

SENATE PROPOSAL OF AMENDMENT

H. 56

An act relating to the Vermont Energy Act of 2011

The Senate proposes to the House to amend the bill as follows

First: In Sec. 1, 30 V.S.A. § 219a (self-generation and net metering), in subsection (h) (electric company obligations), in subdivision (1)(K)(i), in the first sentence, by striking “paid” and inserting in lieu thereof “charged”

Second: In Sec. 1, 30 V.S.A. § 219a (self-generation and net metering), in subdivision (h)(1)(K), by adding a new subdivision to be numbered subdivision (vii) to read:

(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.

Third: In Sec. 2 (implementation; retroactive application), in subsection (e), in the second sentence, after the words “the board is authorized to” by striking out and shall

Fourth: In Sec. 5, 30 V.S.A. § 248 (new gas and electric purchases, investments, and facilities; certificate of public good), at the end of the section, after the ellipsis, by inserting:

(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.

* * *

Fifth: In Sec. 11, 30 V.S.A. § 8009 (baseload renewable power portfolio requirement), in subsection (d), in the fourth sentence, after the words “obtain from a” by striking out the word new

Sixth: In Sec. 11, 30 V.S.A. § 8009, by striking subdivision (f)(1) in its entirety and inserting in lieu thereof the following:

(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.

Seventh: In Sec. 11, 30 V.S.A. § 8009 (baseload renewable power portfolio requirement), by adding a new subsection to be subsection (i) to read:

(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.

Eighth: By adding 10 new sections to be numbered Secs. 18a through 18j to read as follows:

* * * 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.~~

~~(e) 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.

~~(e)~~(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.

Ninth: By adding a new section to be numbered Sec. 19a to read as follows:

* * * Propane Regulation * * *

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

§ 2461b. REGULATION OF LIQUEFIED 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.

Tenth: By striking out Sec. 20 (utility payment; credit or debit card; report) and inserting in lieu thereof a new Sec. 20 to read:

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.

Eleventh: By adding a new section to be numbered Sec. 20a to read:

* * * 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.

Twelfth: By adding a new section to be numbered Sec. 20b to read as follows:

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.

Thirteenth: By adding a new section to be numbered Sec. 20c to read:

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.

Fourteenth: By adding a new section to be numbered Sec. 20d to read:

* * * 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.

Fifteenth: By adding a new section to be numbered Sec. 20e as follows:

* * * 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).

Sixteenth: By adding a new section to be numbered Sec. 20f to read as follows:

* * * 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.

Seventeenth: By adding a new section to be numbered Sec. 20g to read as follows:

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).

Eighteenth: By adding a new section to be numbered Sec. 20h to read:

* * * 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.

Nineteenth: By adding a new section to be numbered Sec. 20i to read:

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.

Twentieth: By adding a new section to be numbered Sec. 20j to read:

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.~~

Twenty-first: By adding a new section to be numbered Sec. 20k to read:

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.

Twenty-second: By adding a new section to be numbered Sec. 20l to read:

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.

Twenty-third: By adding a new section to be numbered Sec. 20m to read:

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

Twenty-fourth: By adding a new section to be numbered Sec. 20n to read:

* * * 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.

Twenty-fifth: By adding a new section to be numbered Sec. 20o to read:

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.

Twenty-sixth: By adding a new section to be numbered Sec. 20p to read:

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.

Twenty-seventh: By adding a new section to be numbered Sec. 20q to read:
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.

Twenty-eighth: By adding a new section to be numbered Sec. 20r to read:

* * * 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.

Twenty-ninth: By adding a new section to be numbered Sec. 20s to read:

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.

Thirtieth: By adding a new section to be numbered Sec. 20t to read as follows:

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.

* * *

Thirty-first: By adding a new section to be numbered Sec. 20u to read as follows:

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.

* * *

Thirty-second: In Sec. 21 (effective dates), in subsection (b) (sections effective on passage), at the end of the subsection, by inserting:

(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.

Thirty-third: In Sec. 21 (effective dates), by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(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.

Thirty-fourth: In Sec. 21 (effective dates), at the end of the section, by inserting:

(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 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.