the~~ each of the following:

(A) The risks associated with participating in the program, including risks related to the failure of participating property owners to make payments and the risk of foreclosure.

(B) The provisions of subsection (h) of this section that pertain to prepayment of the assessment.

(d) A written agreement or notice of such agreement and the analysis performed pursuant to subsection (b) of this section shall be filed with the clerk of the applicable municipality for recording in the land records of ~~the~~ that municipality and shall be disclosed to potential buyers prior to transfer of property ~~of~~ ownership. Personal financial information provided to a municipality by a participating property owner or potential participating property owner shall not be subject to disclosure as set forth in 1 V.S.A. § 317(c)(7). If a notice of agreement is filed instead of the full written agreement, the notice shall attach the analysis performed pursuant to subsection (b) of this section and shall include at least each of the following:

(1) The name of the property owner as grantor.

(2) The name of the municipality as grantee.

(3) The date of the agreement.

(4) A legal description of the real property against which the assessment is made pursuant to the agreement.

(5) The amount of the assessment and the period during which the assessment will be made on the property.

(6) A statement that the assessment will remain a lien on the property until paid in full or released.

(7) The location at which the original or a true, legible copy of the agreement may be examined.

* * *

(g) ~~In the case of~~ With respect to an agreement ~~with the resident owner of a dwelling, as defined in Section 103(v) of the federal Truth in Lending Act~~ under this section:

(1) the assessments to be repaid under the agreement, when calculated as if they were the repayment of a loan, shall not violate ~~chapter 4 of Title 9~~ 9 V.S.A. §§ 41a, 43, 44, and 46–50.

(2) the maximum length of time for the owner to repay the ~~loan~~ assessment shall not exceed 20 years; and

(3) the maximum amount to be repaid for the project, including the participating property owner's contribution to the reserve fund under subsection 3269(c) of this title, shall not exceed $30,000.00 or 15 percent of the assessed value of the property, whichever is less.

(h) There shall be no penalty or premium for prepayment of the outstanding balance of an assessment under this subchapter if the balance is prepaid in full.

Sec. 18e. 24 V.S.A. § 3267 is amended to read:

§ 3267. ELIGIBLE ENERGY EFFICIENCY PROJECTS; ASSISTANCE TO MUNICIPALITIES

Those entities appointed as energy efficiency utilities under 30 V.S.A. § 209(d) ~~shall~~:

(1) Shall develop a list of eligible energy efficiency projects and shall make the list available to the public on or before July 1 of each year; and

(2) Shall provide information concerning implementation of this subchapter to each municipality, within the area in which the entity delivers efficiency services, that requests such information, and shall contact each such municipality that votes to establish a district to offer this information.

Sec. 18f. 24 V.S.A. § 3268 is amended to read:

§ 3268. RELEASE OF LIEN

(a) A municipality shall release a participating property owner of the lien on the property against which the assessment under this subchapter is made upon~~:~~

~~(1) Full~~ full payment of the value of the assessment~~; or~~

~~(2) Demand from a party who has filed an action for foreclosure on a participating property~~.

(b) ~~If a municipality releases a participating property owner of a lien upon demand from a party who has filed an action for foreclosure and the participating property owner redeems the property, the municipality shall reinstate the lien on the property against which the assessment under this subchapter is made.~~

~~(c)~~ Notice of ~~the~~ a release ~~or reinstatement~~ of ~~the~~ a lien for an assessment under this subchapter shall be filed with the clerk of the applicable municipality for recording in the land records of ~~the~~ that municipality.

Sec. 18g. 24 V.S.A. § 3269 is amended to read:

§ 3269. RESERVE FUND

(a) A ~~participating municipality may create a~~ reserve fund is created for use in paying the past due balances of an assessment under this subchapter in the event ~~of~~ that there is a foreclosure upon ~~an assessed~~ the property subject to the assessment and the proceeds resulting from the foreclosure are, after all superior liens have been satisfied, insufficient to pay those past due balances. The reserve fund shall comply with the provisions of subsections (b) through (e) of this section and shall be administered by and in the custody of the entity described in subsection (f) of this section. Each municipality that establishes a district under this subchapter shall participate in the reserve fund created by this subsection.

(b) The reserve fund shall be funded by participating property owners at a level sufficient to provide for the payment of ~~any~~ past due balances ~~on assessments under this subchapter and any remaining principal balances on those assessments~~ described in subdivision 3262(c)(2) of this title in the event of a foreclosure upon a participating property and the costs of administering the reserve fund and shall only be used to provide for such payment and administration.

(c) The contribution of each participating property owner to the reserve fund shall be included in the special assessment applicable to the property and shall be subject to section 3255 of this title. From time to time, the commissioner of banking, insurance, securities, and health care administration shall determine the appropriate contribution to the fund in accordance with subsection (d) of this section. A determination by the commissioner under this subsection shall apply to the reserve fund contribution for an assessment concerning which a written agreement under section 3262 is signed after the date of the commissioner's determination and shall not affect the reserve fund contribution for an assessment concerning which such an agreement was signed on or before the date of the commissioner's determination.

~~(b)~~(d) The reserve fund shall be capitalized in accordance with standards and procedures approved by the commissioner of banking, insurance, securities, and health care administration to cover expected foreclosures and fund administration costs based on good lending practice experience. Interest earned shall remain in the fund. The administrator of the reserve fund shall invest and reinvest the moneys in the fund and hold, purchase, sell, assign, transfer, and dispose of the investments in accordance with the standard of care established by the prudent investor rule under chapter 147 of Title 9. The administrator shall apply the same investment objectives and policies adopted by the Vermont state employees' retirement system, where appropriate, to the investment of moneys in the fund.

~~(c)~~(e) The municipality shall disclose in advance to each interested property owner the amount of that property owner's required payment into the

reserve fund. Once disclosed, the amount of the reserve fund payment shall not change over the life of the assessment.

(f) An entity appointed under 30 V.S.A. § 209(d)(2) to deliver energy efficiency programs to multiple service territories shall administer the reserve fund created under subdivision (a)(1) of this section.

(1) The entity's costs of administering the reserve fund shall be considered costs of operating the districts under section 3263 of this title.

(2) In the event of foreclosure on a property that is subject to a special assessment and is in a district that participates in the reserve fund administered by the entity, the entity's obligation shall be to disburse, at the direction of the municipality, moneys from the reserve fund to apply to the past due balances of the assessment. In no event shall other moneys received or held by the entity be available to meet this obligation or the payment of balances on an assessment.

(3) The entity shall keep an accurate account of all activities and receipts and expenditures under this subsection. An independent audit of the reserve fund shall be conducted annually. The cost of such an audit shall be considered a cost of administering the reserve fund. Where feasible, the entity shall cause this audit to be conducted in conjunction with other independent audits of its accounts, receipts, and expenditures. An audit conducted under this subdivision shall be available, on request, to the auditor of accounts and the commissioners of banking, insurance, securities, and health care administration and of public service.

Sec. 18h. 24 V.S.A. § 3270 is added to read:

§ 3270. STATE PACE RESERVE FUND

(a) The state PACE reserve fund is established to be held in the custody of and administered by the state treasurer. The purpose of the state PACE reserve fund shall be to reduce, for those districts for which the entity described in subsection 3269(f) of this title administers the loss reserve fund, the risk faced by an investor making an agreement with a municipality to finance such a district.

(b) The treasurer may invest monies in the fund in accordance with 32 V.S.A. § 434. All balances in the fund at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the fund. The treasurer's annual financial report to the general assembly under 32 V.S.A. § 434 shall contain an accounting of receipts, disbursements, and earnings of the fund.

(c) At the direction of the treasurer, a sum shall be transferred to the fund from moneys deposited into the energy efficiency fund pursuant to 30 V.S.A.

§ 209(d)(7) (net capacity savings payments) and (8) (net revenues from the sale of carbon credits).

(1)(A) For a given year, the sum transferred under this subsection shall be:

(i) Five percent of the total amount of those assessments concerning which owners of real property, in the districts described in subsection (a) of this section, are expected to enter into written agreements pursuant to section 3262 of this title during the year; and

(ii) Such additional amount, if any, that is necessary to meet the full amount of payments reasonably expected to be made from the state PACE reserve fund during that year.

(B) In no event shall the sum transferred under this subsection exceed the limits on the total amount of funding from the state PACE reserve fund set forth under subsection (f) of this section.

(2) When directing a transfer under this subsection, the treasurer shall notify the commissioners of finance and management and of public service, the chair of the public service board, and the entity described in subsection 3269(f) of this title. Monies shall not be disbursed from the state PACE reserve fund until necessary resources are transferred to the fund.

(d) Moneys deposited to the state PACE reserve fund and any interest on moneys in that fund shall be used for the sole purpose of paying claims as described in subsections (e) and (f) of this section. In no event shall any moneys received or held by the state of Vermont, other than moneys deposited into the state PACE reserve fund or interest on moneys in that fund, be available to meet this obligation or the payment of a remaining past due balance or any other obligation under this subchapter.

(e) In this section, "remaining past due balance" means that amount, if any, of a past due balance on an assessment under this subchapter that exists:

(1) Immediately following foreclosure on a property in a district that participates in the loss reserve fund administered by the entity described in subsection 3269(f) of this title; and

(2) After the application, to the past due balances of the assessment on that property, of the proceeds available from the foreclosure, net of superior liens, and of the assets of that loss reserve fund.

(f) The obligation of the state PACE reserve fund shall be to fund 90 percent of a remaining past due balance, upon presentation of a claim and application acceptable to the treasurer and the entity described in subsection

3269(f) of this title, provided that the total amount of all such funding from the state PACE reserve fund shall not exceed the smallest of the following:

(1) $1,000,000.00.

(2) The funds available pursuant to subsection (d) of this section.

(3) Five percent of the total of all assessments under this subchapter in the districts that participate in the loss reserve fund administered by the entity described in subsection 3269(f) of this title.

Sec. 18i. 24 V.S.A. § 3271 is added to read:

§ 3271. MONITORING; COMPLIANCE; UNDERWRITING CRITERIA

The department of public service created under 30 V.S.A. § 1 shall monitor and evaluate, for compliance with the underwriting criteria, standards, and procedures established under subsections 3262(a) (underwriting criteria for assessments) and 3269(c) and (d) (underwriting standards and procedures; loss reserve fund) of this title, all activities to which those criteria, standards, and procedures apply that are undertaken by an entity appointed under 30 V.S.A. § 209(d)(2) to deliver energy efficiency programs. The department shall consult with the department of banking, insurance, securities, and health care administration in performing these tasks. The department of public service may combine its tasks under this section with monitoring and evaluation of an energy efficiency entity conducted pursuant to 30 V.S.A. § 209(d) or (e).

Sec. 18j. UNDERWRITING CRITERIA; ADOPTION

On or before December 31, 2011, the commissioner of banking, insurance, securities, and health care administration shall adopt criteria and standards pursuant to Sec. 18d of this act, 24 V.S.A. § 3262(a), and determine the participating property owner's contribution to the loss reserve fund and adopt standards and procedures pursuant to Sec. 18g of this act, 24 V.S.A. § 3269(c) and (d). Prior to adoption, the commissioner of banking, insurance, securities, and health care administration shall consult with the commissioner of public service concerning the development of such criteria, standards, and procedures.

** * * Heating Oil; Low Sulfur; Biodiesel * * **

Sec. 19. 10 V.S.A. § 585 is added to read:

§ 585. HEATING OIL CONTENT; SULFUR, BIODIESEL

(a) Definitions.

(1) In this section, "heating oil" means No. 2 distillate that meets the specifications or quality certification standard for use in residential,

commercial, or industrial heating applications established by the American Society for Testing and Materials (ASTM).

(2) "Biodiesel" means monoalkyl esters derived from plant or animal matter which meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. § 7545), and the requirements of ASTM D6751-10.

(b) Sulfur content. Unless a requirement of this subsection is waived pursuant to subsection (e) of this section:

(1) On or before July 1, 2014, all heating oil sold within the state for residential, commercial, or industrial uses, including space and water heating, shall have a sulfur content of 500 parts per million or less.

(2) On or before July 1, 2018, all heating oil sold within the state for residential, commercial, or industrial uses, including space and water heating, shall have a sulfur content of 15 parts per million or less.

(c) Biodiesel content. Unless a requirement of this subsection is waived pursuant to subsection (e) of this section, all heating oil sold within the state for residential, commercial, or industrial uses, including space and water heating, by volume shall:

(1) On or before July 1, 2012, contain at least three percent biodiesel.

(2) On or before July 1, 2015, contain at least five percent biodiesel.

(3) On or before July 1, 2016, contain at least seven percent biodiesel.

(d) Blending; certification. In the case of biodiesel and heating oil that has been blended by a dealer or seller of heating oil, the secretary may allow the dealer or seller to demonstrate compliance with this section by providing documentation that the content of the blended fuel in each delivery load meets the requirements of this section.

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

(f) The secretary may adopt rules to implement this section. This section does not limit any authority of the secretary to control the sulfur or biodiesel content of distillate or residual oils that do not constitute heating oil as defined in this section.

** * * Propane Regulation * * **

Sec. 19a. 9 V.S.A. § 2461b is amended to read:

§ 2461b. REGULATION OF ~~LIQUIFIED PETROLEUM GAS~~ PROPANE

(a)(1) In this section:

(A) "Consumer" means any person who purchases propane for consumption and not for resale, through a meter or has propane delivered to one or more storage tanks of 2000 gallons or less.

(B) "Seller" means a person who sells or offers to sell propane to a consumer.

(2) The attorney general shall investigate irregularities, complaints, and unfair or deceptive acts in commerce by sellers ~~of liquefied petroleum gas~~.

(b) For the purpose of promoting business practices which are uniformly fair to sellers and which protect consumers, the attorney general shall promulgate necessary rules and regulations, including~~, but not limited to,~~ notice prior to disconnection, repayment agreements, minimum delivery, discrimination, security deposits and the assessment of fees and charges.

(c)(1) A violation of this section, or a rule or regulation promulgated under this section not inconsistent with this section, shall constitute an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) No contract for propane services shall contain any provision which conflicts with the obligations and remedies established by this section or by any rule or regulation promulgated under this section, and any conflicting provision shall be unenforceable and void.

(d) A seller shall not:

(1) assess a minimum usage fee;

(2) assess a fee for propane that is not actually delivered to a consumer; or

(3) require a consumer to purchase a minimum number of gallons of propane per year, except as part of a guaranteed price plan that meets the requirements of section 2461e of this title.

(e) When terminating service to a consumer, a seller shall comply with the following requirements.

(1)(A) If the propane storage tank has been located on the consumer's premises, regardless of ownership of the premises, for 12 months or more, the seller may not assess a fee related to termination of propane service, including a fee

(i) to remove the seller's storage tank from the premises;

(ii) to pump out or restock propane; or

(iii) to terminate service.

(B) If a consumer has received propane service from the seller for less than 12 months, any fee related to termination of service may not exceed the disclosed price of labor and materials.

(2)(A) Within 20 days of the date when the seller disconnects propane service or is notified by the consumer in writing that service has been disconnected, whichever is earlier, the seller shall refund to the consumer the amount paid by the consumer for any propane remaining in the storage tank, less any payments due the seller from the consumer.

(B) If the quantity of propane remaining in the storage tank cannot be determined with certainty, the seller shall, within the 20 days described in subdivision (2)(A) of this subsection, refund to the consumer the amount paid by the consumer for 80 percent of the seller's best reasonable estimate of the quantity of propane remaining in the tank, less any payments due from the consumer. The seller shall refund the remainder of the amount due as soon as the quantity of propane left in the tank can be determined with certainty, but no later than 14 days after the removal of the tank or restocking of the tank at the time of reconnection.

(3)(A) Any refund to the consumer shall be by cash, check, direct deposit, credit to a credit card account, or in the same method or manner of payment that the consumer, or a third party on the consumer's behalf, used to make payments to the seller.

(B) Unless requested by the consumer, a seller shall not provide a refund in the form of a reimbursement or credit to any account with the seller.

(4) If the seller fails to mail or deliver a refund to the consumer in accordance with this subsection, the seller shall within one business day make a penalty payment to the consumer, in addition to the refund, of $250.00 on the first day after the refund was due, and $75.00 per day for each day thereafter until the refund and penalty payment have been mailed or delivered.

(5) Termination of service does not void any guaranteed price plan that meets the requirements of section 2461e of this title that has not expired by its own terms.

(f)(1) A seller of propane shall not refuse to deliver propane to a storage tank owned by a consumer if the consumer provides proof of ownership of the tank and the seller has conducted a safety check of the tank in accordance with NFPA 54 (National Fuel Gas Code) and NFPA 58 (Storage and Handling of Liquefied Petroleum Gas Code) of the National Fire Protection Association and complies with rules adopted by the attorney general governing propane.

(2) If a seller of propane chooses to finance a consumer's purchase of a storage tank, the financing shall be a retail installment sale as provided in chapter 61 of this title.

(g) Nonpayment of the following charges may be the only basis for an interruption or disconnection of service: propane, leak or pressure test, safety check, restart of equipment, after-hours delivery, special trip for delivery, and meter read.

** * * Report; Payment of Utility Bills by Credit or Debit Card * * **

Sec. 20. UTILITY BILL PAYMENT; CREDIT OR DEBIT CARD; REPORT

On or before January 15, 2012, the public service board shall submit to the general assembly a report on whether, in the board's opinion, it is in the public interest for the cost of service of a company subject to the board's jurisdiction under 30 V.S.A. § 203 to include fees and expenses incurred by the company in accepting payments from customers of retail charges by credit or debit card. ~~In its report, the board shall consider and discuss the advantages and disadvantages of including these fees and expenses in a company's cost of service, including the extent to which allowing inclusion of such fees and expenses may avoid or reduce costs that would otherwise be incurred by the company, shall quantify on a statewide basis the expected cost impacts of allowing such inclusion, and shall attach a draft statute or statutory amendment that would authorize such inclusion~~. In its report, the board shall consider and discuss the advantages and disadvantages of including these fees and expenses in a company's cost of service, including the extent to which allowing inclusion of such fees and expenses may avoid or reduce costs that would otherwise be incurred by the company; shall quantify on a statewide basis the expected cost impacts of requiring all ratepayers to bear the cost of these fees and expenses, including the amount, if any, of cross-subsidy that would occur from customers who do not pay utility bills by credit or debit card to customers who do pay utility bills by credit or debit card; and shall propose a draft statute or a statutory amendment to effect the board's recommendation.

Sec. 20. UTILITY BILL PAYMENT; CREDIT OR DEBIT CARD; REPORT

On or before January 15, 2012, the commissioner of public service shall submit to the general assembly a report on whether, in the commissioner's opinion, it is in the public interest for the cost of service of a company subject to jurisdiction under 30 V.S.A. § 203 to include fees and expenses incurred by the company in accepting payments from customers of retail charges by credit or debit card. In the report, the commissioner shall consider and discuss the advantages and disadvantages of including these fees and expenses in a company's cost of service, including the extent to which allowing inclusion of

such fees and expenses may avoid or reduce costs that would otherwise be incurred by the company; shall quantify on a statewide basis the expected cost impacts of requiring all ratepayers to bear the cost of these fees and expenses, including the amount, if any, of cross-subsidy that would occur from customers who do not pay utility bills by credit or debit card to customers who do pay utility bills by credit or debit card; and shall propose a draft statute or a statutory amendment to effect the commissioner's recommendation.

** * * Woody Biomass Heating; Energy Efficiency * * **

Sec. 20a. FINDINGS; INTENT; WOODY BIOMASS HEATING

(a) The general assembly finds that:

(1) Installation of woody biomass heating systems will provide multiple benefits to Vermont homes, businesses, and the Vermont economy.

(2) These benefits will include reducing Vermont's dependence on foreign oil and other fossil fuels, supporting locally harvested fuel resources, reducing emissions of greenhouse gases, and supporting local biomass equipment and fuel manufacturers and distributors.

(3) These benefits also will include the retention and potential expansion of significant in-state economic resources that would otherwise flow out of the state and the nation.

(b) The general assembly intends to clarify that an energy efficiency entity appointed pursuant to 30 V.S.A. § 209(d)(2) that delivers energy efficiency services to heating and fuel process consumers in Vermont is fully authorized to offer incentives for installation of woody biomass heating systems in a manner that promotes deployment of such systems.

Sec. 20b. 30 V.S.A. § 209(d)(7) and (8) are amended to read:

(7) Net revenues above costs associated with payments from the New England Independent System Operator (ISO-NE) for capacity savings resulting from the activities of the energy efficiency utility designated under subdivision (2) of this subsection shall be deposited into the electric efficiency fund established by this section ~~and~~. Any such net revenues not transferred to the state PACE reserve fund under 24 V.S.A. § 3270(c) shall be used by the entity appointed under subdivision (2) of this subsection to deliver ~~fossil fuel~~ heating and process-fuel energy efficiency services to Vermont ~~heating and process fuel~~ consumers of such fuel on a whole-buildings basis to help meet the state's building efficiency goals established by 10 V.S.A. § 581. In delivering such services with respect to heating systems, the entity shall give priority to incentives for the installation of woody biomass heating systems and shall have a goal of offering an incentive that is equal to 25 percent of the installed cost of such a system. For the purpose of this subdivision (7),

"woody biomass" means organic nonfossil material from trees or woody plants constituting a source of renewable energy within the meaning of subdivision 8002(2) of this title. Provision of an incentive under this subdivision (7) for a woody biomass heating system shall not be contingent on the making of other energy efficiency improvements at the property on which the system will be installed.

(8) Effective January 1, 2010, such net revenues above costs from the sale of carbon credits under the cap and trade program as provided for in section 255 of this title shall be deposited into the electric efficiency fund established by this section. Such revenues shall be used by the entity appointed under subdivision (2) of this subsection to support delivery of the services described in subdivision (7) of this subsection.

Sec. 20c. 30 V.S.A. § 255 is amended to read:

§ 255. REGIONAL COORDINATION TO REDUCE GREENHOUSE GASES

** * **

(d) Appointment of consumer trustees. The public service board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial resources to manage a portfolio of carbon credits for the long-term benefit of Vermont energy consumers. Fifty percent of the net proceeds above costs from the sale of carbon credits shall be deposited into the fuel efficiency fund established under section 203a of this title. These funds shall be used to provide expanded fossil fuel energy efficiency services to residential consumers who have incomes up to and including 80 percent of the median income in the state. The remaining 50 percent of the net proceeds above costs shall be deposited into the electric efficiency fund established under subdivision 209(d)(3) of this title. These funds shall be used by the entity or entities appointed under subdivision 209(d)(2) of this title to help meet the building efficiency goals established under 10 V.S.A. § 581 by delivering ~~fossil fuel~~ heating and process-fuel energy efficiency services to Vermont ~~heating and process fuel~~ consumers who use such fuel and are businesses or are residential consumers whose incomes exceed 80 percent of the median income in the state.

** * * Building Energy Disclosure; Working Group * * **

Sec. 20d. WORKING GROUP ON BUILDING ENERGY DISCLOSURE

(a) Creation of working group. There is created a working group on building energy disclosure to study whether and how to require disclosure of the energy efficiency of commercial and residential buildings in order to make data on building energy performance visible in the marketplace for real property and inform the choices of those who may purchase or rent such property.

(b) Membership. The building energy disclosure working group (the working group) shall be composed of the following members:

(1) A member of the senate appointed by the committee on committees.

(2) A member of the house appointed by the speaker of the house.

(3) The commissioner of public service or designee.

(4) The secretary of commerce and community development or designee.

(5) A real estate broker licensed in Vermont appointed by the governor from a list of three names recommended by the Vermont association of realtors.

(6) A representative of an entity appointed pursuant to 30 V.S.A. § 209(d)(2) to deliver energy efficiency services to multiple utility service territories, designated by the entity.

(7) A real estate appraiser licensed in Vermont appointed by the governor.

(8) A building construction contractor appointed by the governor.

(9) A representative of the Vermont homebuilders and remodelers association designated by the association.

(10) A person who is an accredited provider of energy rating services under the process adopted by the department of public service pursuant to 21 V.S.A. § 267, appointed by the governor.

(11) A person with expertise in energy policy appointed by the governor.

(12) A person who is an active member of a local energy committee that is part of the Vermont energy and climate action network, appointed by the governor from a list of three names recommended by that network.

(13) A representative of a financial institution appointed by the governor from a list of three names submitted by the Vermont bankers association and the association of Vermont credit unions.

(14) A representative of the Vermont housing finance agency designated by the agency.

(15) A member of the Vermont Bar Association with experience in the conveyance of real property designated by the association.

(16) A representative of the heating service industry designated by the Vermont Fuel Dealers Association.

(c) Structure; decision-making. The working group shall elect two co-chairs from its membership, one of whom shall be a legislative member. The provisions of 1 V.S.A. § 172 (joint authority to three or more) shall apply to the meetings and decision-making of the working group.

(d) Issues. The working group shall consider the following:

(1) Whether there should be requirements to disclose building energy performance, that is, to disclose the energy use of buildings in a standardized manner that allows comparison and assessment of energy use among multiple buildings.

(2) Requirements for disclosure of building energy performance that have been adopted in other jurisdictions and model codes or statutes that have been published relating to such disclosure.

(3) If requirements to disclose building energy performance as described in subdivision (1) of this subsection were to be adopted:

(A) To whom should such disclosure be made (e.g., prospective buyers, prospective renters, the general public, the state).

(B) When such disclosure, if any, should be required (e.g., time of offer for sale, execution of contract for sale, at regular intervals).

(C) Which properties, if any, should be exempt from such requirements.

(D) For which markets (e.g., residential property, commercial property, purchase of property, rental of property) such disclosure, if any, should be required, and whether there should be a phase-in of any requirements for disclosure.

(E) What type or types of building energy ratings and audits should be employed.

(F) Whether the state should subsidize the cost of energy audits (e.g., for low income housing) and what sources of funding would be used to support the subsidy.

(4) Any other issue relevant to the question of disclosing building energy performance as described in subdivision (1) of this subsection.

(e) Report. On or before December 15, 2011, the working group shall submit to the general assembly its recommendation on whether the state of Vermont should adopt requirements on disclosure of building energy performance and recommended legislation on such disclosure if the general assembly were to choose to adopt such requirements.

(f) Assistance. For the purpose of its study of the issues identified in subsection (d) of this section and the preparation of its recommendation pursuant to subsection (e) of this section on whether the state should adopt requirements on building energy performance, the working group shall have the administrative, technical, and legal assistance of the department of public service and of the agency of commerce and community development. For the purpose of scheduling meetings and preparing its recommended legislation pursuant to subsection (e) of this section, the working group shall have the assistance of the office of legislative council.

(g) Meetings; term of working group; reimbursement. The working group may meet no more than four times during adjournment of the general assembly, and shall cease to exist on July 1, 2012.

(h) Reimbursement. For attendance at meetings during adjournment of the general assembly, legislative members of the working group shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the working group who are not employees of the state of Vermont and whose participation is not supported by their employment or association shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010. The costs of reimbursement of members of the working group who are not legislative members shall be allocated among the budgets of the department of public service and the agency of commerce and community development.

(i) Appointments. Within 30 days of this section's effective date, each entity required to submit a list of names to the governor pursuant to subsection (b) of this section shall make such submission. Within 60 days of this section's effective date, the appointing or designating authority shall appoint or designate each member of the working group under subsection (b) of this section and shall report the member so appointed or designated to the office of legislative council.

** * * Energy Planning * * **

Sec. 20e. ENERGY PLAN

(a) The general assembly finds that the department of public service is presently in the process of updating the electrical energy and comprehensive energy plans issued pursuant to 30 V.S.A. §§ 202 and 202b, with an intent to reissue such plans in October 2011.

(b) In the first update immediately following the effective date of this section by the department of public service of the plans described in subsection (a) of this section, the department shall consider each of the following:

(1) After considering the report of the public service board required by Sec. 13 of No. 159 of the Acts of the 2009 Adj. Sess. (2010), whether the best interests of the state are served by implementing a renewable portfolio standard (RPS) or by continued use and potential expansion of the Sustainably Priced Energy Enterprise Development (SPEED) Program under 30 V.S.A. § 8005; whether, should an RPS come into effect in the state, energy efficiency should be a resource that could be used to satisfy an RPS; and whether there should be tiers of resources used to satisfy an RPS based on the characteristics and qualities of the resources, such as the environmental impacts of their procurement, siting, or use. In the event that, due to the timing of the public service board's report, the department is unable to consider the matters in this subdivision (1) in the energy plan it intends to issue in October 2011, the department may propose any relevant recommendations in an addendum to the energy plan issued on or before January 15, 2012.

(2) The relationship of energy use and land use, including land devoted now or in the future to cultivating biomass energy resources and the interrelationship among modes of transportation (such as single-occupancy or low efficiency vehicles), energy consumption, and settlement patterns.

(3) The work of the agency of agriculture, food and markets on 25 x 25, which may include:

(A) The cultivation of land for biomass energy resources in a manner that is carbon-neutral or carbon-negative, that is, a net reduction in carbon emissions over the life cycle of the cultivation, harvesting, and use of such resources.

(B) The use of buffer zones on properties to counter the carbon impacts of fossil fuel use or to cultivate land for biomass energy resources and on potential incentives to encourage landowners to set aside such buffer zones.

(C) The use of grass as a source of energy.

(D) Energy end uses of biomass in the state, including residential heating and transportation.

(4) The appropriate energy conversion efficiency requirements that should be applicable to woody biomass energy plants, with particular emphasis on encouraging woody biomass for combined heat and power applications.

(5) The potential development of a land capability map for the purpose of guiding and accomplishing coordinated, efficient, and environmentally and economically sound development of renewable energy plants in the state, including particularly wind and woody biomass energy generation plants and any recommendations concerning the siting of wind energy plants to assure adequate protection of ridgeline environments.

(6) Obtaining additional funds from available sources to be used within the clean energy development fund (CEDF) established under 10 V.S.A. § 6523 to establish one or more revolving loan funds to support the purposes of the CEDF and of increasing the use of existing CEDF moneys to support such revolving loan funds.

(7) Citizen participation in decision-making on energy generation projects, including mechanisms in other states for so-called "intervenor funding" with respect to participation in permit processes for proposed electric generation plants and of the advantages and disadvantages of adopting in Vermont a system for funding intervenor participation in permit processes for such plants.

(8) Mechanisms to assure that electric energy consumers receive the benefits of so-called "smart grid" technology, also known as advanced metering infrastructure, taking into consideration the reports and orders previously issued by the public service board on such technology.

(9) The residential building and commercial building energy standards required to be adopted pursuant to 21 V.S.A. §§ 266 and 268, including their adequacy in advancing the efficient use of energy and in reducing carbon impacts, including consideration of incentives or other means to encourage energy-efficient upgrades of rental property.

(10) Measures to control or mitigate the effects of fuel price volatility on Vermonters, including heating, process, and transportation fuel, including the role of entities appointed pursuant to Title 30 to deliver energy efficiency services to heating and process-fuel consumers and to consumers of electric energy.

(11) Development of a timeline for full implementation of the recommendations issued in October 2007 by the Governor's Commission on Climate Change pursuant to executive order no. 10-33 dated December 5, 2005.

(c) In making any recommendations concerning woody biomass, the department of public service shall consider the 2011 interim report of the biomass energy development working group filed pursuant to No. 37 of the Acts of 2009.

(d) In this section:

(1) "Biomass" means organic nonfossil material of biological origin constituting a source of renewable energy.

(2) "Renewable energy" shall have the same meaning as under 30 V.S.A. § 8002(2).

** * * Energy Efficiency; Street Lighting * * **

Sec. 20f. 30 V.S.A. § 218(g) is added to read:

(g) Each company subject to the public service board's jurisdiction that distributes electrical energy shall have in place a rate schedule for street lighting that provides an option under which efficient streetlights, including light-emitting diode (LED) lights, are installed on company-owned fixtures. These rate schedules also shall include a separate option under which customers may own street lighting and install efficient streetlights, including LED lights, on customer-owned fixtures.

Sec. 20g. RATE SCHEDULES; STREET LIGHTING; IMPLEMENTATION

No later than 60 days after the effective date of this section, each company subject to the public service board's jurisdiction that distributes electrical energy shall file with the public service board a proposed modification to its rate schedules that complies with Sec. 20f of this act, 30 V.S.A. § 218(g). However, a company shall not be required to file such a proposed modification if its rate schedules, as of the date on which such filing is due, include an approved street lighting rate schedule that complies with Sec. 20f of this act, 30 V.S.A. § 218(g).

** * * Clean Energy Development Fund; Solar Tax Credits * * **

Sec. 20h. 32 V.S.A. § 5930z is amended to read:

§ 5930z. SOLAR ENERGY TAX CREDIT

** * **

(f) In lieu of a solar energy tax credit certified by the board under this section, a taxpayer may in accordance with this subsection convert such a credit into a grant to the taxpayer from the clean energy development fund established under 10 V.S.A. § 6523.

(1) To qualify for a grant-in-lieu-of-credit under this subsection, the taxpayer shall comply with the provisions of this subsection and subdivision (c)(1) (solar plant of 2.2 MW or less) or (2) (solar plant of 150 kW or less) of this section. However, in the case of a taxpayer who complies with the provisions of this subsection and of subdivision (c)(1) of this section except for subdivision (c)(1)(C) (commissioning by Sep. 1, 2011), the taxpayer may

qualify for such a grant if, by September 1, 2011, construction begins on the plant in accordance with Sec. IV.C (beginning of construction) of "Payments for Specified Energy Property in Lieu of Tax Credits under the American Recovery and Reinvestment Act of 2009" issued by the U.S. Department of the Treasury, Office of the Fiscal Assistant Secretary, as revised April 2011.

(2) The dollar amount of a grant-in-lieu-of-credit under this subsection shall be the lesser of the following:

(A) 50 percent of the dollar amount of the credit as contained in the certification issued by the board to the taxpayer.

(B) 15 percent of the actual costs of the plant.

(3) No later than 30 days after the effective date of this subdivision (2), the clean energy development fund shall provide notice of this option to obtain a grant-in-lieu-of-credit to all taxpayers for which the clean energy development board has certified tax credits under this section.

(4) On or before August 1, 2011, a taxpayer to which the board has issued a certification of a solar energy tax credit under this section shall submit to the fund the taxpayer's request, if any, to obtain a grant-in-lieu-of-credit under this subsection.

(5) To a taxpayer making a timely request under subdivision (4) of this subsection, a grant-in-lieu-of-credit shall be paid from the clean energy development fund within 30 days of:

(A) The date on which the taxpayer provides proof to the clean energy development fund that the plant for which the taxpayer seeks a grant-in-lieu-of-credit under this subsection has received from the U.S. Department of the Treasury, pursuant to 26 U.S.C. §§ 46 and 48, a grant in lieu of the federal investment tax credit and proof of the dollar amount of such federal grant; or

(B) If the taxpayer has not received a grant from the U.S Department of the Treasury described in subdivision (5)(A) of this subsection, the date on which the taxpayer provides to the clean energy development fund proof that the solar energy plant for which the taxpayer seeks a grant-in-lieu-of-credit under this subsection has been commissioned and proof of the plant's actual costs.

(g) On a regular basis, the department shall notify the treasurer and the clean energy development board of solar energy tax credits claimed pursuant to this section, and the board shall cause to be transferred from the clean energy development fund to the general fund an amount equal to the amount of solar energy tax credits as and when the credits are claimed.

~~(g)~~(h) The clean energy development board and the department shall collaborate in implementing the certification of credits under this section.

Sec. 20i. GRANT IN LIEU OF CREDIT; TAX TREATMENT

The amount of a clean energy development fund grant made pursuant to 32 V.S.A. § 5930z(f) in lieu of a solar energy tax credit certified under 32 V.S.A. § 5930z(c) shall not be included as Vermont net income under 32 V.S.A. § 5811(18) and shall not be included as taxable income under 32 V.S.A. § 5811(21). This section shall apply to tax years 2010, 2011, and 2012.

Sec. 20j. 10 V.S.A § 6523 is amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(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 and thermal energy or geothermal resources~~, and emerging energy efficient technologies,~~ for the long-term benefit of Vermont consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The fund also may be used to support natural gas vehicles in accordance with subdivision (d)(1)(K) of this section. 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 for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

* * *

(2) If during a particular year, the ~~clean energy development board~~ commissioner of public service 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 ~~clean energy development board may~~ commissioner shall consult with the ~~public service~~ clean energy development 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.

(3) A grant in lieu of a solar energy tax credit in accordance with 32 V.S.A. § 5930z(f). Of any fund moneys unencumbered by such grants, the

first $2.3 million shall fund the small-scale renewable energy incentive program described in subdivision (1)(E)(ii) of this subsection.

(4) A sum equal to the cost for the 2010 and preceding tax years of the business solar energy income tax credits authorized in 32 V.S.A. ~~§~~ §§ 5822(d) and 5930z(a), net of any such costs for which a transfer has already been made under this subdivision and of the cost of any credits in lieu of which the taxpayer elects to receive a grant, shall be transferred ~~annually~~ from the clean energy development fund to the general fund.

(e) Management of fund.

(1) ~~There is created the clean energy development board, which shall consist of 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.~~ This fund shall be administered by the department of public service to facilitate the development and implementation of clean energy resources. The department is authorized to expend moneys from the clean energy development fund in accordance with this section. The commissioner of the department shall make all decisions necessary to implement this section and administer the fund except those decisions committed to the clean energy development board under this subsection. The department shall assure an open public process in the administration of the fund for the purposes established in this subchapter.

(2) 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.~~ There is created the clean energy development board, which shall consist of seven persons appointed in accordance with subdivision (4) of this subsection.

(A) The clean energy development board shall have decision-making and approval authority with respect to the plans, budget, and program designs described in subdivisions (7)(B)–(D) of this subsection. The clean energy

development board shall function in an advisory capacity to the commissioner on all other aspects of this section's implementation.

(B) During a board member's term and for a period of one year after the member leaves the board, the clean energy development fund shall not make any award of funds to and shall confer no financial benefit on a company or corporation of which the member is an employee, officer, partner, proprietor, or board member or of which the member owns more than 10 percent of the outstanding voting securities. This prohibition shall not apply to a financial benefit that is available to any person and is not awarded on a competitive basis or offered only to a limited number of persons.

(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. A director shall recuse himself or herself from all matters and decisions pertaining to a company or corporation of which the director is an employee, officer, partner, proprietor, or board member. 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.~~ The commissioner of public service shall appoint three members of the clean energy development board, and the chairs of the house and senate committees on natural resources and energy each shall appoint two members of the clean energy development board. The terms of the members of the clean energy development board shall be four years, except that when appointments to this board are made for the first time after the effective date of this act, each appointing authority shall appoint one member for a two-year term and the remaining members for four-year terms. When a vacancy occurs in the board during the term of a member, the authority who appointed that member shall appoint a new member for the balance of the departing member's term.

(5) Except for those ~~directors~~ members of the clean energy development board otherwise regularly employed by the state, the compensation of the ~~directors~~ members shall be the same as that provided by ~~subsection~~ 32 V.S.A. § 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 public service shall provide the clean energy development board ~~and its fund manager~~ with administrative services.

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

(A) By January 15 of each year, ~~commencing in 2010,~~ 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 for the fiscal year ending the preceding June 30 detailing the activities undertaken, the revenues collected, and the expenditures made under this subchapter.

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

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

(D) Develop, and submit to the clean energy development board for review and approval, 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). Prior to any approval of a new program or of a substantial modification to a previously approved program of the clean energy development fund, the department of public service shall publish online the proposed program or modification, shall provide an opportunity for public comment of no less than 30 days, and shall provide to the clean energy development board copies of all comments received on the proposed program or modification. For the purpose of this subdivision (D), "substantial modification" shall include a change to a program's application criteria or application deadlines and shall include any change to a program if advance knowledge of the change could unfairly benefit one applicant over another applicant. For the purpose of 3 V.S.A. § 831(b) (initiating rulemaking on

request), a new program or substantial modification of a previously approved program shall be treated as if it were an existing practice or procedure.

~~(9)~~(8) At least ~~quarterly~~ annually, the clean energy development board and the commissioner or designee jointly 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~~ they deem necessary to fulfill ~~its~~ their obligations under this section.

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

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

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

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

* * *

(4) $2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. For the purpose of this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges,

and hospitals. In this program, awards shall be made through a competitive bid process. ~~On or before January 15, 2011, the clean energy development board shall report to the general assembly on the status of this program, including each award made and, for each such award, the expected energy savings or generation and the actual energy savings or generation achieved.~~

* * *

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

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

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

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

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

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

Sec. 20k. CLEAN ENERGY DEVELOPMENT BOARD; TRANSITION; TERM EXPIRATION; NEW APPOINTMENTS

(a) The terms of all members of the clean energy development board under 10 V.S.A. § 6523 appointed prior to the effective date of this section shall expire 44 days after such effective date.

(b) No later than 30 days after the effective date of this section, the appointing authorities under Sec. 20j of this act, 10 V.S.A. § 6523(e)(4), shall appoint the members of the clean energy development board created by Sec. 20j, 10 V.S.A. § 6523(e)(3). The terms of the members so appointed shall commence on the 45th day following the effective date of this section. The appointing authorities may appoint members of the clean energy development board as it existed prior to the effective date of this section. The provisions of 10 V.S.A. § 6523(e)(3)(B) (board members; prohibition; financial benefits) shall apply only to members of the clean energy development board appointed to terms commencing on the 45th day after such effective date.

(c) With respect to the clean energy development fund established under 10 V.S.A. § 6523, as of the 45th day following the effective date of this section:

(1) The department of public service shall be the successor to the clean energy development board as it existed on the 44th day after the effective date of this act, and any legal obligations incurred by the clean energy development board as of such 44th day shall become legal obligations of the department of public service.

(2) The clean energy development board shall exercise prospectively such functions and authority as this act confers on that board.

Sec. 20l. 10 V.S.A. § 6524 is amended to read:

§ 6524. ARRA ENERGY MONEYS

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

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

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

Sec. 20m. RECODIFICATION; REDESIGNATION

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

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

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

Subchapter 1. General Provisions

(2) §§ 8015–8016 shall be within subchapter 2 and designated to read:

Subchapter 2. Clean Energy Development Fund

** * * Cost Allocation * * **

Sec. 20n. 30 V.S.A. § 20 is amended to read:

§ 20. PARTICULAR PROCEEDINGS; PERSONNEL

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

(i) to assist the board or department in any proceeding listed in subsection (b) of this section; ~~and~~

(ii) to monitor compliance with any formal opinion or order of the board; ~~and~~

(iii) in proceedings under section 248 of this title, to assist other state agencies that are named parties to the proceeding where the board or department determines that they are essential to a full consideration of the petition, or for the purpose of monitoring compliance with an order resulting from such a petition; ~~and~~

(iv) in addition to the above, in proceedings under subsection 248(h) of this title, by contract with the regional planning commission of the region or regions affected by a proposed facility, to assist in determining conformance with local and regional plans and to obtain the commissions data, analysis and recommendations on the economic, environmental, historic, or other impact of the proposed facility in the region; and

(v) to assist in monitoring the ongoing and future reliability and the postclosure activities of any nuclear generating plant within the state. For the purpose of this subdivision, "postclosure activities" includes planning for

and implementation of any action within the state's jurisdiction that shall or will occur when the plant permanently ceases generating electricity.

* * *

(b) Proceedings, including appeals therefrom, for which additional personnel may be retained are:

* * *

(12) proceedings at the United States Bankruptcy Court which involve Vermont utilities or which may affect the interests of the state of Vermont. Costs under this subdivision shall be charged to the involved ~~electric companies~~ utilities pursuant to subsection 21(a) of this title. In cases where the proceeding is generic in nature, the costs shall be allocated to ~~electric companies~~ utilities in proportion to the benefits sought for the customers of such companies from such advocacy;

* * *

(14) proceedings before the Federal Communications Commission or related forums which involve a company that owns a cable television system holding a certificate of public good and delivering services in Vermont or which may affect the interests of the state of Vermont. Costs under this subdivision shall be charged to the company pursuant to subsection 21(a) of this title. In cases where the proceeding is generic in nature, the costs shall be allocated to companies in proportion to the benefits sought for their customers from such advocacy;

(15) proceedings before any state or federal court concerning a company holding or a facility subject to a certificate issued under this title if the proceedings may affect the interests of the state of Vermont. Costs under this subdivision (15) shall be charged to the involved company pursuant to subsection 21(a) of this title. In cases where the proceeding is generic in nature, the costs shall be allocated to companies in proportion to the benefits sought for their customers from such advocacy.

Sec. 20o. 30 V.S.A. § 21 is amended to read:

§ 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS

(a) The board, the department, or the agency of natural resources may allocate the portion of the expense incurred or authorized by it in retaining additional personnel for the particular proceedings authorized in section 20 of this title to the applicant or the public service company or companies involved in those proceedings. The board shall upon petition of an applicant or public service company to which costs are proposed to be allocated, review and determine, after opportunity for hearing, having due regard for the size and

complexity of the project, the necessity and reasonableness of such costs, and may amend or revise such allocations. Nothing in this section shall confer authority on the board to select or decide the personnel, the expenses of whom are being allocated, unless such personnel are retained by the board. Prior to allocating costs, the board shall make a determination of the purpose and use of the funds to be raised hereunder, identify the recipient of the funds, provide for allocation of costs among companies to be assessed, indicate an estimated duration of the proceedings, and estimate the total costs to be imposed. With the approval of the board, such estimates may be revised as necessary. From time to time during the progress of the work of such additional personnel, the board, the department, or the agency of natural resources shall render to the company detailed statements showing the amount of money expended or contracted for in the work of such personnel, which statements shall be paid by the applicant or the public service company into the state treasury at such time and in such manner as the board, the department, or the agency of natural resources may reasonably direct.

* * *

(f) With the approval of the governor, the department of public service may allocate the expense incurred under 10 V.S.A. § 7063 in compensating members and alternate members of the commission among the generators of low-level radioactive waste in the state. Any such allocation shall be in proportion to the volume of waste generated by each such generator.

(g) The board, or the department with the approval of the governor, may allocate such portion of expense incurred or authorized by it in compensating persons retained pursuant to subdivision 20(a)(1)(v) of this title to the nuclear generating plant whose activities are being monitored.

(h) Under subsections (f) and (g) of this section, the manner of assessment and making payments shall be as provided in subsection (a) of this section. A generator or plant to which expense is allocated under subsection (f) or (g) of this section may petition the board in accordance with the procedures of subsection (a) of this section.

Sec. 20p. Sec. 5.012.2 of No. 192 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. E.127.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010), is amended to read:

Sec. 5.012.2. JOINT FISCAL COMMITTEE – NUCLEAR ENERGY ANALYSIS (Sec. 2.031)

(a) The joint fiscal committee may authorize or retain ~~consultant~~ services or resources to assist the general assembly:

(1) ~~in~~ In any legislative proceeding under or related to 30 V.S.A. § 248(e) or chapter 157 of Title 10; or

(2) With respect to any proceedings before any state or federal court concerning a nuclear generating plant in the state and related issues.

(b) ~~Consultants~~ Persons retained pursuant to subsection (a) of this section shall work under the direction of a special committee consisting of the chairs of the house and senate committees on natural resources and energy and the joint fiscal committee.

(c) The public service board shall allocate expenses incurred pursuant to subsection (a) of this section to the applicant or the ~~public service~~ company or companies involved ~~in those proceedings~~ and such allocation and expense may be reviewed by the public service board pursuant to 30 V.S.A. § 21.

Sec. 20q. CODIFICATION

The office of legislative council shall codify, as 30 V.S.A. § 254a, the catchline and provisions of Sec. 5.012.2 of No. 192 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. E.127.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) and this act.

** * * Texas–Vermont Compact * * **

Sec. 20r. 10 V.S.A. § 7062 is amended to read:

§ 7062. ~~MEMBER OF THE~~ COMMISSION MEMBERSHIP

The governor shall appoint ~~a person~~ one or more persons with relevant knowledge and experience to represent the state on the commission established by Article III of the compact. The governor may appoint an alternate for ~~the~~ each commission member appointed under this section. ~~The~~ Each commission member and alternate, if appointed, shall serve at the pleasure of the governor.

Sec. 20s. 10 V.S.A. § 7063 is amended to read:

§ 7063. COMPENSATION OF ~~THE~~ COMMISSION ~~MEMBER~~ MEMBERS; REPORT

~~The~~ Each commission member and alternate ~~are~~ is entitled to compensation at ~~the~~ a rate established ~~under 32 V.S.A. § 1010~~ by the governor, and for reimbursement for actual and necessary expenses incurred in the performance of their duties. If a state employee is appointed as a commission member or an alternate, that state employee is not entitled to ~~per diem~~ compensation in addition to such employee's regular pay. At least annually by December 31, commission members and alternates appointed under this section shall report to the governor and the commissioner of public service on their activities

conducted in representing the state on the commission. The report shall include an itemization of compensation paid and expenses incurred. Compensation and expenses of commission members and alternates shall be included in the annual budget of the department of public service and shall be specifically identified in the budget report filed pursuant to 32 V.S.A. §§ 306 and 307.

Sec. 20t. 21 V.S.A. § 266(c) is amended to read:

(c) Revision and interpretation of energy standards. The commissioner of public service shall amend and update the RBES, by means of administrative rules adopted in accordance with chapter 25 of Title 3. No later than January 1, 2011, the commissioner shall complete rulemaking to amend the energy standards to ensure that, to comply with the standards, residential construction must be designed and constructed in a manner that complies with the 2009 edition of the IECC. These amendments shall be effective ~~on~~ three months after final adoption and shall apply to construction commenced on and after the date they become effective. After January 1, 2011, the commissioner shall ensure that appropriate revisions are made promptly after the issuance of updated standards for residential construction under the IECC. The department of public service shall provide technical assistance and expert advice to the commissioner in the interpretation of the RBES and in the formulation of specific proposals for amending the RBES. Prior to final adoption of each required revision of the RBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders, builders, building designers, utility representatives, and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner with additional recommendations for revision of the RBES.

* * *

Sec. 20u. 21 V.S.A. § 268(c) is amended to read:

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

standards for commercial construction under the IECC or ASHRAE/ANSI/IESNA standard 90.1, whichever provides the greatest level of energy savings. Prior to final adoption of each required revision of the CBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders; builders; building designers; architects; civil, mechanical, and electrical engineers; utility representatives; and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner of public service with additional recommendations for revision of the CBES.

* * *

Sec. 21. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) The following shall take effect on passage:

(1) Sec. 1 of this act (net metering), except that 30 V.S.A. § 219a(c)(1) (systems of 5 kW or less) shall take effect on January 1, 2012. Sec. 2(d) of this act shall govern the date by which an electric distribution company shall implement the following provisions contained in Sec. 1 of this act: 30 V.S.A. § 219a(e)(3) (credit for excess generation), (f)(3) (credit for excess generation), and (g) (group net metering; allocation of credits; direct billing of group members).

(2) Secs. 2 (implementation; retroactive application), 3 (self-managed energy efficiency programs), 4 (retroactive application), 6 (renewable energy goals), 7 (definitions, renewable energy chapter), 9 (implementation; board proceedings), 10 (penalties), 13 (clean energy development board; term expiration; transition; new appointments), 16 (notice; implementation), and 20 (payment of utility bills by credit or debit card) of this act.

(3) Sec. 8 (SPEED program) of this act, except that Sec. 9 (board proceedings) of this act shall govern the date on which the availability of the standard offer revision described in Sec. 9(c) (existing hydroelectric plants) shall commence.

(4) In Sec. 12 (clean energy development fund) of this act: 10 V.S.A. § 6523(e)(3) (clean energy development board) and (4) (appointments to clean energy development board) for the purpose of Sec. 13 of this act.

(c) The following shall take effect on July 1, 2011: Secs. 5 (new gas and electric purchases); 11 (baseload renewable power portfolio requirement); 17 (recodification; redesignation); 18 (statutory revision); and 19 (heating oil) of this act, except for 10 V.S.A. § 585(c) (heating oil; biodiesel requirement).

~~*(d) Except as provided under subdivision (b)(4) of this section, Secs. 12 (clean energy development fund) and 14 (ARRA energy moneys) shall take effect on October 1, 2011.*~~

(e) Sec. 15 (clean energy support charge) of this act shall take effect on passage. (f)(1) In Sec. 19 of this act, 10 V.S.A. § 585(c) (heating fuel; biodiesel requirement) shall take effect on the later of the following:

(A) July 1, 2012.

(B) The date on which, through legislation, rule, agreement, or other binding means, the last of the surrounding states has adopted requirements that are substantially similar to or more stringent than the requirements contained in 10 V.S.A. § 585(c). The attorney general shall determine when this date has occurred.

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

Sec. 21. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) The following shall take effect on passage:

(1) Sec. 1 of this act (net metering), except that 30 V.S.A. § 219a(c)(1) (systems of 5 kW or less) shall take effect on January 1, 2012. Sec. 2(d) of this act shall govern the date by which an electric distribution company shall implement the following provisions contained in Sec. 1 of this act: 30 V.S.A. § 219a(e)(3) (credit for excess generation), (f)(3) (credit for excess generation), and (g) (group net metering; allocation of credits; direct billing of group members).

(2) Secs. 2 (implementation; retroactive application), 3 (self-managed energy efficiency programs), 4 (retroactive application), 6 (renewable energy goals), 7 (definitions, renewable energy chapter), 9 (implementation; board proceedings), 10 (penalties), and 20 (payment of utility bills by credit or debit card) of this act.

(3) Sec. 8 (SPEED program) of this act, except that Sec. 9 (board proceedings) of this act shall govern the date on which the availability of the standard offer revision described in Sec. 9(c) (existing hydroelectric plants) shall commence.

(4) Secs. 20a through 20g of this act.

(5) Secs. 20h (business solar energy tax credits), 20i (grant in lieu of credit; tax treatment), and 20k (clean energy development; transition; term expiration; new appointments) of this act.

(6) In Sec. 20j (clean energy development fund) of this act: 10 V.S.A. § 6523(d)(3) and (4) (solar tax credit; grant in lieu of and general fund reimbursement) and, for the purpose of Sec. 20k of this act, 10 V.S.A. § 6523(e)(3) (clean energy development board) and (4) (appointments to clean energy development board).

(7) Secs. 20n–20s of this act.

(8) Secs. 20t (revision and interpretation of residential building energy standards) and 20u (revision and interpretation of commercial building energy standards) of this act.

~~*(c) The following shall take effect on July 1, 2011: Secs. 5 (new gas and electric purchases); 11 (baseload renewable power portfolio requirement); 18 (statutory revision); and 19 (heating oil) of this act, except for 10 V.S.A. § 585(c) (heating oil; biodiesel requirement).*~~

(c) The following shall take effect on July 1, 2011: Secs. 5 (new gas and electric purchases); 11 (baseload renewable power portfolio requirement); 18 (statutory revision); 19 (heating oil), except for 10 V.S.A. § 585(c) (heating oil; biodiesel requirement); and 20m (recodification; redesignation) of this act.

(d)(1) In Sec. 19 of this act, 10 V.S.A. § 585(c) (heating fuel; biodiesel requirement) shall take effect on the later of the following:

(A) July 1, 2012.

(B) The date on which, through legislation, rule, agreement, or other binding means, the last of the surrounding states has adopted requirements that are substantially similar to or more stringent than the requirements contained in 10 V.S.A. § 585(c). The attorney general shall determine when this date has occurred.

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

(e)(1) Secs. 18c (property-assessed clean energy districts) and 18j (underwriting criteria; adoption) of this act shall take effect on passage.

(2) Secs. 18a, 18b, and 18d–18i of this act shall take effect on January 1, 2012, except that in Sec. 18d, 24 V.S.A. § 3262(a) (written agreements) shall take effect on passage.

(f)(1) Sec. 19a (regulation of propane) of this act shall take effect on passage.

(2) A provision of an existing contract that specifies an amount for any fee that would otherwise be prohibited by Sec. 19a of this act shall remain valid and enforceable until:

(A) the date the contract expires or April 1, 2012, whichever is sooner; or,

(B) in the case of the termination of service to an underground storage tank, the earlier of:

(i) 30 days after the date the contract expires, or as soon thereafter as weather and access to the tank allow; or

(ii) April 1, 2014.

(g) Except as provided under subdivision (b)(6) of this section, Secs. 20j (clean energy development fund) and 20l (ARRA energy moneys) of this act shall take effect 45 days after the act's passage.