



STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

MEMORANDUM

To: Sen. Chris Bray, Chair
Senate Committee on Natural Resources and Energy

From: Aaron Adler, Legislative Counsel

Date: April 11, 2017

Subject: DR 17-1260; misc. energy issues; 90 by 2050 and 25 by 25 goals

This memorandum responds to your request concerning the goals proposed for adoption in Sec. 7 of draft 2.1 of the potential committee bill on miscellaneous energy issues. You asked whether the adoption of the 90 by 2050 and 25 by 25 goals in statute would create a cause of action by a private party such as an environmental organization against the State of Vermont if these goals are not met. In connection with this question, you referenced prior lawsuits by environmental organizations on water quality and Lake Champlain.

The Goals

Sec. 7 would amend 10 V.S.A. § 580, which is contained in the air pollution control chapter and currently states the 25 by 25 goal. In relevant part, the amendment would provide:

(a) 90 by 2050 goal. It is a goal of the State, by the year 2050, that 90 percent of all energy consumed in Vermont be renewable energy. The requirements of the Renewable Energy Standard set forth at 30 V.S.A. §§ 8004 and 8005 are incorporated in support of achieving this goal.

(b) 25 by 25 goal. It is also a goal of the State, by the year 2025, to produce 25 percent of the energy consumed within the State through the use of renewable energy sources, particularly from Vermont's farms and forests.

A complete copy of draft 2.1 is attached.

This memorandum will refer to the goals stated in subsections (a) and (b) collectively as "the Goals." Please note that this phrase is not intended to include the requirements of the Renewable Energy Standard under 30 V.S.A. chapter 89. These requirements are mandates, not goals, and they are separately enforceable under Title 30 of the Vermont States Annotated.

Discussion

For the reasons stated below, a court is unlikely to hold that statutory adoption of the Goals creates a cause of action by a private party against the State if the Goals are not met.

First, the Goals are stated as “goals of the State.” They do not, in and of themselves, constitute a mandate or directive to any State agency and therefore do not provide a basis on which to bring an action in court. The only directives to State agencies in Sec. 7 of draft 2.1 relate to planning.

The term “goal” is not defined by statute. “Words that are not defined within a statute are given their plain and ordinary meaning, which may be obtained by resorting to dictionary definition.” Franks v. Town of Essex, 2013 VT 84, ¶ 8.

The plain meaning of “goal” is not a mandate but an outcome that someone seeks to achieve. Under a relevant dictionary definition, “goal” means “[t]he object of a person’s ambition or effort; an aim or desired result.”¹

Second, there are no consequences in statute for the State’s failure to meet the Goals by the end of the period specified. In prior cases involving statutory time periods, the Supreme Court has found statutory time periods not to be mandatory unless a consequence is stated in statute. “In general, a statutory time period is not mandatory ‘unless it both expressly requires an agency or public official to act within a particular time period and specifies a consequence for failure to comply with the provision.’” “ Shlansky v. City of Burlington, 2010 VT 90, ¶ 17, quoting In re Mullestein, 148 Vt. 170, 173-74 (1987).

Third, there are no statutory provisions applicable to the Goals that authorize citizen suits or other actions by private parties in court for failure to achieve them. The chapter in which the Goals would be placed, 10 V.S.A. chapter 23 relating to air pollution control, contains no such provisions. In addition, suits against the State of Vermont related to water quality in Lake Champlain have been brought not under State law but under federal law.

For example, when the Conservation Law Foundation sued with regard to the Lake Champlain Total Maximum Daily Load (TMDL), it challenged the decision of the Environmental Protection Agency to approve the TMDL under a provision of federal law that allows a court to hold unlawful and set aside a federal agency action based on several potential grounds, including that the action is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2). There is no corresponding provision in Vermont statute.

Similarly, both the federal Clean Air and CleanWater Acts contain provisions that authorize citizen suits against an agency, but these provisions apply to nondiscretionary actions and duties under those federal acts. 33 U.S.C. § 1365(a)(2); 42 U.S.C. § 7604(a)(2). They would not apply to suits based on a state law provision. In this regard, while the Goals would be placed in Vermont’s air pollution control chapter, they would be provisions of Vermont law, not of the federal Clean Air Act.

Fourth, failure of the State as a whole to meet the Goals would not be an appealable decision under existing statutes. The only statutory right of appeal with respect to the air pollution control chapter applies to acts or decisions of the Secretary of Natural Resources under that chapter, with appeal going to the Environmental Division of the Superior Court. 10 V.S.A. §§ 8502(8), 8503(a), and 8504(a). Failure of the entire State to meet the Goals would not constitute an act or decision of the Secretary, who is assigned no duties under the proposed amendment to 10 V.S.A. § 580 other than to coordinate with other cabinet officers.

¹ [Oxford Dictionary](#)

Finally, Vermont Rule of Civil Procedure (VRCP) 75 authorizes review of governmental actions only when such review is not appealable under VRCP 74 and the review is “otherwise available by law.” VRCP 75(a). The challenged actions must be “ministerial” and not discretionary, unless there is an arbitrary abuse of discretion amounting to a complete failure or refusal to carry out a duty imposed by law. Vermont State Employees’ Ass’n, Inc. v. Vermont Criminal Justice Training Council, 167 Vt. 191, 195 (1997); Alger v. Dep’t of Labor & Indus., 2006 VT 115, ¶ 18. The term “ministerial” means actions that are “simple and definite.” Vermont State Employees’ Ass’n., 167 Vt. at 195. The term “discretionary” refers to an act involving an official’s exercise of judgment. Roy v. Farr, 128 Vt. 30, 34 (1969).

While failure to meet the Goals is not appealable, review of such failure would not be available under VRCP 75 because such review is not otherwise available by law. There is no statute that would provide for judicial review of failure to meet the Goals.

Even if a court interpreted existing law to provide for such judicial review, the Goals themselves do not impose any duties on agencies, whether ministerial or discretionary. The duties on agencies imposed by the proposed amendment to 10 V.S.A. § 580 relate to planning. The content of the plans would be discretionary because they involve exercise of judgment. The act of planning itself could be considered ministerial because it is a definite act that is required. In addition, a complete failure to plan might be considered an abuse of discretion under VRCP 75. Thus, it appears that, at most, VRCP 75 might allow an action against the agencies for failure to perform the planning required by the proposed amendment but not for the content of those plans or failure of the State to meet the Goals.

enc.

1 Introduced by Committee on Natural Resources and Energy

2 Date:

3 Subject: Energy; conservation and development; air pollution; public service;
4 building energy; renewable energy goals; standard offer program

5 Statement of purpose of bill as introduced: This bill proposes various
6 amendments related to energy.

7 An act relating to miscellaneous energy issues

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

9 * * * Net Metering * * *

10 Sec. 1. 30 V.S.A. § 8010(c)(2) is amended to read:

11 (2) The rules shall include provisions that govern:

12 * * *

13 (F) the amount of the credit to be assigned to each kWh of electricity
14 generated by a net metering customer in excess of the electricity supplied by
15 the interconnecting provider to the customer, the manner in which the
16 customer's credit will be applied on the customer's bill, and the period during
17 which a net metering customer must use the credit, after which the credit shall
18 revert to the interconnecting provider.

19 (i) When assigning an amount of credit under this subdivision (F),
20 the Board shall consider making multiple lengths of time available over which

1 a customer may take a credit and differentiating the amount according to the
2 length of time chosen. For example, a monthly credit amount may be higher if
3 taken over 10 years and lower if taken over 20 years. Factors relevant to this
4 consideration shall include the customer's ability to finance the net metering
5 system, the cost of that financing, and the net present value to all ratepayers of
6 the net metering program.

7 (ii) In this subdivision (ii), “existing net metering system” means a
8 net metering system for which a complete application was filed before
9 January 1, 2017.

10 (I) Commencing 10 years from the date on which an existing
11 net metering system was installed, the Board may apply to the system the same
12 rules governing bill credits and the use of those credits on the customer’s bill
13 that it applies to net metering systems for which applications were filed on or
14 after January 1, 2017, other than any adjustments related to siting and tradeable
15 renewable energy credits.

16 (II) This subdivision (ii) shall apply to existing net metering
17 systems notwithstanding any contrary provision of 1 V.S.A. § 214 and 2014
18 Acts and Resolves No. 99, Sec. 10.

1 Sec. 2. NET METERING SYSTEMS; APPROVAL UNDER BOARD

2 ORDER

3 (a) In this section, “Temporary Net Metering Order” means the order on
4 reconsideration issued on August 29, 2016 by the Public Service Board
5 (Board) under the caption of “In Re: Revised Net-Metering Rule Pursuant to
6 Act 99 of 2014.”

7 (b) A net metering system that received an approval from the Board
8 pursuant to the Temporary Net Metering Order may be constructed and placed
9 into service in accordance with the terms of that Order and the approval issued
10 pursuant to that Order, provided the approval was issued before **September 1,**
11 **2017.**

12 * * * Building Energy Performance * * *

13 Sec. 3. 30 V.S.A. chapter 2, subchapter 2 is added to read:

14 Subchapter 2. Building Energy Labeling and Benchmarking

15 § 60. DEFINITIONS

16 As used in this subchapter:

17 (1) “Benchmarking” means measuring the energy performance of a
18 single building or portfolio of buildings over time in comparison to other
19 similar buildings or to modeled simulations of a reference building built to a
20 specific standard such as an energy code.

1 (2) “Board” means the Public Service Board created under section 3 of
2 this title.

3 (3) “Commercial Working Group” means the Commercial and Multiunit
4 Building Energy Labeling Working Group established by subsection 61(b) of
5 this title.

6 (4) “Department” means the Department of Public Service established
7 by 3 V.S.A. § 312 and section 1 of this title.

8 (5) “Distribution company” means a company under the jurisdiction of
9 the Board that distributes electricity or natural gas for consumption by end
10 users.

11 (6) “Energy efficiency utility” means an energy efficiency entity
12 appointed under subdivision 209(d)(2) of this title.

13 (7) “Energy label” means the visual presentation in a consistent format
14 of an energy rating for a building and any other supporting and comparative
15 information. The label may be provided as a paper certificate or made
16 available online, or both.

17 (8) “Energy rating” means a simplified mechanism to convey a
18 building’s energy performance. The rating may be based on the operation of
19 the building or modeled based on the building’s assets.

1 (9) “Multiunit building” means a building that contains more than one
2 independent dwelling unit or separate space for independent commercial use,
3 or both.

4 (10) “Residential Working Group” means the Residential Building
5 Energy Labeling Working Group established by subsection 61(a) of this title.

6 (11) “Unit holder” means the tenant or owner of an independent
7 dwelling unit or separate space for independent commercial use within a
8 multiunit building.

9 § 61. BUILDING ENERGY WORKING GROUPS

10 (a) Residential Working Group. There is established the Residential
11 Building Energy Labeling Working Group.

12 (1) The Residential Working Group shall consist of the following:

13 (A) The Commissioner of Public Service (Commissioner) or
14 designee.

15 (B) An expert in the design, implementation, and evaluation of
16 programs and policies to promote investments in energy efficiency who is not
17 a member of an organization described elsewhere in this subsection, appointed
18 by the Commissioner.

19 (C) A representative of each energy efficiency utility, chosen by that
20 efficiency utility;

1 (D) The Director of the State Office of Economic Opportunity or
2 designee.

3 (E) A representative of Vermont’s community action agencies
4 appointed by the Vermont Community Action Partnership.

5 (F) A representative, with energy efficiency expertise, of the
6 Vermont Housing and Conservation Board, appointed by the Board.

7 (G) A building performance professional appointed by the Building
8 Performance Professionals Association.

9 (H) A representative of the real estate industry, appointed by the
10 Vermont Association of Realtors.

11 (I) Such other members with expertise in energy efficiency, building
12 design, energy use, or the marketing and sale of real property as the
13 Commissioner may appoint.

14 (2) The Residential Working Group shall advise the Commissioner in
15 the development of informational materials pursuant to section 62 of this title
16 and may advise the Commissioner on other matters related to benchmarking,
17 energy rating, or energy labels for residential structures.

18 (b) Commercial Working Group. There is established the Commercial and
19 Multiunit Building Energy Labeling Working Group.

20 (1) The Commercial Working Group shall consist of the following:

21 (A) The Commissioner or designee.

1 (B) An expert in the design, implementation, and evaluation of
2 programs and policies to promote investments in energy efficiency who is not
3 a member of an organization described elsewhere in this subsection, appointed
4 by the Commissioner.

5 (C) A representative of each energy efficiency utility, chosen by that
6 efficiency utility.

7 (D) The Director of the State Office of Economic Opportunity or
8 designee.

9 (E) A representative of Vermont’s community action agencies
10 appointed by the Vermont Community Action Partnership.

11 (F) A representative, with energy efficiency expertise, of the
12 Vermont Housing and Conservation Board, appointed by the Board.

13 (G) Such other members with expertise in energy efficiency,
14 building design, energy use, or the marketing and sale of real property as the
15 Commissioner may appoint.

16 (2) The Commercial Working Group shall advise the Commissioner in
17 the development of forms pursuant to section 63 of this title and may advise
18 the Commissioner on other matters related to benchmarking, energy rating, or
19 energy labels for commercial and multiunit buildings.

20 (c) Co-Chairs. Each working group shall elect two co-chairs from among
21 its members.

1 (d) Meetings. Meetings of each working group shall be at the call of a co-
2 chair or any three of its members. The meetings shall be subject to the
3 Vermont Open Meeting Law and 1 V.S.A. § 172.

4 (e) Vacancy. When a vacancy arises in a working group created under this
5 section, the appointing authority shall appoint a person to fill the vacancy.

6 § 62. DISCLOSURE OF INFORMATIONAL MATERIAL; SINGLE-
7 FAMILY DWELLINGS

8 (a) Disclosure. For a contract for the conveyance of real property that is a
9 single-family dwelling, executed on or after January 1, 2018, the seller shall,
10 within 72 hours of the execution, provide the buyer with informational
11 materials developed by the Department in consultation with the Residential
12 Working Group. These materials shall include information on:

13 (1) resources for determining home energy use and costs for Vermont
14 homes and opportunities for energy savings;

15 (2) available voluntary tools for energy rating and energy labels; and

16 (3) available programs and services in Vermont related to energy
17 efficiency, building energy performance, and weatherization.

18 (b) Marketability of title. Noncompliance with the requirements of this
19 section shall not affect the marketability of title of a property.

1 **(c) Penalty; liability limit. Under section 30 of this title, the Public**
2 **Service Board may impose a civil penalty of not more than \$250.00 for a**
3 **violation of this section.**

4 § 63. MULTIUNIT BUILDINGS; ACCESS TO AGGREGATED DATA

5 (a) Obligation; aggregation and release of data. On request of the owner of
6 a multiunit building or the owner’s designated agent, each distribution
7 company and energy efficiency utility shall aggregate monthly energy usage
8 data in its possession for the unit holders in the building and release the
9 aggregated data to the owner or agent. The aggregated data shall be
10 anonymized.

11 (1) Under this section, the obligation to aggregate and release data shall
12 accrue when the owner or agent:

13 (A) certifies that the request is made for the purpose of benchmarking
14 or preparing an energy label for the building; and

15 **(B) provides an energy usage data release authorization from**
16 **each unit holder whose data is to be aggregated.**

17 (2) A unit holder may authorize the release of the holder’s energy usage
18 data by signature on a release authorization form or clause in a lease signed by
19 the unit holder. The provisions of 9 V.S.A. § 276 (recognition of electronic
20 records and signatures) shall apply to release authorization forms under this
21 subsection.

1 (3) After consultation with the Commercial Working Group, the
2 Commissioner of Public Service shall prescribe forms for requests and release
3 authorizations under this subsection. The request form shall include the
4 required certification.

5 (b) Response period. A distribution company or energy efficiency utility
6 shall release the aggregated energy use data to the building owner or
7 designated agent within 30 days of its receipt of a request that meets the
8 requirements of subsection (a) of this section.

9 **(1) The aggregation shall exclude energy usage data for each unit**
10 **holder for which a signed release authorization was not received.**

11 (2) A distribution company may refer a complete request under
12 subsection (a) of this section to an energy efficiency utility that possesses the
13 requisite data, unless the data are to be used for a benchmarking program to be
14 conducted by the company.

15 Sec. 4. 27 V.S.A. § 617 is added to read:

16 § 617. DISCLOSURE OF ENERGY INFORMATIONAL MATERIAL;
17 SINGLE-FAMILY DWELLINGS

18 The provisions of 30 V.S.A. § 62 shall apply when a contract is executed
19 for the conveyance of real property that is a single-family dwelling.

1 Sec. 5. WORKING GROUPS; CONTINUATION

2 (a) The Residential Energy Labeling Working Group and Commercial
3 Energy Labeling Working Group convened by the Department of Public
4 Service in response to 2013 Acts and Resolves No. 89, Sec. 12, as each group
5 existed on February 1, 2017, shall continue in existence respectively as the
6 Residential Building Energy Labeling Working Group and the Commercial
7 and Multiunit Building Energy Labeling Working Group created under Sec. 3
8 of this act, in 30 V.S.A. § 61. Those persons who were members of such a
9 working group as of that date may continue as members and, in accordance
10 with 30 V.S.A. § 61, the appointing authorities shall fill vacancies in the
11 working group as they arise.

12 (b) Within 60 days of this section’s effective date, the Commissioner of
13 Public Service shall make appointments to each working group created under
14 Sec. 3 of this act to fill each membership position newly created by Sec. 3, in
15 30 V.S.A. § 61.

16 Sec. 6. REPORT; COMMERCIAL AND MULTIUNIT BUILDING
17 ENERGY

18 (a) On or before December 15, 2017, the Commissioner of Public Service
19 (the Commissioner), in consultation with the Commercial and Multiunit
20 Building Energy Labeling Working Group created under Sec. 3 of this act,
21 shall file a report and recommendations on each of the following:

1 (1) each issue listed under “unresolved issues” on page 45 of the report
2 to the General Assembly in response to 2013 Acts and Resolves No. 89,
3 Sec. 12, entitled “Development of a Voluntary
4 Commercial/Multifamily/Mixed-Use Building Energy Label” and dated
5 December 15, 2014; and

6 (2) the appropriateness and viability of publicly disclosing the results of
7 benchmarking as defined in Sec. 3, in 30 V.S.A. § 60.

8 (b) The Commissioner shall file the report and recommendations created
9 under subsection (a) of this section with the House Committee on Energy and
10 Technology and the Senate Committees on Finance and on Natural Resources
11 and Energy.

12 * * * 90 by 2050 Renewable Energy Goal; Adoption in Statute * * *

13 Sec. 7. 10 V.S.A. § 580 is amended to read:

14 § 580. 90 BY 2050 AND 25 BY 25 STATE GOAL GOALS

15 (a) 90 by 2050 goal. It is a goal of the State, by the year 2050, that
16 90 percent of all energy consumed in Vermont be renewable energy. The
17 requirements of the Renewable Energy Standard set forth at 30 V.S.A. §§ 8004
18 and 8005 are incorporated in support of achieving this goal.

19 (b) 25 by 25 goal. It is also a goal of the State, by the year 2025, to
20 produce 25 percent of the energy consumed within the State through the use of
21 renewable energy sources, particularly from Vermont’s farms and forests.

1 (c) State planning and implementation. Each of the documents listed in
2 this subsection shall plan for the achievement of the goals of this section,
3 recommend pathways and actions to make incremental progress toward these
4 goals, and report on the progress made and actions taken to achieve the goals.

5 (1) each State Comprehensive Energy Plan and Plan update issued by
6 the Commissioner of Public Service pursuant to 30 V.S.A. § 202b;

7 (2) each long-range transportation systems plan and annual
8 transportation program developed by the Secretary of Transportation pursuant
9 to 19 V.S.A. chapter 1; and

10 (3) each State agency energy plan adopted by the Secretary of
11 Administration pursuant to 3 V.S.A. § 2291.

12 ~~(b)(d)~~ Agriculture; forestry; plan. By no later than On or before
13 January 15, 2009 2018, the Secretary of Agriculture, Food and Markets, in
14 consultation with the Commissioner of Public Service and the Commissioner
15 of Forests, Parks and Recreation, shall present to the Senate Committees on
16 Agriculture and on Natural Resources and Energy and the House Committees
17 on Agriculture and Forestry and on Energy and Technology of the General
18 Assembly a plan for attaining ~~this goal~~ the goal set forth in subsection (b) of
19 this section. This plan may be submitted as an update to a previously filed
20 plan to achieve the same goal. ~~Plan~~ Following this 2018 submittal, plan
21 updates shall be presented no less frequently than every ~~three years~~ third

1 January 15 thereafter through 2024, and a progress report shall be due annually
2 on January 15, with the final progress report due on January 15, 2025. The
3 provisions of 2 V.S.A. § 20(d) shall not apply to the plans and reports required
4 by this subsection.

5 ~~(e) By no later than January 15, 2009, the Department of Public Service~~
6 ~~shall present to the legislative committees on Natural Resources and Energy an~~
7 ~~updated comprehensive energy plan which shall give due consideration to the~~
8 ~~public engagement process required under 30 V.S.A. § 254 and under 2006~~
9 ~~Acts and Resolves No. 208, Sec. 2. By that time, the Department of Public~~
10 ~~Service shall incorporate plans adopted under this section into the state~~
11 ~~comprehensive energy plan adopted under 30 V.S.A. § 202b.~~

12 (e) Action; coordination.

13 (1) The following shall take action to implement this section and
14 coordinate in its implementation:

15 (A) the Secretaries of Administration, of Agriculture, Food and
16 Markets, of Natural Resources, and of Transportation; and

17 (B) the Commissioners of Buildings and General Services and of
18 Public Service.

19 (2) These secretaries and commissioners may use a body established by
20 Executive Order, such as a climate cabinet, to accomplish the coordination

1 required by this subsection, provided that each of them is a member of the
2 body.

3 (f) DPS; annual progress report. In consultation with the other officers
4 listed in subsection (e) of this section, the Commissioner of Public Service
5 shall file an annual progress report on meeting the goals of this section. The
6 report shall address each of the following sectors of energy consumption in the
7 State: electricity, nonelectric fuels for thermal purposes, and transportation.

8 (1) The Commissioner shall file the report on or before January 15 of
9 each year commencing in 2018 through 2050. The provisions of 2 V.S.A.
10 § 20(d) shall not apply to the reports required by this subsection.

11 (2) The Commissioner shall file the report with the House Committees
12 on Energy and Technology and on Natural Resources, Fish and Wildlife, and
13 with the Senate Committees on Finance and on Natural Resources and Energy.

14 (3) For each sector, the report shall provide:

15 (A) For the most recent calendar year for which data is available, the
16 total amount of energy consumed, the amount of renewable energy consumed,
17 and the percentage of renewable energy consumed. For each sector, the
18 amounts shall be presented in MMBTUs, and the electricity sector amount
19 shall also be stated in MWH. This data shall also include Vermont and New
20 England summer and winter peak electric demand, including the hour and day
21 of peak demand of each.

1 (B) Projections of the reduction in energy consumption and of the
2 substitution of renewable energy for fossil fuels expected to occur under
3 existing policies, technologies, and markets. The Department shall use the
4 most recent data available to inform these projections and shall provide this
5 data as a supplement to the calendar year data described in subdivision (3)(A)
6 of this subsection.

7 (4) The report shall include a supplemental analysis setting forth how
8 progress toward the goals of this section is being supported by complementary
9 work in avoiding or reducing energy consumption through efficiency and
10 demand reduction. In this subdivision (4), “demand reduction” includes
11 dispatchable measures, such as controlling appliances that consume energy,
12 and nondispatchable measures, such as weatherization.

13 (5) The report shall include recommendations on methods to enhance
14 the process for planning, tracking, and reporting progress toward meeting the
15 goals of this section. Such recommendations may include the consolidation of
16 one or more periodic reports filed by the Department or other State agencies
17 relating to renewable energy, with proposals for amending the statutes relevant
18 to those reports.

19 (6) The report shall include a summary of the following information for
20 each sector:

21 (A) major changes in the markets, technologies, and costs;

1 efficient use of energy and the siting and development of renewable energy
2 resources contained in the State energy plans adopted pursuant to 30 V.S.A.
3 §§ 202 and 202b (State energy plans); and

4 (E) the distributed renewable generation and energy transformation
5 categories of resources to meet the requirements of the Renewable Energy
6 Standard under 30 V.S.A. §§ 8004 and 8005; and

7 * * *

8 Sec. 9. 30 V.S.A. § 202b is amended to read:

9 § 202b. STATE COMPREHENSIVE ENERGY PLAN

10 (a) The Department of Public Service, in conjunction with other State
11 agencies designated by the Governor, shall prepare a State Comprehensive
12 Energy Plan covering at least a 20-year period. The Plan shall seek to
13 implement the State energy policy set forth in section 202a of this title and to
14 achieve the goals set forth in 10 V.S.A. §§ 578(a) and 580, and shall be
15 consistent with the relevant goals of 24 V.S.A. § 4302. The Plan shall include:

16 (1) a comprehensive analysis and projections regarding the use, cost,
17 supply, and environmental effects of all forms of energy resources used within
18 Vermont;

19 (2) the content required by 10 V.S.A. § 580;

1 Sec. 11. 30 V.S.A. § 218c is amended to read:

2 § 218c. LEAST-COST INTEGRATED PLANNING

3 * * *

4 (b) Each regulated electric or gas company shall prepare and implement a
5 least-cost integrated plan for the provision of energy services to its Vermont
6 customers. At least every third year on a schedule directed by the Public
7 Service Board, each such company shall submit a proposed plan to the
8 Department of Public Service and the Public Service Board. The Board, after
9 notice and opportunity for hearing, may approve a company's least-cost
10 integrated plan if it determines that the company's plan complies with the
11 requirements of subdivision (a)(1) of this section and of sections 8004 and
12 8005 of this title and is consistent with the goals of 10 V.S.A. §§ 578(a)
13 and 580.

14 * * *

15 Sec. 12. 19 V.S.A. § 10b is amended to read:

16 § 10b. STATEMENT OF POLICY; GENERAL

17 (a) The Agency shall be the responsible agency of the State for the
18 development of transportation policy. It shall develop a mission statement to
19 reflect:

20 (1) that State transportation policy shall be to encompass, coordinate,
21 and integrate all modes of transportation and to consider “complete streets”

1 principles, which are principles of safety and accommodation of all
2 transportation system users, regardless of age, ability, or modal preference; and

3 (2) the need for transportation projects that will improve the State’s
4 economic infrastructure and advance the goals set forth in 10 V.S.A. §§ 578(a)
5 and 580, as well as the use of resources in efficient, coordinated, integrated,
6 cost-effective, and environmentally sound ways.

7 (b) The Agency shall coordinate planning and education efforts with those
8 of the Vermont Climate Change Oversight Committee and those of local and
9 regional planning entities:

10 (1) to ~~assure~~ ensure that the transportation system as a whole is
11 integrated, that access to the transportation system as a whole is integrated, and
12 that statewide, local, and regional conservation and efficiency opportunities
13 and practices are integrated; and

14 (2) to support employer or local or regional government-led
15 conservation, efficiency, rideshare, and bicycle programs and other innovative
16 transportation advances, especially employer-based incentives.

17 (c) In developing the State’s annual Transportation Program, the Agency
18 shall, consistent with the planning goals listed in 24 V.S.A. § 4302 as amended
19 by 1988 Acts and Resolves No. 200 and with appropriate consideration to
20 local, regional, and State agency plans:

1 (c) Transportation program. The transportation program shall be developed
2 in a fiscally responsible manner to accomplish the following objectives:

3 (1) ~~Managing~~ managing, maintaining, and improving the ~~state's~~ State's
4 existing transportation infrastructure to provide capacity, safety, and flexibility
5 in the most cost-effective and efficient manner;

6 (2) ~~Developing~~ developing an integrated transportation system that
7 provides Vermonters with transportation choices;

8 (3) ~~Strengthening~~ strengthening the economy, protecting the quality of
9 the natural environment, and improving Vermonters' quality of life; and

10 (4) achieving the goals set forth in 10 V.S.A. §§ 578(a) and 580.

11 * * *

12 Sec. 14. 3 V.S.A. § 2291 is amended to read:

13 § 2291. STATE AGENCY ENERGY PLAN

14 * * *

15 (c) The Secretary of Administration with the cooperation of the
16 Commissioners of Public Service and of Buildings and General Services shall
17 develop and oversee the implementation of a State Agency Energy Plan for
18 State government. The Plan shall be adopted by June 30, 2005, modified as
19 necessary, and readopted by the Secretary on or before January 15, 2010 and
20 each sixth year subsequent to 2010. The Plan shall contain the content

1 required by 10 V.S.A. § 580. The Plan shall accomplish the following
2 objectives and requirements:

3 (1) To conserve resources, save energy, and reduce pollution. The Plan
4 shall devise strategies to identify to the greatest extent feasible all opportunities
5 for conservation of resources through environmentally and economically sound
6 infrastructure development, purchasing, and fleet management, and
7 investments in renewable energy and energy efficiency available to the State
8 which are cost effective on a life-cycle cost basis.

9 (2) To ensure that the State’s own energy consumption meets the
10 percentage goals set forth in 10 V.S.A. § 580 and that the State’s own
11 greenhouse gas emissions from energy consumption meet the goals of
12 10 V.S.A. § 578(a).

13 (3) To consider State policies and operations that affect energy use.

14 ~~(3)~~(4) To devise a strategy to implement or acquire all prudent
15 opportunities and investments in as prompt and efficient a manner as possible.

16 ~~(4)~~(5) To include appropriate provisions for monitoring resource and
17 energy use and evaluating the impact of measures undertaken.

18 ~~(5)~~(6) To identify education, management, and other relevant policy
19 changes that are a part of the implementation strategy.

20 ~~(6)~~(7) To devise a strategy to reduce greenhouse gas emissions. The
21 Plan shall include steps to encourage more efficient trip planning, to reduce the

1 average fuel consumption of the State fleet, to encourage alternatives to
2 solo-commuting State employees for commuting and job-related travel, and to
3 incorporate conventional hybrid, plug-in hybrid, and battery electric vehicles
4 into the State fleet if cost-effective on a life-cycle basis.

5 ~~(7)~~(8) To provide, where feasible, for the installation of renewable
6 energy systems including solar energy systems, which shall include equipment
7 or building design features, or both, designed to attain the optimal mix of
8 minimizing solar gain in the summer and maximizing solar gain during the
9 winter, as part of the new construction or major renovation of any State
10 building. The cost of implementation and installation will be identified as part
11 of the budget process presented to the General Assembly.

12 * * *

13 * * * Standard Offer Program * * *

14 **Sec. 15. STANDARD OFFER PROGRAM; REPORT**

15 (a) On or before December 15, 2018, the Public Service Board (Board)
16 shall submit a written report on the Standard Offer Program set forth at
17 30 V.S.A. § 8005a that addresses each of the following issues:

18 (1) Whether the Program should continue until it reaches the
19 current cumulative capacity limit of 127.5 MW or be repealed.

20 (2) Assuming for the purpose of this subdivision (2) that the
21 program continues until reaching that capacity limit:

1 **(A) With respect to the exemption from bearing the costs of**
2 **contracts within the Program** set forth at 30 V.S.A. § 8005a(k)(2)(B), the
3 potential increased use of that exemption by retail electricity providers and the
4 effect of such increased use on nonexempt retail electricity providers. The
5 report shall include the Board’s recommendations, if any, for amendment or
6 **repeal** of the exemption.

7 **(B) The allocation of wheeling costs to retail electricity providers**
8 **rather than to plant owners and the method of allocating those costs to the**
9 **providers. The report shall include the Board’s recommendations, if any,**
10 **for amendment of 30 V.S.A. § 8005a relating to wheeling costs.**

11 (b) The Board shall submit the report required by this section to the House
12 Committee on Energy and Technology and the Senate Committees on Finance
13 and on Natural Resources and Energy.

14 (c) Before submitting the report, the Board shall provide an opportunity for
15 affected parties and the public to submit relevant information and
16 recommendations.

17 **(d) Notwithstanding any contrary provision of the exemption at**
18 **30 V.S.A. § 8005a(k)(2)(B), a retail electricity provider shall not qualify to**
19 **be exempt under subdivision 8005a(k)(2)(B) during calendar year 2018**
20 **unless the provider was exempted under that subdivision for a prior**
21 **calendar year.**

