VERMONT STATUTES RELATED TO ENERGY POLICY

Requested by Senator Bray

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Dec. 27, 2016

CONTENTS

I. Broad Energy Policy and Goal Statements 6
A. Air Pollution Control Statutes 6
1. 10 V.S.A. § 578 (Greenhouse Gas Reduction Goals) 6
2. 10 V.S.A. § 580 (25 by 25 State Goal) 6
3. 10 V.S.A. § 581 (Building Efficiency Goals) 7
B. Public Service Statutes 7
1. 30 V.S.A. § 202a (State Energy Policy) 7
2. 30 V.S.A. § 218e (Implementing State Energy Policy) 8
3. 30 V.S.A. § 255(a) (RGGI) 8
4. 30 V.S.A. § 8001 (Renewable Energy Goals) 9
5. 30 V.S.A. § 8005 (RES Categories) 9
C. Land Use Statutes and Session Law 9
1. 24 V.S.A. § 4302(a), (c)(4), (c)(7) (development goals) 9
2. 1973 Acts and Resolves, No. 85, Secs. 7(a), 13, 17 (energy conservation, transportation and utility corridors) 10
D. Historic Downtown Development 11
1. 24 V.S.A. § 2790(a)(3), (b)(4), (b)(6) (policy and purpose) 11
E. Transportation Statutes 11
1. 19 V.S.A. § 10b(a)–(c) (policy regarding efficiency, complete streets) 11
2. 19 V.S.A. § 10f (public transportation policy) 12
F. Other Session Law: 2013 Acts and Resolves No. 89, Sec. 1 (climate change findings) 13

II. Planning Statutes Affecting Energy 15
A. Public Service Statutes 15
1. 30 V.S.A. § 202 (Electrical Energy Planning) 15
2. 30 V.S.A. § 202b (State Comprehensive Energy Plan) 17
3. 30 V.S.A. § 218c (Least-Cost Integrated Plan) 18
B. State Agency Energy 20
1. 3 V.S.A. §§ 2291, 2291a, 2291b (State Agency Energy Plan) ..... 20, 22, and 22
2. 29 V.S.A. §§ 157, 168 (state facilities) ..... 22 and 23
C. Transportation Statutes: 19 V.S.A. § 10i(a), (c) (Transportation Planning Process) 25
D. Historic Downtown Development Statutes 26
1. 24 V.S.A. § 2791(3), (10), (11), (13) (definitions, including smart growth) 26
2. 24 V.S.A. § 2793c(a), (b), (i) (Designation of Growth Centers) 27
3. 24 V.S.A. § 2793e(a), (b), (c), (f) (neighborhood planning areas; designation) 31

E. Land Use Statutes 34
1. 24 V.S.A. § 4345a(19) (Duties of Regional Planning Commissions)....34
2. 24 V.S.A. § 4348a(a)(3), (a)(4), (a)(5) (Elements of a Regional Plan)....34
3. 24 V.S.A. § 4352 (energy compliance and planning) 34
4. 24 V.S.A. § 4382(a)(3), (a)(4), (a)(5), (a)(9) (Plan for a Municipality)....36

III. Greenhouse Gas Emissions....38
A. 10 V.S.A. § 578 (Greenhouse Gas Reduction Goals) 38
B. 10 V.S.A. § 582 (Greenhouse Gas Inventories; Registry) 38
C. 30 V.S.A. § 255 (RGGI)....39

IV. Vehicles....42
A. Emissions 42
1. 10 V.S.A. § 554 (see subdiv. 10, continuing study on air contaminant emissions)....42
2. 10 V.S.A. § 558 (Emission Control Requirements)....43
3. 10 V.S.A. § 567 (Motor Vehicle Pollution) 43
4. 10 V.S.A. § 579 (Vehicle Emissions Labeling Program for New Motor Vehicles) 43
5. 23 V.S.A. § 1110 (Prohibited Idling of Motor Vehicles)....44
6. 23 V.S.A. § 1222a (Emissions of Diesel-Powered Commercial Vehicles) 45
B. Multi-modal Transportation 46
1. 10 V.S.A. § 6086(a), (a)(5) (permit, transportation criterion)....46
2. 19 V.S.A. § 309d (Policy for Municipally Managed Transportation Projects) 46
3. 19 V.S.A. § 905 (Construction of Sidewalks, Bicycle Paths, and Footpaths) 47
4. 19 V.S.A. § 2302 (maintenance of bike paths) 47

V. Efficient Use of Energy....48
A. 10 V.S.A. § 581 (Building Efficiency Goals) 48
B. Building Efficiency Standards and Related Statutes 48
1. 30 V.S.A. chapter 2 subchapter 1 48
a. 30 V.S.A. § 51 (Residential Building Energy Standards; Stretch Code) 48
b. 30 V.S.A. § 52 (Home Energy Rating Organization Accreditation)....51
c. 30 V.S.A. § 53 (Commercial Building Energy Standards)....52
d. 30 V.S.A. § 54 (Compliance Plan)....56
2. 20 V.S.A. § 2731(f), (1) (state-funded buildings energy compliance and certificate)....56
C. Efficiency Resource Acquisition Statutes, Including Efficiency Utilities 56
1. 30 V.S.A. § 209(d) through (g) (energy efficiency and conservation programs) 56
2. 30 V.S.A. § 209(j) (self-managed energy efficiency program)....61
3. 30 V.S.A. § 218b (Farm Customers; Energy Efficiency; Electric Energy Generation) 64
4. 30 V.S.A. § 203a (Fuel Efficiency Fund) 64
5. 30 V.S.A. § 235 (Heating and Process Fuel Efficiency Program) 64
6. 30 V.S.A. § 2925 (Conservation and Load Management, municipal electric utilities) 66
7. 30 V.S.A. § 3045 (Conservation and Load Management, cooperatives)....66

D. Energy Efficiency Standards for Appliances: 9 V.S.A. chapter 74 67
1. 9 V.S.A. § 2791 (General Purpose).....67
2. 9 V.S.A. § 2792 (Findings) 67
3. 9 V.S.A. § 2793 (Definitions) 67
4. 9 V.S.A. § 2794 (Scope) 69
5. 9 V.S.A. § 2795 (Efficiency Standards).....69
6. 9 V.S.A. § 2796 (Implementation).....71
7. 9 V.S.A. § 2797 (Revised Standards).....72
8. 9 V.S.A. § 2798 (Testing, Certification, Labeling, and Enforcement) 72
E. Energy Efficiency Standards for Light Bulbs: 9 V.S.A. chapter 84.....73
1. 9 V.S.A. § 3153 (Definitions) 73
2. 9 V.S.A. § 3154 (Adoption of Standards).....73
3. 9 V.S.A. § 3155 (Applicability) 74
4. 9 V.S.A. § 3156 (Test Methods) 74
5. 9 V.S.A. § 3157 (Certification Statements) 74
6. 9 V.S.A. § 3158 (Enforcement and Penalties) 74
F. Low-Income Weatherization: 33 V.S.A. chapter 25 75
1. 33 V.S.A. § 2501 (Home Weatherization Assistance Fund).....75
2. 33 V.S.A. § 2502 (Home Weatherization Assistance Program) 75
4. 33 V.S.A. § 2503 (Fuel Tax).....76

VI. <u>Programs or Incentives for Utilities to Provide Renewable Electricity</u>.....78
A. Renewable Energy Chapter Definitions: 30 V.S.A. § 8002.....78
B. Renewable Energy Standard.....81
1. 30 V.S.A. § 8004 (Sales of Electric Energy; Renewable Energy Standard).....81
2. 30 V.S.A. § 8005 (RES Categories).....81
3. 30 V.S.A. § 8006 (Tradeable Credits; Environmental Attributes; Recognition, Monitoring, and Disclosure).....87
C. Standard Offer Program 87
1. 30 V.S.A. § 8005a (Standard Offer Program).....87
2. 30 V.S.A. § 8006a (Greenhouse Gas Reduction Credits) 95
D. Baseload Renewable Portfolio Requirement: 30 V.S.A. § 8009 96
E. Net Metering: 30 V.S.A. § 8010.....98
F. Long-term Contracts for Renewable Energy: 30 V.S.A.§ 248(a)(1).....101
G. Regulatory Incentives for Renewable Generation: 30 V.S.A. § 218(f) 101

VII. <u>Land Use/Siting Statutes re: Energy Efficiency, Renewables, GHGs, or Plan Incorp.</u>.....103
A. Act 250: 10 V.S.A. § 6086(a)(9)(F), (9)(G), (9)(J), (9)(L), (a)(10).....103
B. Local Land Use.....104
1. 24 V.S.A. § 4412(6) (heights of renewable energy resource structures) 104
2. 24 V.S.A. § 4413(g) (Limitations on Municipal Bylaws).....104
3. 24 V.S.A. § 4414(3), (6), (14) (Zoning; Permissible Types of Regulations).....104
4. 24 V.S.A. § 4416 (Site Plan Review).....105
C. Electric Generation and Transmission, and Natural Gas Facilities: 30 V.S.A. § 248(b)(1), (2), (5), (6), (7), (11); 248(o), 248(r).....106

VIII. Incentives that Further Energy Policy Goals (Other than Taxation) 109
A. Clean Energy Development Fund: 30 V.S.A. §§ 8015, 8016 .....109 and 114
B. Transportation Alternatives Grant Program: 19 V.S.A. § 38 114
C. Property-Assessed Clean Energy: 24 V.S.A. chapter 87, subchapter 2 115
1. 24 V.S.A. § 3261 (Property-Assessed Clean Energy Districts; Approval of Voters) 115
2. 24 V.S.A. § 3262 (Written Agreements; Consent of Property Owners; Energy Savings Analysis) 115
3. 24 V.S.A. § 3263 (Costs of Operation of District) 117
4. 24 V.S.A. § 3264 (Rights of Property Owners) 117
5. 24 V.S.A. § 3265 (Liability of Municipality) 118
6. 24 V.S.A. § 3266 (Intermunicipal Agreements) 118
7. 24 V.S.A. § 3267 (Eligible Energy Efficiency Projects; Assistance to Municipalities) 118
8. 24 V.S.A. § 3268 (Release of Lien) 118
9. 24 V.S.A. § 3269 (Reserve Fund) 118
10. 24 V.S.A. § 3270 (State PACE Reserve Fund) 119
11. 24 V.S.A. § 3271 (Monitoring; Compliance; Underwriting Criteria) 121
D. Vermont Sustainable Energy Loan Fund 121
1. 10 V.S.A. § 280cc (Creation; Purpose; Definitions) 121
2. 10 V.S.A. § 280dd (Loan Programs Administered within the Fund) 121
E. Vermont Village Green Pilot Program: 30 V.S.A. §§ 8101, 8102 .....122 and 123
F. Incentives Available to Energy but Not Energy-Specific 123
1. Vermont Community Loan Fund: 10 V.S.A. § 9 123
2. Local Investment Credit Facility: 10 V.S.A. §§ 10, 11 .....124 and 124
3. VEGI—Enhanced Incentive for Environmental Technology Business: 32 V.S.A. §§ 3330, 3335 .....125 and 125

IX. Taxation 127
A. 32 V.S.A. § 3481(1)(D)(i) (appraisal, solar) 127
B. 32 V.S.A. § 3802 (Property Tax) 127
C. 32 V.S.A. § 3845 (Renewable Energy Sources) 127
D. 32 V.S.A. §§ 5400(g), (h); 5401(10)(J); 5402 (Statutory Purpose; Definitions; Education Property Tax Liability) .....128, 128, and 128
E. 32 V.S.A. § 5402c (Wind-Powered Electric Generating Facilities Tax) 130
F. 32 V.S.A. § 5930cc (tax credit for heating/cooling systems) 130
G. 32 V.S.A. § 8701 (Uniform Capacity Tax) 131

X. Home Heating Fuel Assistance: 33 V.S.A. chapter 26 132
A. 33 V.S.A. § 2601 (Policy and Purpose) 132
B. 33 V.S.A. § 2601a (Definitions) 132
C. 33 V.S.A. § 2602 (Administration) 133
D. 33 V.S.A. § 2602a (Office of Home Energy Assistance) 133
E. 33 V.S.A. § 2603 (Home Heating Fuel Assistance Fund) 134
F. 33 V.S.A. § 2604 (Eligible Beneficiaries; Requirements) 134

G. 33 V.S.A. § 2605 (Benefit Amounts).....135
H. 33 V.S.A. § 2606 (Application Period; Assistance).....136
I. 33 V.S.A. § 2607 (Payments to Fuel Suppliers).....136
J. 33 V.S.A. § 2608 (Weatherization Program Agreements).....138
K. 33 V.S.A. § 2609 (Crisis Reserves; Eligibility and Assistance).....138

XI. Miscellaneous.....140
A. Wind Energy; State Lands: 3 V.S.A. § 2840.....140
B. Local Energy Coordinator: 24 V.S.A. § 1131.....141
C. Local Ordinances and Renewable Energy Devices: 24 V.S.A. § 2291a.....141
D. Local Codes Authorized (usable for energy efficiency): 24 V.S.A. § 3101.....141
E. Deeds and Renewable Energy Devices: 27 V.S.A. § 544.....142
F. Natural Gas and Oil Conservation: 29 V.S.A. §§ 502, 505.....142 and 143
G. Hydraulic Fracturing: 29 V.S.A. § 571.....144
H. Affinity Card Program: 32 V.S.A. § 584.....144

I. BROAD ENERGY POLICY OR GOAL STATEMENTS

A. Air Pollution Control Statutes

10 V.S.A. § 578. GREENHOUSE GAS REDUCTION GOALS

(a) General goal of greenhouse gas reduction. It is the goal of the state to reduce emissions of greenhouse gases from within the geographical boundaries of the state and those emissions outside the boundaries of the state that are caused by the use of energy in Vermont in order to make an appropriate contribution to achieving the regional goals of reducing emissions of greenhouse gases from the 1990 baseline by:

(1) 25 percent by January 1, 2012;

(2) 50 percent by January 1, 2028;

(3) if practicable using reasonable efforts, 75 percent by January 1, 2050.

(b) Vermont climate collaborative. The secretary will participate in the Vermont climate collaborative, a collaboration between state government and Vermont's higher education, business, agricultural, labor, and environmental communities. Wherever possible, members of the collaborative shall be included among the membership of the program development working groups established by the climate change oversight committee created under this act. State entities shall cooperate with the climate change oversight committee in pursuing the priorities identified by the committee. The secretary shall notify the general public that the collaborative is developing greenhouse gas reduction programs and shall provide meaningful opportunity for public comment on program development. Programs shall be developed in a manner that implements state energy policy, as specified in 30 V.S.A. § 202a.

(c) Implementation of state programs to reduce greenhouse gas emissions. In order to facilitate the state's compliance with the goals established in this section, all state agencies shall consider, whenever practicable, any increase or decrease in greenhouse gas emissions in their decision-making procedures with respect to the purchase and use of equipment and goods; the siting, construction, and maintenance of buildings; the assignment of personnel; and the planning, design and operation of programs, services and infrastructure.

(d) Advocacy for cap and trade program for greenhouse gases, including those caused by transportation, heating, cooling, and ventilation. In order to increase the likelihood of the state meeting the goals established under this section, the public service board, the secretary of natural resources, and the commissioner of public service shall advocate before appropriate regional or national entities and working groups in favor of the establishment of a regional or national cap and trade program for greenhouse gas emissions, including those caused by transportation, heating, cooling, and ventilation. This may take the form of an expansion of the existing regional greenhouse gas initiative (RGGI), or it may entail the creation of an entirely new and separate regional or national cap and trade initiative that includes a 100 percent consumer allocation system.

10 V.S.A. § 580. 25 BY 25 STATE GOAL

(a) It is 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.

(b) By no later than January 15, 2009, the Secretary of Agriculture, Food and Markets, in consultation with the Commissioner of Public Service and the Commissioner of Forests, Parks and Recreation, shall present to the Committees on Agriculture and Natural Resources and Energy of the General Assembly a plan for attaining this goal. Plan updates shall be presented no less frequently than every three years thereafter, and a progress report shall be due annually on January 15.

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

10 V.S.A. § 581. BUILDING EFFICIENCY GOALS

It shall be goals of the State:

(1) To improve substantially the energy fitness of at least 20 percent of the State's housing stock by 2017 (more than 60,000 housing units), and 25 percent of the State's housing stock by 2020 (approximately 80,000 housing units).

(2) To reduce annual fuel needs and fuel bills by an average of 25 percent in the housing units served.

(3) To reduce total fossil fuel consumption across all buildings by an additional one-half percent each year, leading to a total reduction of six percent annually by 2017 and 10 percent annually by 2025.

(4) To save Vermont families and businesses a total of $1.5 billion on their fuel bills over the lifetimes of the improvements and measures installed between 2008 and 2017.

(5) To increase weatherization services to low-income Vermonters by expanding the number of units weatherized, or the scope of services provided, or both, as revenue becomes available in the Home Weatherization Assistance Fund.

B. Public Service Statutes

30 V.S.A. § 202a. STATE ENERGY POLICY

It is the general policy of the State of Vermont:

(1) To assure, to the greatest extent practicable, that Vermont can meet its energy service needs in a manner that is adequate, reliable, secure, and sustainable; that assures affordability and encourages the state's economic vitality, the efficient use of energy resources and cost-effective demand-side management; and that is environmentally sound.

(2) To identify and evaluate, on an ongoing basis, resources that will meet Vermont's energy service needs in accordance with the principles of least-cost integrated planning; including efficiency, conservation and load management alternatives, wise use of renewable resources and environmentally sound energy supply.

30 V.S.A. § 218e. IMPLEMENTING STATE ENERGY POLICY; MANUFACTURING

To give effect to the policies of section 202a of this title to provide reliable and affordable energy and assure the State's economic vitality, it is critical to retain and recruit manufacturing and other businesses and to consider the impact on manufacturing and other businesses when issuing orders, adopting rules, and making other decisions affecting the cost and reliability of electricity and other fuels. Implementation of the State's energy policy should:

(1) encourage recruitment and retention of employers providing high-quality jobs and related economic investment and support the State's economic welfare; and

(2) appropriately balance the objectives of this section with the other policy goals and criteria established in this title.

30 V.S.A. § 255. REGIONAL COORDINATION TO REDUCE GREENHOUSE GASES

(a) Legislative findings. The General Assembly finds:

(1) There is a growing scientific consensus that the increased anthropogenic emissions of greenhouse gases are enhancing the natural greenhouse effect, resulting in changes in the earth's climate.

(2) Climate change poses serious potential risks to human health and terrestrial and aquatic ecosystems globally, regionally, and in Vermont.

(3) A carbon constraint on fossil fuel-fired electricity generation and the development of a CO2 allowance trading mechanism will create a strong incentive for the creation and deployment of more efficient fuel-burning technologies, renewable resources, and end-use efficiency resources and will lead to lower dependence on imported fossil fuels.

(4) Absent federal action, a number of states are taking actions to work regionally to reduce power sector carbon emissions.

(5) Vermont has joined with at least six other states to design the Regional Greenhouse Gas Initiative (RGGI), and, in 2005, Vermont's Governor signed a memorandum of understanding (MOU) signaling Vermont's intention to develop rules and programs to participate in RGGI.

(6) It is crucial to manage Vermont's implementation of RGGI and its consumption of fossil fuels for residential and commercial heating, and industrial processes, so as to maximize the State's contribution to lowering carbon emissions while:

(A) minimizing impacts on electric system reliability and unnecessary costs to Vermont energy consumers; and

(B) minimizing the costs and the emissions resulting from the use of petroleum-based fuels for space heating and process heating for residential, commercial, and industrial purposes.

(7) The accelerated deployment of low-cost process, thermal, and electrical energy efficiency, the strategic use of low- and zero-carbon generation, and the selective use of switching fuel sources are the best means to achieve these goals.

(8) It is crucial that funds made available from operation of a regional carbon credits cap and trade system be devoted to the benefit of Vermont energy consumers through investments in a strategic portfolio of energy efficiency, weatherization, and low-carbon generation resources.

* * *

30 V.S.A. § 8001. RENEWABLE ENERGY GOALS

(a) The General Assembly finds it in the interest of the people of the State to promote the State energy policy established in section 202a of this title by:

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

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

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

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

(5) Protecting and promoting air and water quality in the State and region through the displacement of those fuels, including fossil fuels, which are known to emit or discharge pollutants.

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

(7) Providing support and incentives to locate renewable energy plants of small and moderate size in a manner that is distributed across the State's electric grid, including locating such plants in areas that will provide benefit to the operation and management of that grid through such means as reducing line losses and addressing transmission and distribution constraints.

(8) Promoting the inclusion, in Vermont's electric supply portfolio, of renewable energy plants that are diverse in plant capacity and type of renewable energy technology.

(b) The Board shall adopt the rules that are necessary to allow the Board and the Department to implement and supervise programs pursuant to subchapter 1 of this chapter.

30 V.S.A. § 8005. RES CATEGORIES

[For full text, see Section VI, page 81.]

C. Land Use Statutes and Session Law

24 V.S.A. § 4302. PURPOSE; GOALS

(a) General purposes. It is the intent and purpose of this chapter to encourage the appropriate development of all lands in this State by the action of its constituent municipalities and regions, with the aid and assistance of the State, in a manner which will promote the public health, safety against fire, floods, explosions, and other dangers; to promote prosperity, comfort, access to adequate light and air, convenience, efficiency, economy, and general welfare; to enable the mitigation of the burden of property taxes on agricultural, forest, and other open lands; to encourage appropriate architectural design; *to encourage the development of renewable resources*; to protect residential, agricultural, and other areas from undue concentrations of

population and overcrowding of land and buildings, from traffic congestion, from inadequate parking and the invasion of through traffic, and from the loss of peace, quiet, and privacy; to facilitate the growth of villages, towns, and cities and of their communities and neighborhoods so as to create an optimum environment, with good civic design; to encourage development of a rich cultural environment and to foster the arts; and to provide means and methods for the municipalities and regions of this State to plan for the prevention, minimization, and future elimination of such land development problems as may presently exist or which may be foreseen and to implement those plans when and where appropriate. In implementing any regulatory power under this chapter, municipalities shall take care to protect the constitutional right of the people to acquire, possess, and protect property.

* * *

(c) In addition, this chapter shall be used to further the following specific goals:

* * *

(4) To provide for safe, convenient, economic and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.

(A) Highways, air, rail, and other means of transportation should be mutually supportive, balanced, and integrated.

* * *

(7) To make efficient use of energy, provide for the development of renewable energy resources, and reduce emissions of greenhouse gases.

(A) General strategies for achieving these goals include increasing the energy efficiency of new and existing buildings; identifying areas suitable for renewable energy generation; encouraging the use and development of renewable or lower emission energy sources for electricity, heat, and transportation; and reducing transportation energy demand and single occupancy vehicle use.

(B) Specific strategies and recommendations for achieving these goals are identified in the State energy plans prepared under 30 V.S.A. §§ 202 and 202b.

* * *

1973 Acts and Resolves, No. 85 Secs. 7(a), 13, 17

Sec. 7. Legislative findings

(a) In order to provide general and uniform policies on land use and development to municipal, regional, and state governmental agencies, for their guidance and consideration, and to provide the basis for the Vermont land use plan to be adopted under section 6043 of Title 10, the general assembly hereby finds and declares as follows:

* * *

(13) CONSERVATION OF ENERGY

Energy conversion and utilization depletes a limited resource, and produces wastes harmful to the environment, while facilitating our economy and satisfying human needs essential to life. Energy conservation should be actively encouraged and wasteful practices discouraged.

* * *

(17) PLANNING FOR TRANSPORTATION AND UTILITY CORRIDORS

The development and expansion of governmental and public utility facilities and services should occur within highway or public utility rights-of-way corridors in order to reduce adverse physical and visual impact on the landscape and achieve greater efficiency in the expenditure of public funds.

* * *

D. Historic Downtown Development

24 V.S.A. § 2790. LEGISLATIVE POLICY AND PURPOSE

(a) The General Assembly finds that:

* * *

(3) Investments made to revitalize the State's historic downtowns and village centers, to encourage pedestrian-oriented development within and around the commercial core, and to build upon the State's traditional settlement patterns support statewide goals concerning energy conservation, the efficient use of transportation and other public infrastructure and services, the protection of the working landscape, and the promotion of healthy lifestyles.

* * *

(b) It is therefore the intent of the General Assembly to:

* * *

(4) promote healthy, safe, and walkable downtown and village neighborhoods for people of all ages and incomes by increasing investments in those locations; providing energy efficient housing that is closer to jobs, services, health care, stores, entertainment, and schools; and reducing the combined cost of housing and transportation;

* * *

(6) develop safe, reliable, and economical transportation options in historic downtowns and villages to decrease household transportation costs, promote energy independence, improve air quality, reduce greenhouse gas emissions, and promote public health; and

* * *

E. Transportation Statutes

19 V.S.A. § 10b. STATEMENT OF POLICY; GENERAL

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

(1) *that State transportation policy shall be to encompass, coordinate, and integrate all modes of transportation and to consider "complete streets" principles,* which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference; and

(2) *the need for transportation projects that will improve the State's economic infrastructure, as well as the use of resources in efficient, coordinated, integrated, cost-effective, and environmentally sound ways*.

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

(1) to assure that the transportation system as a whole is integrated, that access to the transportation system as a whole is integrated, and that *statewide, local, and regional conservation and efficiency opportunities and practices are integrated*; and

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

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

(1) Develop or incorporate designs that provide integrated, safe, and efficient transportation.

(2)(A) *Consider the safety and accommodation of all transportation system users—including motorists, bicyclists, public transportation users, and pedestrians* of all ages and abilities—in all State- and municipally managed transportation projects and project phases, including planning, development, construction, and maintenance, except in the case of projects or project components involving unpaved highways. If, after the consideration required under this subdivision, a State-managed project does not incorporate complete streets principles, the project manager shall make a written determination, supported by documentation and available for public inspection at the Agency, that one or more of the following circumstances exist:

(i) Use of the transportation facility by pedestrians, bicyclists, or other users is prohibited by law.

(ii) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors including land use, current and projected user volumes, population density, crash data, historic and natural resource constraints, and maintenance requirements. The Agency shall consult local and regional plans, as appropriate, in assessing these and any other relevant factors.

(iii) Incorporating complete streets principles is outside the scope of a project because of its very nature.

(B) The written determination required under subdivision (A) of this subdivision (2) shall be final and shall not be subject to appeal or further review.

(3) *Promote economic opportunities for Vermonters and the best use of the State's environmental and historic resources*.

(4) Manage available funding to:

(A) give *priority* to preserving the functionality of the existing transportation infrastructure, *including bicycle and pedestrian trails* regardless of whether they are located along a highway shoulder; and

(B) adhere to credible project delivery schedules.

* * *

19 V.S.A. § 10f. STATEMENT OF POLICY; PUBLIC TRANSPORTATION

(a) It shall be the state's policy to make maximum use of available federal funds for the support of public transportation. State operating support funds shall be included in agency operating budgets to the extent that funds are available. It shall be the state's policy to support

the maintenance of existing public transportation services, to assure the rapid replacement of any unplanned decrease in service, and to support the creation of new service that is accessible and affordable to those who use these services.

(b) The agency of transportation shall develop and periodically update a plan for investment in public transportation services and infrastructure as part of an integrated transportation system consistent with the goals established in 24 V.S.A. § 5083, and regional transportation development plan proposals and regional plans as required by 24 V.S.A. § 5089. The plan shall include components that shall coordinate rideshare, public transit, park and ride, interstate, and bicycle and pedestrian planning and investment at the state, regional, and local levels, and create or expand regional connections within the state, in order to maximize interregional ridesharing and access to public transit.

(c) The agency shall develop and make available to the traveling public an integrated, statewide online service that coordinates transportation options and provides web-based access to information that will allow the traveling public integrated, convenient, affordable, and dependable access to alternative transportation modes sufficient to allow efficient, cost-effective, and timely travel throughout the state.

F. Other Session Law: 2013 Acts and Resolves No. 89, Sec. 1 (climate change findings)

No. 89. An act relating to reducing energy costs and greenhouse gas emissions.

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The primary driver of climate change in Vermont and elsewhere is the increase of atmospheric carbon dioxide (CO2) from the burning of fossil fuels. The warming caused by carbon dioxide is amplified multiple times because atmospheric water vapor, another greenhouse gas, increases as temperature increases.

(2) The primary sources of Vermont's greenhouse gas emissions are the consumption of fossil fuels for transportation fuels and for heating buildings and water (thermal energy). In 2010, CO2 and equivalent emissions from Vermont energy consumption totaled approximately eight million metric tons (MMTCO2). Of this total, transportation fuel use accounted for approximately 3.5 and nonelectric fuel use by homes and businesses for approximately 2.5.

(3) Another result of high fossil fuel consumption is that the average Vermonter and the Vermont economy are facing a fuel affordability challenge of historic proportions. In 2010, Vermonters paid over $600 million to import fossil fuels for use in their homes, businesses, and other buildings, almost $300 million more than Vermont paid in 2000.

(4) In January 2013, the Department of Public Service submitted the report of its Thermal Energy Task Force (the Task Force). Among other things, the Task Force found that: "Investing in thermal efficiency improvements . . . can dramatically reduce heating energy use in a building. At current fuel prices, thermal efficiency improvements can bring savings of approximately $1,000.00 per year over the lifetime of the investment. . . . As each year passes and investments are not made, cost burdens must be borne by individual Vermonters, businesses and property owners – collectively burdening the Vermont economy as a whole."

(5) This burden is felt most by Vermonters of limited means or on fixed incomes, such as persons who may be elderly or have disabilities. These Vermonters face the dilemma of being unable to pay for heat as fuel prices rise and federal fuel assistance is reduced. Since 2009, the

percentage of an average recipient household's heating costs paid by Vermont's fuel assistance program has dropped precipitously, primarily because of cuts to the federal Low Income Home Energy Assistance Program (LIHEAP) totaling approximately 40 percent. Benefits have been cut almost in half from a seasonal high of over $1,700.00 to $900.00, and the percentage paid of the average recipient household's bill has dropped from 86 percent to 32 percent. While the State of Vermont has attempted to soften the blow to date, the State's ability to continue to provide fuel assistance funding is limited, and additional LIHEAP cuts may result from the so called federal "sequester."

(6) Many Vermonters who receive financial assistance from the state and federal governments to meet their heating needs live in poorly insulated buildings. The level of expenditure necessary to heat these homes could be significantly decreased if appropriate and cost-effective thermal energy efficiency measures applied. Reducing fuel consumption through weatherization services would decrease the need for supplemental assistance in individual units and allow limited funds to cover a greater number of needy residents. Conversely, as the Task Force found: "Delaying weatherization for this population places more pressure on other public resources such as the Low-Income Heating Assistance Program (LIHEAP)."

(7) The Task Force found that substantial public investment would be necessary to meet the State's statutory goals for improving the energy fitness of its homes and buildings. At this investment level, the Task Force found that, over the life of the energy efficiency measures, over $1.4 billion would be saved, approximately 800 job-years would be created, and 6.8 million tons of CO2 would be kept from entering the atmosphere.

(8) Vermont must act to reduce its greenhouse gas emissions and consumption of fossil fuels. The State must encourage the efficient use of energy to heat buildings and water in order to reduce Vermont's carbon footprint and fuel costs and make heating more affordable for all Vermonters.

II. PLANNING STATUTES AFFECTING ENERGY

A. Public Service Statutes

30 V.S.A. § 202. ELECTRICAL ENERGY PLANNING

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

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

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

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

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

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

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

(6) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

(c) In developing the Plan, the Department shall take into account the protection of public health and safety; preservation of environmental quality; the relevant goals of 24 V.S.A. § 4302; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the Director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities and planning commissions;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

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

(G) industrial customer representatives;

(H) commercial customer representatives;

(I) the Public Service Board;

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

(K) other interested State agencies;

(L) other energy providers; and

(M) the regional planning commissions.

(2) To the extent necessary, include in the Plan surveys to determine needed and desirable plant improvements and extensions and coordination between utility systems, joint construction of facilities by two or more utilities, methods of operations, and any change that will produce better service or reduce costs. To this end, the Director may require the submission of data by each company subject to supervision, of its anticipated electrical demand, including load fluctuation, supplies, costs, and its plan to meet that demand and such other information as the Director deems desirable.

(e) The Department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final Plan. The Plan shall be adopted no later than January 1, 2016 and readopted in accordance with this section by every sixth January 15 thereafter, and shall be submitted to the General Assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the submission to be made under this subsection.

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

(g) The Director shall annually review that portion of a Plan extending over the next six years. The Department, through the Director, shall biennially extend the Plan by two additional years; and from time to time, and in any event every sixth year, institute proceedings to review a Plan and make revisions, where necessary. The six-year review and any interim revisions shall be made according to the procedures established in this section for initial adoption of the Plan.

The six-year review and any revisions made in connection with that review shall be performed contemporaneously with readoption of the Comprehensive Energy Plan under section 202b of this title.

(h) The Plans adopted under this section shall become the electrical energy portion of the State Energy Plan.

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

(j) For the purpose of assisting in the development of municipal and regional plans under 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and regional planning commissions with publicly available information detailing the location of electric transmission and distribution infrastructure in the relevant municipality or region and the capacity of that infrastructure to accept additional electric generation facilities without modification. In providing this information, the Director shall be entitled to the assistance of the electric utilities that own electric transmission or distribution systems, or both, located in Vermont, including the ability to obtain from those utilities such publicly available data as the Director considers necessary to discharge his or her duties under this subsection.

30 V.S.A. § 202b. STATE COMPREHENSIVE ENERGY PLAN

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

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

(2) recommendations for State implementation actions, regulation, legislation, and other public and private action to carry out the Comprehensive Energy Plan; and

(3) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

(b) In developing or updating the Plan's recommendations, the Department of Public Service shall seek public comment by holding public hearings in at least five different geographic regions of the State on at least three different dates, and by providing notice through publication once a week and at least seven days apart for two or more successive weeks in a newspaper or newspapers of general circulation in the regions where the hearings will be held, and by delivering notices to all licensed commercial radio and television stations with transmitting facilities within the State, plus Vermont Public Radio and Vermont Educational Television.

(c) The Department shall adopt a State Energy Plan on or before January 1, 2016 and shall readopt the Plan by every sixth January 15 thereafter. On adoption or readoption, the Plan shall be submitted to the General Assembly. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to such submission.

(1) Upon adoption of the Plan, analytical portions of the Plan may be updated and published biennially.

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

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

(4) The Plan's implementation recommendations shall be updated by the Department no less frequently than every six years. These recommendations shall be updated prior to the expiration of six years if the General Assembly passes a joint resolution making a request to that effect. If the Department proposes or the General Assembly requests the revision of implementation recommendations, the Department shall hold public hearings on the proposed revisions.

(d) Distribution of the Plan to members of the General Assembly shall be in accordance with the provisions of 2 V.S.A. § 20(a)-(c).

30 V.S.A. § 218c. LEAST-COST INTEGRATED PLANNING

(a)(1) A "least-cost integrated plan" for a regulated electric or gas utility is a plan for meeting the public's need for energy services, after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy supply, transmission, and distribution capacity, transmission and distribution efficiency, and comprehensive energy efficiency programs. Economic costs shall be assessed with due regard to:

(A) the greenhouse gas inventory developed under the provisions of 10 V.S.A. § 582;

(B) the State's progress in meeting its greenhouse gas reduction goals;

(C) the value of the financial risks associated with greenhouse gas emissions from various power sources; and

(D) consistency with section 8001 (renewable energy goals) of this title.

(2) "Comprehensive energy efficiency programs" shall mean a coordinated set of investments or program expenditures made by a regulated electric or gas utility or other entity as approved by the Board pursuant to subsection 209(d) of this title to meet the public's need for energy services through efficiency, conservation or load management in all customer classes and areas of opportunity which is designed to acquire the full amount of cost-effective savings from such investments or programs.

(b) Each regulated electric or gas company shall prepare and implement a least-cost integrated plan for the provision of energy services to its Vermont customers. At least every third year on a schedule directed by the Public Service Board, each such company shall submit a proposed plan to the Department of Public Service and the Public Service Board. The Board, after notice and opportunity for hearing, may approve a company's least-cost integrated plan if it determines that the company's plan complies with the requirements of subdivision (a)(1) of this section and of sections 8004 and 8005 of this title.

(c) [Repealed.]

(d)(1) Least-cost transmission services shall be provided in accordance with this subsection. Not later than July 1, 2006, any electric company that does not have a designated retail service territory and that owns or operates electric transmission facilities within the State of Vermont, in conjunction with any other electric companies that own or operate these facilities, jointly shall prepare and file with the Department of Public Service and the Public Service Board a

Transmission System Plan that looks forward for a period of at least 10 years. A copy of the plan shall be filed with each of the following: the House Committees on Commerce and Economic Development and on Natural Resources and Energy and the Senate Committees on Finance and on Natural Resources and Energy. The objective of the Plan shall be to identify the potential need for transmission system improvements as early as possible, in order to allow sufficient time to plan and implement more cost-effective nontransmission alternatives to meet reliability needs, wherever feasible. The Plan shall:

(A) identify existing and potential transmission system reliability deficiencies by location within Vermont;

(B) estimate the date, and identify the local or regional load levels and other likely system conditions at which these reliability deficiencies, in the absence of further action, would likely occur;

(C) describe the likely manner of resolving the identified deficiencies through transmission system improvements;

(D) estimate the likely costs of these improvements;

(E) identify potential obstacles to the realization of these improvements; and

(F) identify the demand or supply parameters that generation, demand response, energy efficiency, or other nontransmission strategies would need to address to resolve the reliability deficiencies identified.

(2) Prior to the adoption of any Transmission System Plan, a utility preparing a Plan shall host at least two public meetings at which it shall present a draft of the Plan and facilitate a public discussion to identify and evaluate nontransmission alternatives. The meetings shall be at separate locations within the State, in proximity to the transmission facilities involved or as otherwise required by the Board, and each shall be noticed by at least two advertisements, each occurring between one and three weeks prior to the meetings, in newspapers having general circulation within the State and within the municipalities in which the meetings are to be held. Copies of the notices shall be provided to the Public Service Board, the Department of Public Service, any entity appointed by the Public Service Board pursuant to subdivision 209(d)(2) of this title, the Agency of Natural Resources, the Division for Historic Preservation, the Department of Health, the Agency of Transportation, the Attorney General, the chair of each regional planning commission, each retail electricity provider within the State, and any public interest group that requests, or has made a standing request for, a copy of the notice. A verbatim transcript of the meetings shall be prepared by the utility preparing the Plan, shall be filed with the Public Service Board and the Department of Public Service, and shall be provided at cost to any person requesting it. The Plan shall contain a discussion of the principal contentions made at the meetings by members of the public, by any State agency, and by any utility.

(3) Prior to the issuance of the Transmission Plan or any revision of the Plan, the utility preparing the Plan shall offer to meet with each retail electricity provider within the State, with any entity appointed by the Public Service Board pursuant to subdivision 209(d)(2) of this title, and with the Department of Public Service, for the purpose of exchanging information that may be relevant to the development of the Plan.

(4)(A) A Transmission System Plan shall be revised:

(i) within nine months of a request to do so made by either the Public Service Board or the Department of Public Service; and

(ii) in any case, at intervals of not more than three years.

(B) If more than 18 months shall have elapsed between the adoption of any version of the Plan and the next revision of the Plan, or since the last public hearing to address a proposed revision of the Plan and facilitate a public discussion that identifies and evaluates nontransmission alternatives, the utility preparing the Plan, prior to issuing the next revision, shall host public meetings as provided in subdivision (2) of this subsection, and the revision shall contain a discussion of the principal contentions made at the meetings by members of the public, by any State agency, and by any retail electricity provider.

(5) On the basis of information contained in a Transmission System Plan, obtained through meetings held pursuant to subdivision (2) of this subsection, or obtained otherwise, the Public Service Board and the Department of Public Service shall use their powers under this title to encourage and facilitate the resolution of reliability deficiencies through nontransmission alternatives, where those alternatives would better serve the public good. The Public Service Board, upon such notice and hearings as are otherwise required under this title, may enter such orders as it deems necessary to encourage, facilitate, or require the resolution of reliability deficiencies in a manner that it determines will best promote the public good.

(6) The retail electricity providers in affected areas shall incorporate the most recently filed Transmission Plan in their individual least-cost integrated planning processes, and shall cooperate as necessary to develop and implement joint least-cost solutions to address the reliability deficiencies identified in the Transmission Plan.

(7) Before the Department of Public Service takes a position before the Board concerning the construction of new transmission or a transmission upgrade with significant land use ramifications, the Department shall hold one or more public meetings with the legislative bodies or their designees of each town, village, or city that the transmission lines cross, and shall engage in a discussion with the members of those bodies or their designees and the interested public as to the Department's role as public advocate.

B. State Agency Energy

1. State Agency Energy Plan

3 V.S.A. § 2291. STATE AGENCY ENERGY PLAN

(a)(1) When used in this title, "life-cycle costs" shall mean the present value purchase price of an item, plus the replacement cost, plus or minus the salvage value, plus the present value of operation and maintenance costs, plus the energy and environmental externalities' costs or benefits. Where reliable data enables the Department of Buildings and General Services to establish these additional environmental externalities' costs or benefits with respect to a particular purchasing decision or category of purchasing decisions, that is energy related, the Department may recommend the addition or subtraction of an additional price factor. All State agencies shall consider the price factor and environmental considerations set by the Department when examining life-cycle costs for purchasing decisions.

(2) "State facilities," when used in this chapter, shall mean all State-owned or leased buildings, structures, appurtenances, and grounds.

(3) "State fleet," as used in this chapter, shall mean passenger vehicles and light duty trucks for use by State employees in the conduct of official duties, excluding law enforcement

vehicles assigned to sworn law enforcement officers, and shall be procured by the Commissioner of Buildings and General Services.

(b) It is the general policy of the State of Vermont:

(1) To ensure, to the greatest extent practicable, that State government can meet its energy needs and reduce greenhouse gas emissions in a manner that is adequate, reliable, secure, and sustainable; that assures affordability and encourages the State's economic vitality, the efficient use of energy resources, and cost-effective demand side management; and that is environmentally sound.

(2) To identify and evaluate, on an ongoing basis, resources that will meet State government energy service, infrastructure, purchasing and supply, and fleet needs in accordance with the principles of least cost integrated planning; including efficiency, conservation and load management alternatives, purchasing preferences, wise use of renewable resources and environmentally sound infrastructure development, energy supply, purchasing practices, and fleet management.

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

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

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

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

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

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

(6) To devise a strategy to reduce greenhouse gas emissions. The Plan shall include steps to encourage more efficient trip planning, to reduce the average fuel consumption of the State fleet, to encourage alternatives to solo-commuting State employees for commuting and job-related travel, and to incorporate conventional hybrid, plug-in hybrid, and battery electric vehicles into the State fleet if cost-effective on a life-cycle basis.

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

(d) The Department of Buildings and General Services shall coordinate State purchasing decisions, according to procedures developed by the Commissioner in cooperation with the Commissioner of Public Service, to ensure comparisons based on relative life-cycle costs.

(e) The Commissioner of Buildings and General Services shall develop life-cycle cost guidelines for use in all State buildings. These guidelines shall require all new construction and major renovations to meet or exceed the current "Vermont Commercial Building Energy Standards." Where practicable, the goal shall be attaining an EPA ENERGY STAR® rating of at least 75.

(1) The Department of Buildings and General Services shall develop a State strategy to reduce overall energy consumption in existing and proposed State buildings based on energy consumption levels specified in the energy conservation standard referred to in this subsection. The Plan shall identify, in buildings at variance with the energy standards referred to in this subsection, the cost to bring the building into compliance, and energy cost savings for the remaining useful life of the building.

(2) Each State agency and department, designated by the Secretary of Administration, which constructs or manages State buildings shall, by June 30, 2005, assure that new construction or major renovation of such structures incorporates those practical energy efficiency measures and energy consuming systems that result in the lowest life-cycle cost. New construction of State buildings shall be highly efficient and shall employ optimal siting and design, given the uses to which the buildings are to be put, with respect to solar gain and temperature control. State buildings shall be shaded and ventilated and their air circulation managed, to the extent practical, instead of being cooled by air conditioning.

(3) In capital requests to the General Assembly, the Commissioner of Buildings and General Services shall include, when appropriate, work plans, budgets, and proposed financing mechanisms to accomplish these reductions in energy use.

(f) The Commissioner of Buildings and General Services shall biennially report to the Secretary of Administration on the State's implementation of this section.

3 V.S.A. § 2291a. STATE AGENCY PLANNING AND COORDINATION

State agencies shall engage in a continuing planning process to assure that programs and actions are consistent with the goals established in the State Agency Energy Plan required by section 2291 of this title. This planning process shall be coordinated in a manner established by the Commissioner of Buildings and General Services.

3 V.S.A. § 2291b. ADOPTION OF STATE AGENCY ENERGY IMPLEMENTATION PLANS

After review by the Commissioner of Buildings and General Services and approval by the Secretary of Administration, each State agency shall adopt an implementation plan on or before August 31, 2010 to ensure compliance with the State Agency Energy Plan. Each agency shall readopt and file its implementation plan biennially with the Commissioner to ensure that the implementation plan remains compatible with the State Agency Energy Plan.

2. State Facilities

29 V.S.A. § 157. FACILITIES CONDITION ANALYSIS

(a) The Commissioner of Buildings and General Services shall:

(1) Maintain the condition of buildings and infrastructure under the Commissioner's jurisdiction to provide a safe and healthy environment through sustainable practices and judicious capital renewal.

(2) Conduct a facilities condition analysis each year of ten percent of the building area and infrastructure under the Commissioner's jurisdiction so that within ten years all property is assessed. At the end of the ten years, the process shall begin again. *The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption.*

(b) The Commissioner may use up to two percent of the funds appropriated to the Department of Buildings and General Services for major maintenance and planning for the purpose described in subsection (a) of this section.

29 V.S.A. § 168. STATE ENERGY MANAGEMENT PROGRAM; REVOLVING FUNDS

(a) State Energy Management Program.

(1) There is established within the Department of Buildings and General Services an Energy Management Program for administering the interest of the State in all energy management measures in State buildings and facilities, including equipment replacement, studies, weatherization, construction of improvements affecting the use of energy resources, the implementation of energy efficiency and conservation measures, and the use of renewable resources.

(2) The Energy Management Program shall be implemented through two revolving funds used to finance energy management measures in State buildings and facilities. Pursuant to subsections (b) and (c) of this section, the State Resource Management Revolving Fund shall provide revenue for implementation of resource conservation measures, and the Energy Revolving Fund shall provide funding for energy efficiency improvements and the use of renewable resources. The Commissioner of Buildings and General Services shall establish guidelines for the provision of funding for energy management measures through these revolving funds.

(3) All energy management measures taken pursuant to this section shall be made and executed by and in the name of the Commissioner.

(b) State Resource Management Revolving Fund.

(1) There is established a Resource Management Revolving Fund to provide revenue for implementation of resource conservation measures anticipated to generate a life cycle cost benefit to the State. All State agencies responsible for development and operations and maintenance of State infrastructure shall have access to the Resource Management Revolving Fund on a priority basis established by the Commissioner.

(2) The Fund shall consist of:

(A) monies appropriated to the Fund, or which are paid to it under authorization of the Emergency Board;

(B) monies saved by the implementation of resource management conservation measures; and

(C) fees for administrative costs paid by departments and agencies, which shall be fixed by the Commissioner subject to the approval of the Secretary of Administration.

(D) [Repealed.]

(3) Monies from the Fund shall be expended by the Commissioner for resource conservation measures anticipated to generate a life cycle cost benefit to the State and all necessary costs involved with the administration of State agency energy planning as determined by the Commissioner.

(4) The Commissioner shall establish criteria to determine eligibility for funding of resource conservation measures.

(5) Agencies or departments receiving funding shall repay the Fund through their regular operating budgets according to a schedule established by the Commissioner. Repayment shall include charges of fees for administrative costs over the term of the repayment.

(6) The Commissioner of Finance and Management may anticipate receipts to this Fund and issue warrants based thereon.

(7) The Commissioner shall maintain accurate and complete records of all receipts by and expenditures from the Fund.

(8) All balances remaining at the end of a fiscal year shall be carried over to the following year.

(c) Energy Revolving Fund.

(1) There is established an Energy Revolving Fund to finance energy efficiency improvements and the use of renewable resources in State buildings and facilities anticipated to generate a cost-savings to the State. State agencies and departments shall have access to the Energy Revolving Fund on a priority basis established by the Commissioner and the State Treasurer.

(2) The Fund shall consist of:

(A) monies appropriated to the Fund or which are paid to it under authorization of the Emergency Board;

(B) monies saved by the implementation of energy efficiency improvements and the use of renewable resources;

(C) any funds available through a credit facility maintained by the State Treasurer in accordance with subsection (d) of this section; and

(D) fees for administrative costs paid by departments and agencies, which shall be fixed by the Commissioner subject to the approval of the Secretary of Administration.

(3) Monies from the Fund shall be expended by the Commissioner for measures anticipated to generate a cost-savings to the State and costs involved with the administration of the State agency energy plan as determined by the Commissioner.

(4) The Commissioner and the State Treasurer shall establish criteria to determine eligibility for funding of energy efficiency improvements and the use of renewable resources, including returns of investment on terms acceptable to the State Treasurer.

(5) Agencies and departments receiving funding shall repay the Fund through their regular operating budget according to a schedule established by the Commissioner. Repayment shall include charges of fees for administrative costs over the term of the repayment.

(6) The Commissioner of Finance and Management may anticipate receipts to this Fund and issue warrants based thereon.

(7) The Commissioner of Buildings and General Services shall maintain accurate and complete records of all receipts by and expenditures from the Fund.

(8) All balances remaining at the end of a fiscal year shall be carried over to the following year; provided, however, that any amounts received in repayment of the credit facility established under subsection (d) of this section may be reinvested by the State Treasurer.

(d) Notwithstanding any other provision of law to the contrary, the State Treasurer, working in collaboration with the Department of Buildings and General Services, shall have the authority to establish a credit facility of up to $8,000,000.00, on terms acceptable to the State Treasurer. The credit facility shall be used for the purpose of financing energy efficiency improvements and the use of renewable resources anticipated to generate a cost-savings to the State.

(e) As used in this section:

(1) "Energy efficiency improvement" shall mean a set of measures aimed at reducing the energy used by specific end-use devices and systems to provide light, heat, cooling, or other services without affecting the level of service provided. An energy efficiency project may also include energy conservation measures; that is, a reduction in energy consumption that corresponds with a reduction in service demand.

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

(3) "Resource conservation measures" shall mean a set of measures, including a study, product, process, or technology, aimed at reducing overall use or consumption of energy resources in State buildings or facilities. "Resource conservation measures" shall include energy efficiency improvements.

(f) Beginning on or before January 15, 2015 and annually thereafter, the Department of Buildings and General Services shall report to the Senate Committee on Institutions and the House Committee on Corrections and Institutions on the expenditure of funds from the State Resource Management Revolving Fund for resource conservation measures and the Energy Revolving Fund for energy efficiency improvements and the use of renewable resources. For each fiscal year, the report shall include a summary of each project receiving funding and the State's expected savings.

C. Transportation Statutes

19 V.S.A. § 10i. TRANSPORTATION PLANNING PROCESS

(a) Long-range systems plan. The agency shall establish and implement a planning process through the adoption of a long-range multi-modal systems plan integrating all modes of transportation. The long-range multi-modal systems plan shall be based upon agency transportation policy developed under section 10b of this title, other policies approved by the legislature, agency goals, mission, and objectives, and demographic and travel forecasts, design standards, performance criteria, and funding availability. The long-range systems plan shall be developed with participation of the public, local, and regional governmental entities, and pursuant to the planning goals and processes set forth in No. 200 of the Acts of the 1987 Adj. Sess. (1988).

* * *

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

(1) Managing, maintaining, and improving the state's existing transportation infrastructure to provide capacity, safety, and flexibility in the most cost-effective and efficient manner.

(2) Developing an integrated transportation system that provides Vermonters with transportation choices.

(3) Strengthening the economy, protecting the quality of the natural environment, and improving Vermonters' quality of life.

* * *

D. Historic Downtown Development Statutes

24 V.S.A. § 2791. DEFINITIONS

As used in this chapter:

* * *

(3) "Downtown" means the traditional central business district of a community that has served as the focus of socio-economic interaction in the community, characterized by a cohesive core of commercial and mixed use buildings, some of which may contain mixed use spaces, often interspersed with civic, religious, residential, and industrial buildings and public spaces, typically arranged along a main street and intersecting side streets that are within walking distance for residents who live within and surrounding the core and that are served by public infrastructure such as sidewalks and public transit. Downtowns are typically larger in scale than village centers and are characterized by a development pattern that is consistent with smart growth principles.

* * *

(10) "Village center" means the core of a traditional settlement, typically comprised of a cohesive mix of residential, civic, religious, commercial, and mixed use buildings arranged along a main street and intersecting streets that are within walking distance for residents who live within and surrounding the core. Industrial uses may be found within or immediately adjacent to these centers. Village centers are typically smaller in scale than downtowns and are characterized by a development pattern that is consistent with smart growth principles.

(11) "New town center" means the area planned for or developing as a community's central business district, composed of compact, pedestrian-friendly, multistory, and mixed use development that is characteristic of a traditional downtown, supported by planned or existing urban infrastructure, including curbed streets with sidewalks and on-street parking, stormwater treatment, sanitary sewers, and public water supply.

* * *

(13) "Smart growth principles" means growth that:

(A) Maintains the historic development pattern of compact village and urban centers separated by rural countryside.

(B) Develops compact mixed-use centers at a scale appropriate for the community and the region.

(C) Enables choice in modes of transportation.

(D) Protects the State's important environmental, natural, and historic features, including natural areas, water quality, scenic resources, and historic sites and districts.

(E) Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries.

(F) Balances growth with the availability of economic and efficient public utilities and services.

(G) Supports a diversity of viable businesses in downtowns and villages.

(H) Provides for housing that meets the needs of a diversity of social and income groups in each community.

(I) Reflects a settlement pattern that, at full build-out, is not characterized by:

(i) scattered development located outside compact urban and village centers that is excessively land consumptive;

(ii) development that limits transportation options, especially for pedestrians;

(iii) the fragmentation of farmland and forestland;

(iv) development that is not serviced by municipal infrastructure or that requires the extension of municipal infrastructure across undeveloped lands in a manner that would extend service to lands located outside compact village and urban centers;

(v) linear development along well-traveled roads and highways that lacks depth, as measured from the highway.

* * *

24 V.S.A. § 2793c. DESIGNATION OF GROWTH CENTERS

(a)(1) Definition. As used in this section, "growth center" means an area of land that:

(A) is within or adjoining a downtown, village center, or new town center designated under this chapter; and

(B) has clearly defined boundaries that can accommodate a majority of commercial, residential, and industrial growth anticipated by the municipality or municipalities over a 20-year period.

(2) Development and redevelopment within any growth center shall support Vermont's traditional land use pattern of compact centers separated by rural lands and shall meet the requirements set forth in subsection (b) of this section.

(b) Requirements. To achieve the purposes and goals set forth in section 4302 of this title and conform to smart growth principles, a growth center shall meet each of the following requirements:

(1) Size. The size of the growth center shall be sufficient to accommodate a majority of the projected development within each applicant municipality over a 20-year planning period, and:

(A) shall be no larger than the area necessary to accommodate:

(i) 150 percent of the projected dwelling units in the municipality over the period; and

(ii) no more than 100 percent of the projected commercial and industrial development in the municipality;

(B) shall not encompass an excessive area of land that would involve the unnecessary extension of infrastructure to service low-density development or automobile-dependent strip development; and

(C) may include undevelopable land and land planned for green space or open space, as well as areas designed for infill and redevelopment.

(2) Location. The area of land proposed for the growth center shall be located within or shall adjoin a designated downtown, village center, or new town center. If the growth center is to be adjoining, then the applicant shall demonstrate that an existing designated downtown, village center, or new town center located within each applicant municipality reasonably cannot accommodate the growth proposed to occur in the growth center.

(3) Uses. The growth center shall support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent

municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses that are consistent with the anticipated demand for those uses within the municipality and region. The growth center shall incorporate a mix of uses that typically includes or is planned to include the following: retail, office, services, and other commercial, civic, recreational, industrial, and residential uses, including affordable housing and new residential neighborhoods, within a densely developed, compact area.

(4) Density, design, and form. The municipality shall adopt municipal plan policies and implementing bylaws and ordinances applicable to the growth center that conform with design guidelines developed by the Department pursuant to subdivision (d)(3) of this section, and that:

(A) Allow net residential densities within the growth center greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater.

(B) Ensure that all investments contribute to a built environment that enhances the existing and planned character and supports pedestrian use.

(C) Ensure sufficient density, building heights, and building coverage or sufficient floor area ratio. A municipality may use bylaws that regulate adequately the physical form and scale of development to demonstrate compliance with this requirement.

(D) Minimize the required lot sizes, setbacks, and parking and street widths.

(E) Organize the proposed growth center development around one or more central places or focal points that will establish community identity and promote social interaction, such as prominent buildings of civic, cultural, or spiritual significance or a village green, common, or square.

(F) Prohibit linear, automobile-dependent strip development along heavily traveled roads within and extending outside the growth center.

(5) Capital budget. The applicant has adopted, in accordance with section 4430 of this title, a capital budget and program that includes existing and planned wastewater treatment, water, stormwater, and transportation infrastructure; public spaces; other infrastructure necessary to support growth center development; and a reference map.

(6) General infrastructure. The existing and planned infrastructure shall be adequate to implement the growth center and meet the municipality's 20-year growth needs. The municipality shall have adopted policies on the extension of water and wastewater lines that include a defined service area and allocation plan to support the growth center.

(7) Public spaces. The growth center shall incorporate existing or planned public spaces that promote social interaction, such as public parks, civic buildings such as a post office or municipal offices, community gardens, and other formal and informal places to gather.

(8) Transportation. Existing or planned transportation infrastructure serving the growth center shall be adequate to implement growth center development over the 20-year period, and shall conform with "complete streets" principles as described under 19 V.S.A. § 309d; shall establish multi-modal access to the downtown, village center, or new town center; shall incorporate, accommodate, and support the use of public transit systems; and shall encompass a circulation system that is conducive to pedestrian and other nonvehicular traffic. The applicable municipal plans and bylaws shall include provisions that will result in street connectivity and aim to create a comprehensive, integrated, connected network for all modes.

(9) Natural resources within growth centers. The growth center shall avoid or minimize the inclusion of important natural resources and identified flood hazard and fluvial erosion hazard areas. If an applicant includes an important natural resource or flood hazard or fluvial

erosion hazard area within a proposed growth center, the applicant shall identify the resource or area, explain why the resource or area was included, describe any anticipated disturbance to the resource or area, and describe how the municipality's land use bylaws will avoid or minimize impacts to the resource or area. If impacts to the resource or area are necessary to achieve growth center goals, the applicant shall provide justification for why the disturbance cannot be avoided or minimized.

(10) Natural resources outside growth centers. Municipalities applying for growth center designation shall ensure that the approved local plan, implementing bylaws, and other programs serve to minimize conflicts of development with agricultural and forest industries; minimize the conversion and fragmentation of farmland, forestland, or significant areas of habitat connectivity; and minimize impacts on important natural resources located outside the proposed growth center.

(11) Historic resources. The growth center shall be compatible with and reinforce the character of sites that are listed or eligible for listing on the National or State Register of Historic Places, and other significant cultural and historic resources identified by local or State government in or adjacent to the growth center.

* * *

(i) Benefits from designation. A growth center designated by the State Board pursuant to this section is eligible for the following development incentives and benefits:

(1) Financial incentives.

(A) A municipality may use tax increment financing for infrastructure and improvements in its designated growth center pursuant to the provisions of Title 32 and this title. A designated growth center under this section shall be presumed to have met any locational criteria established in Vermont statutes for tax increment financing. The State Board may consider project criteria established under those statutes and, as appropriate, may make recommendations as to whether any of those project criteria have been met.

(B) Vermont Economic Development Authority (VEDA) incentives shall be provided to designated growth centers.

(2) State assistance and funding for growth centers.

(A) It is the intention of the General Assembly to give the highest priority to facilitating development and growth in designated downtowns and village centers whenever feasible. The provisions in this section and elsewhere in law that provide and establish priorities for State assistance and funding for designated growth centers are not intended to take precedence over any other provisions of law that provide State assistance and funding for designated downtowns and village centers.

(B) On or before January 15, 2007, the Secretary of Administration, in consultation with the Secretaries of Natural Resources, of Transportation, of Commerce and Community Development, and of Agriculture, Food and Markets, shall report to the General Assembly on the priorities and preferences for State assistance and funding granted in law to downtown centers, village centers, and designated growth centers, and the manner in which such priorities are applied.

(3) State infrastructure and development assistance.

(A) With respect to State grants and other State funding, priority should be given to support infrastructure and other investments in public facilities located inside a designated growth center to consist of the following:

(i) Agency of Natural Resources funding of new, expanded, upgraded, or refurbished wastewater management facilities serving a growth center in accordance with the Agency's rules regarding priority for pollution abatement, pollution prevention, and the protection of public health and water quality.

(ii) Technical and financial assistance for brownfields remediation under the Vermont brownfields initiative.

(iii) Community development block grant (CDBG) program implementation grants.

(iv) Technical, financial, and other benefits made available by statute or rule.

(B) Whenever the Commissioner of Buildings and General Services or other State officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a designated growth center after determining that the option of utilizing existing space in a downtown development district pursuant to subdivision 2794(a)(12) of this title or within a designated village center pursuant to subdivision 2793a(c)(5) of this title or within a designated new town center pursuant to subdivision 2793b(c)(2) of this title is not feasible, the option of locating in a designated growth center shall be given thorough investigation and priority in consultation with the legislative body of the municipality.

(4) State investments. The State shall:

(A) Expand the scope of the downtown transportation fund, as funds are available, to include access to downtowns with the first priority being projects located in designated downtowns, the second priority being projects located in designated village centers, and the third priority being projects located in designated growth centers.

(B) Extend priority consideration for transportation enhancement improvements located within or serving designated downtowns, village centers, and growth centers.

(C) Grant to projects located within designated growth centers priority consideration for State housing renovation and affordable housing construction assistance programs.

(5) Regulatory incentives.

(A) Master plan permit application. At any time while designation of a growth center is in effect, any person or persons who exercise ownership or control over an area encompassing all or part of the designated growth center or any municipality within which a growth center has been formally designated may apply for a master plan permit for that area or any portion of that area to the District Commission pursuant to the rules of the Natural Resources Board. Municipalities making an application under this subdivision are not required to exercise ownership of or control over the affected property. The District Commission shall be bound by any conclusions or findings of the Natural Resources Board, or any final adjudication of those findings and conclusions, pursuant to subsection (f) of this section but shall consider de novo any of the criteria of 10 V.S.A. § 6086(a) that were not subject to the final issuance of findings and conclusions by the Natural Resources Board pursuant to that subsection. In approving a master permit, the District Commission may set forth specific conditions that an applicant for an individual project permit will be required to meet.

(B) Individual project permits within a designated growth center. The District Commission shall review individual Act 250 permit applications in accordance with the specific findings of fact and conclusions of law issued by the Natural Resources Board under this section, if any, and in accordance with the conditions, findings, and conclusions of any applicable master plan permit. Any person proposing a development or subdivision within a designated growth center where no master plan permit is in effect shall be required to file an application with the district environmental commission for review under the criteria of 10 V.S.A. § 6086(a).

24 V.S.A. § 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF NEIGHBORHOOD DEVELOPMENT AREAS

(a) Purpose. This section is intended to encourage a municipality to plan for new and infill housing in the area including and immediately encircling its designated downtown, village center, new town center, or within its designated growth center in order to provide needed housing and to further support the commercial establishments in the designated center. To support this goal, this section sets out a two-component process.

(1) The first component is the automatic delineation of a study area, defined in this section as a neighborhood planning area, that includes and encircles a municipality's designated downtown, village center, or new town center or, in the case of a designated growth center, is within the designated center. The process established by this section allows a municipality with a designated center to identify those locations within a neighborhood planning area that are suitable primarily for residential development.

(2) The second component is the application by a municipality for the designation of locations within this study area as neighborhood development areas that are suitable for residential development and will receive the benefits provided by this section.

(3) The Department shall provide municipalities with designated downtowns, village centers, new town centers, and growth centers with grants, as they become available, and technical assistance to help such municipalities apply for and receive neighborhood development area designations.

(b) Definitions.

(1) "Neighborhood planning area" means an automatically delineated area including and encircling a downtown, village center, or new town center designated under this chapter or within a growth center designated under this chapter. A neighborhood planning area is used for the purpose of identifying locations suitable for new and infill housing that will support a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles. To ensure a compact settlement pattern, the outer boundary of a neighborhood planning area shall be located entirely within the boundaries of the applicant municipality and shall be determined:

(A) for a municipality with a designated downtown, by measuring out one-half mile from each point around the entire perimeter of the designated downtown boundary;

(B) for a municipality with one or more designated village centers, by measuring out one-quarter mile from each point around the entire perimeter of the designated village center boundary;

(C) for a municipality with a designated new town center, by measuring out one-quarter mile from each point around the entire perimeter of the designated new town center boundary; and

(D) for a municipality with a designated growth center, as the same boundary as the designated growth center boundary.

(2) "Neighborhood development area" means a location within a neighborhood planning area that is suitable for new and infill housing and that has been approved by the State Board for designation under this section and associated benefits.

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

(1) The municipality has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title and has adopted bylaws and regulations in accordance with sections 4414, 4418, and 4442 of this title.

(2) A preapplication meeting with Department staff was held to review the program requirements and to preliminarily identify possible neighborhood development areas.

(3) The proposed neighborhood development area is within a neighborhood planning area or such extension of the planning area as may be approved under subsection (d) of this section.

(4) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are generally within walking distance from the municipality's downtown, village center, or new town center designated under this chapter or from locations within the municipality's growth center designated under this chapter that are planned for higher density development.

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or that minimizes to the extent feasible the inclusion of "important natural resources" as defined in subdivision 2791(14) of this title. If an "important natural resource" is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized.

(B) Is served by planned or existing transportation infrastructure that conforms with "complete streets" principles as described under 19 V.S.A. § 309d and establishes pedestrian access directly to the downtown, village center, or new town center.

(C) Is compatible with and will reinforce the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government.

(6) The neighborhood development area is served by:

(A) municipal sewer infrastructure; or

(B) a community or alternative wastewater system approved by the Agency of Natural Resources.

(7) The municipal bylaws allow minimum net residential densities within the neighborhood development area greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater. The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

(A) Regulations that adequately regulate the physical form and scale of development may be used to demonstrate compliance with this requirement.

(B) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.

(8) Local bylaws, regulations, and policies applicable to the neighborhood development area substantially conform with neighborhood design guidelines developed by the Department pursuant to section 2792 of this title. These policies shall:

(A) ensure that all investments contribute to a built environment that enhances the existing neighborhood character and supports pedestrian use;

(B) ensure sufficient residential density and building heights;

(C) minimize the required lot sizes, setbacks, and parking and street widths; and

(D) require conformance with "complete streets" principles as described under 19 V.S.A. § 309d, street and pedestrian connectivity, and street trees.

(9) Residents hold a right to utilize household energy conserving devices.

(10) The application includes a map or maps that, at a minimum, identify:

(A) ""important natural resources" as defined in subdivision 2791(14) of this title;

(B) existing slopes of 25 percent or steeper;

(C) public facilities, including public buildings, public spaces, sewer or water services, roads, sidewalks, paths, transit, parking areas, parks, and schools;

(D) planned public facilities, roads, or private development that is permitted but not built;

(E) National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government;

(F) designated downtown, village center, new town center, or growth center boundaries as approved under this chapter and their associated neighborhood planning area in accordance with this section; and

(G) delineated areas of land appropriate for residential development and redevelopment under the requirements of this section.

(11) The application includes the information and analysis required by the Department's guidelines under section 2792 of this title.

* * *

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to section 2793d of this title, any proposed development within that area shall be eligible for each of the benefits listed in this subsection. These benefits shall accrue upon approval by the district coordinator, who shall review the density requirements set forth in subdivision (c)(7) of this section to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met. These benefits are:

(1) The application fee limit for wastewater applications stated in 3 V.S.A. § 2822(j)(4)(D).

(2) The application fee reduction for residential development stated in 10 V.S.A. § 6083a(d).

(3) The exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).

* * *

E. Land Use Statutes

24 V.S.A. § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(19) Undertake studies and make recommendations on the conservation of energy and the development of renewable energy resources.

24 V.S.A. § 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

* * *

(3) An energy element, which may include an analysis of resources, needs, scarcities, costs, and problems within the region across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy and the development and siting of renewable energy resources; a statement of policy on patterns and densities of land use likely to result in conservation of energy; and an identification of potential areas for the development and siting of renewable energy resources and areas that are unsuitable for siting those resources or particular categories or sizes of those resources.

(4) A transportation element, which may consist of a statement of present and prospective transportation and circulation facilities, and a map showing existing and proposed highways, including limited access highways, and streets by type and character of improvement, and where pertinent, anticipated points of congestion, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads and port facilities, and other similar facilities or uses, and recommendations to meet future needs for such facilities, with indications of priorities of need, costs, and method of financing.

(5) A utility and facility element, consisting of a map and statement of present and prospective local and regional community facilities and public utilities, whether publicly or privately owned, showing existing and proposed educational, recreational and other public sites, buildings and facilities, including public schools, State office buildings, hospitals, libraries, power generating plants and transmission lines, wireless telecommunications facilities and ancillary improvements, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities, and recommendations to meet future needs for those facilities, with indications of priority of need.

* * *

24 V.S.A. § 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE; ENHANCED ENERGY PLANNING

(a) Regional plan. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a determination of energy compliance. The Commissioner shall issue an affirmative determination on finding that the regional plan meets the requirements of subsection (c) of this section and allows for the siting in the region of all types of renewable generation technologies.

(b) Municipal plan. If the Commissioner of Public Service has issued an affirmative determination of energy compliance for a regional plan that is in effect, a municipal legislative body within the region may submit its adopted municipal plan to the regional planning commission for issuance of a determination of energy compliance. The regional planning commission shall issue an affirmative determination, signed by the chair of the regional planning commission, on finding that the municipal plan meets the requirements of subsection (c) of this section and is consistent with the regional plan.

(c) Enhanced energy planning; requirements. To obtain an affirmative determination of energy compliance under this section, a plan must:

(1) in the case of a regional plan, include the energy element as described in subdivision 4348a(a)(3) of this title;

(2) in the case of a municipal plan, include an energy element that has the same components as described in subdivision 4348a(a)(3) of this title for a regional plan and be confirmed under section 4350 of this title;

(3) be consistent with the following, with consistency determined in the manner described under subdivision 4302(f)(1) of this title:

(A) Vermont's greenhouse gas reduction goals under 10 V.S.A. § 578(a);

(B) Vermont's 25 by 25 goal for renewable energy under 10 V.S.A. § 580;

(C) Vermont's building efficiency goals under 10 V.S.A. § 581;

(D) State energy policy under 30 V.S.A. § 202a and the recommendations for regional and municipal energy planning pertaining to the efficient use of energy and the siting and development of renewable energy resources contained in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b (State energy plans); and

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

(4) meet the standards for issuing a determination of energy compliance included in the State energy plans.

(d) State energy plans; recommendations; standards.

(1) The State energy plans shall include the recommendations for regional and municipal energy planning and the standards for issuing a determination of energy compliance described in subdivision (c)(3) of this section.

(2) The recommendations shall provide strategies and options for regional planning commissions and municipalities to employ in meeting the goals and policies contained in statutes listed in subdivision (c)(3) of this section.

(3) The standards shall consist of a list of criteria for issuing a determination of energy compliance that ensure consistency with the goals and policies contained in the statutes listed in subdivision (c)(3) of this section and the recommendations developed pursuant to this subsection.

(4) In developing standards and recommendations under this subsection, the Commissioner of Public Service shall consult with all persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation; and other affected persons.

(5) The Commissioner of Public Service shall provide the Commissioner of Housing and Community Development with a copy of the recommendations and standards developed under

this subsection for inclusion in the planning and land use manual prepared pursuant to section 4304 of this title.

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination in writing within two months of the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

(f) Appeal. A regional planning commission aggrieved by an act or decision of the Commissioner of Public Service under this section may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within 30 days of the act or decision. The provisions of 10 V.S.A. § 6024 regarding assistance to the Board from other departments and agencies of the State shall apply to this subsection. The Board shall conduct a de novo hearing on the act or decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The Board shall issue a final decision within 90 days of the filing of the appeal.

(g) Municipality; determination from DPS; time-limited option. Until July 1, 2018, a municipality whose plan has been confirmed under section 4350 of this title may seek issuance of a determination of energy compliance from the Commissioner of Public Service if it is a member of a regional planning commission whose regional plan has not received such a determination.

(1) The Commissioner shall issue an affirmative determination of energy compliance for the municipal plan on finding that the plan meets the requirements of subsection (c) of this section. The Commissioner's review of the municipal plan shall be for the purpose only of determining whether a determination of energy compliance should be issued because those requirements are met.

(2) A municipality aggrieved by an act or decision of the Commissioner under this subsection may appeal in accordance with the procedures of subsection (f) of this section.

(h) Determination; time period. An affirmative determination of energy compliance issued pursuant to this section shall remain in effect until the end of the period for expiration or readoption of the plan to which it applies.

(i) Commissioner; consultation. In the discharge of the duties assigned under this section, the Commissioner shall consult with and solicit the recommendations of the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation.

24 V.S.A. § 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

* * *

(3) A transportation plan, consisting of a map and statement of present and prospective transportation and circulation facilities showing existing and proposed highways and streets by type and character of improvement, and where pertinent, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads, and port facilities, and other similar facilities or uses, with indications of priority of need.

(4) A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational and other public sites, buildings and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities, and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs and method of financing.

(5) A statement of policies on the preservation of rare and irreplaceable natural areas, scenic and historic features and resources.

* * *

(9) An energy plan, including an analysis of energy resources, needs, scarcities, costs and problems within the municipality, a statement of policy on the conservation of energy, including programs, such as thermal integrity standards for buildings, to implement that policy, a statement of policy on the development of renewable energy resources, a statement of policy on patterns and densities of land use likely to result in conservation of energy.

* * *

III. GREENHOUSE GAS EMISSIONS

10 V.S.A. § 578. GREENHOUSE GAS REDUCTION GOALS

[For full text, see Section I, page 6.]

10 V.S.A. § 582. GREENHOUSE GAS INVENTORIES; REGISTRY

(a) Inventory and forecasting. The Secretary shall work, in conjunction with other states or a regional consortium, to establish a periodic and consistent inventory of greenhouse gas emissions. The Secretary shall publish a Vermont Greenhouse Gas Emission Inventory and Forecast by no later than June 1, 2010, and updates shall be published annually until 2028, until a regional or national inventory and registry program is established in which Vermont participates, or until the federal National Emissions Inventory includes mandatory greenhouse gas reporting.

(b) Inventory updates. To develop the Inventory under this section, the Secretary, in coordination with the Secretaries of Administration, of Transportation, of Agriculture, Food and Markets, and of Commerce and Community Development, and the Commissioner of Public Service, shall aggregate all existing statewide data on greenhouse gas emissions currently reported to State or federal entities, existing statewide data on greenhouse gas sinks, and otherwise publicly available data. Greenhouse gas emissions data that is more than 36 months old shall be updated either by statistical methods or seeking updated information from the reporting agency or department. The information shall be standardized to reflect the emissions in tons per CO2 equivalent, shall be set out in the inventory by sources or sectors such as agriculture, manufacturing, automobile emissions, heating, and electricity production, shall be compatible with the inventory included with the Governor's Commission on Climate Change final report and shall include, the following sources:

(1) information collected for reporting in the National Emissions Inventory, which includes air toxics, criteria pollutants, mobile sources, point sources, and area sources;

(2) in-state electricity production using RGGI and State permit information;

(3) vehicle miles travelled and vehicle registration data; and

(4) agricultural activities, including livestock and crop practices.

(c) Forecast. The Secretary shall use best efforts to forecast statewide emissions for a five- and ten-year period based on the inventory data and other publicly available information.

(d) Registry. The Secretary shall work, in conjunction with other states or a regional consortium, to establish a regional or national greenhouse gas registry.

(1) Any registry in which Vermont participates shall be designed to apply to the entire State and to as large a geographic area beyond State boundaries as is possible.

(2) It shall accommodate as broad an array of sectors, sources, facilities, and approaches as is possible, and shall allow sources to start as far back in time as is permitted by good data, affirmed by third-party verification.

(e) Rules. The Secretary may adopt rules to implement the provisions of this section and shall review existing and proposed international, federal, and State greenhouse gas emission reporting programs and make reasonable efforts to promote consistency among the programs established pursuant to this section and other programs, and to streamline reporting requirements on greenhouse gas emission sources. Except as provided in subsection (g) of this section, nothing in this section shall limit a State agency from adopting any rule within its authority.

(f) Participation by government subdivisions. The State and its municipalities may participate in the inventory for purposes of registering reductions associated with their programs, direct activities, or efforts, including the registration of emission reductions associated with the stationary and mobile sources they own, lease, or operate.

(g) Greenhouse gas accounting. In consultation with the Department of Public Service created under 30 V.S.A. § 1, the Secretary shall research and adopt by rule greenhouse gas accounting protocols that achieve transparent and accurate life cycle accounting of greenhouse gas emissions, including emissions of such gases from the use of fossil fuels and from renewable fuels such as biomass. On adoption, such protocols shall be the official protocols to be used by any agency or political subdivision of the State in accounting for greenhouse gas emissions.

30 V.S.A. § 255. REGIONAL COORDINATION TO REDUCE GREENHOUSE GASES

(a) Legislative findings. The General Assembly finds:

(1) There is a growing scientific consensus that the increased anthropogenic emissions of greenhouse gases are enhancing the natural greenhouse effect, resulting in changes in the earth's climate.

(2) Climate change poses serious potential risks to human health and terrestrial and aquatic ecosystems globally, regionally, and in Vermont.

(3) A carbon constraint on fossil fuel-fired electricity generation and the development of a CO2 allowance trading mechanism will create a strong incentive for the creation and deployment of more efficient fuel-burning technologies, renewable resources, and end-use efficiency resources and will lead to lower dependence on imported fossil fuels.

(4) Absent federal action, a number of states are taking actions to work regionally to reduce power sector carbon emissions.

(5) Vermont has joined with at least six other states to design the Regional Greenhouse Gas Initiative (RGGI), and, in 2005, Vermont's Governor signed a memorandum of understanding (MOU) signaling Vermont's intention to develop rules and programs to participate in RGGI.

(6) It is crucial to manage Vermont's implementation of RGGI and its consumption of fossil fuels for residential and commercial heating, and industrial processes, so as to maximize the State's contribution to lowering carbon emissions while:

(A) minimizing impacts on electric system reliability and unnecessary costs to Vermont energy consumers; and

(B) minimizing the costs and the emissions resulting from the use of petroleum-based fuels for space heating and process heating for residential, commercial, and industrial purposes.

(7) The accelerated deployment of low-cost process, thermal, and electrical energy efficiency, the strategic use of low- and zero-carbon generation, and the selective use of switching fuel sources are the best means to achieve these goals.

(8) It is crucial that funds made available from operation of a regional carbon credits cap and trade system be devoted to the benefit of Vermont energy consumers through investments in a strategic portfolio of energy efficiency, weatherization, and low-carbon generation resources.

(b) Cap and trade program creation.

(1) The Agency of Natural Resources and the Public Service Board shall, through appropriate rules and orders, establish a carbon cap and trade program that will limit and then

reduce the total carbon emissions released by major electric generating stations that provide electric power to Vermont utilities and end-use customers.

(2) Vermont rules and orders establishing a carbon cap and trade program shall be designed so as to permit the holders of carbon credits to trade them in a regional market proposed to be established through the RGGI.

(c) Allocation of tradable carbon credits.

(1) The Secretary of Natural Resources, by rule, shall establish a set of annual carbon budgets for emissions associated with the electric power sector in Vermont that are consistent with the 2005 RGGI MOU, including any amendments to that MOU and any reduced carbon cap resulting from a subsequent program review by RGGI, and that are on a reciprocal basis with the other states participating in the RGGI process.

(2) In order to provide the maximum long-term benefit to Vermont consumers, particularly benefits that will result from accelerated and sustained investments in energy efficiency and other low-cost, low-carbon power system, building envelope, and other investments, the public service board, by rule or order, shall establish a process to allocate 100 percent of the Vermont statewide budget of tradable power sector carbon credits to one or more trustees acting on behalf of consumers in accordance with the following principles. To the extent feasible, the allocation plan shall accomplish the following goals:

(A) minimize windfall financial gains to power generators as a result of the operation of the cap and trade program, considering both the costs that generators may incur to participate in the program and any power revenue increases they are likely to receive as a result of changes in regional power markets;

(B) employ an administrative structure that will enable program managers to perform any combination of holding, banking, and selling carbon credits in regional, national, and international carbon credit markets in a financially responsible and market-sensitive fashion, and provide funds to defray the reasonable costs of the program trustee or trustees and Vermont's pro-rata share of the costs of the RGGI regional organization;

(C) optimize the revenues received from the management and sale of carbon credits for the benefit of Vermont energy consumers and the Vermont economy;

(D) minimize any incentives from operation of the cap and trade program for Vermont utilities to increase the overall carbon emissions associated with serving their customers;

(E) build upon existing regulatory and administrative structures and programs that lower power and heating costs, improve efficiency, and lower the State's carbon profile while minimizing adverse impacts on electric system reliability and unnecessary costs to Vermont energy consumers, and minimizing the costs and the emissions resulting from the use of petroleum-based fuels for space heating and process heating for residential, commercial, and industrial purposes;

(F) ensure that carbon credits allocated under this program and revenues associated with their sale remain public assets managed for the benefit of the State's consumers, particularly benefits that will result from accelerated and sustained investments in energy efficiency and other low-cost, low-carbon power, or heating system or building envelope investments;

(G) where practicable, support efforts recommended by the Agency of Natural Resources or the Department of Public Service to stimulate or support investment in the development of innovative carbon emissions abatement technologies that have significant carbon reduction potential.

(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. The net proceeds above costs from the sale of carbon credits 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)(B) of this title to help meet the building efficiency goals established under 10 V.S.A. § 581 by delivering heating and process-fuel energy efficiency services to Vermont consumers who use such fuel.

(e) Reports. By January 15 of each year, commencing in 2007, the Department of Public Service in consultation with the Agency of Natural Resources and the Public Service Board shall provide to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the House Committee on Commerce and Economic Development a report detailing the implementation and operation of RGGI and the revenues collected and the expenditures made under this section, together with recommended principles to be followed in the allocation of funds. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(f) State action off-sets. The State's negotiators to RGGI shall advocate for and negotiate to adjust the rules of the program, as needed, so that greenhouse gas reductions resulting from State investments and other public investments and investments required by State law will not be prohibited from being eligible for off-sets under the program.

IV. VEHICLES

A. Emissions

10 V.S.A. § 554. POWERS

In addition to any other powers conferred on him by law the secretary shall have power to:

(1) Appoint and employ personnel and consultants as may be necessary for the administration of this chapter.

(2) Adopt, amend and repeal rules, implementing the provisions of this chapter.

(3) Hold hearings related to any aspect of or matter in the administration of this chapter, and in connection therewith, subpoena witnesses and the production of evidence.

(4) Issue orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.

(5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state.

(6) [Repealed.]

(7) Encourage local units of government to handle air pollution problems within their respective jurisdiction, and by compact on a cooperative basis, and to provide technical and consultative assistance therefor.

(8) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.

(9) Determine by appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.

(10) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto.

(11) Establish ambient air quality standards for the state as a whole or for any part thereof, based on nationally recognized criteria applicable to the state of Vermont.

(12) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(13) Advise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

(14) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of the device or system, or the air pollution problem which may be related to the source, device or system. Nothing in any consultation shall be construed to relieve a person from compliance with this chapter, rules in force pursuant thereto, or any other provision of law.

(15) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. The funds received by the secretary pursuant to this section shall be deposited in the state treasury to the account of the secretary.

(16) Have access to records relating to emissions which cause or contribute to air contamination.

10 V.S.A. § 558. EMISSION CONTROL REQUIREMENTS

The secretary may establish such emission control requirements, by rule, as in his judgment may be necessary to prevent, abate, or control air pollution. The requirements may be for the state as a whole or may vary from area to area, as may be appropriate to facilitate accomplishment of the purposes of this chapter, and in order to take necessary or desirable account of varying local conditions.

10 V.S.A. § 567. MOTOR VEHICLE POLLUTION

(a) The secretary in conjunction with the motor vehicle department may provide rules for the control of emissions from motor vehicles. Such rules may prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of the equipment and the vehicles. Rules pursuant to this section shall be consistent with provisions of federal law, if any, relating to control of emissions from the vehicles concerned and shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification or other approval of any feature or equipment designed for the control of emissions from motor vehicles, if the feature or equipment has been certified, approved or otherwise authorized pursuant to federal law.

(b) Except as permitted or authorized by law, no person shall fail to maintain in good working order or remove, dismantle or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle and required by rules pursuant to this chapter to be maintained in or on the vehicle. Any failure to maintain in good working order or removal, dismantling or causing of inoperability shall subject the owner or operator to suspension or cancellation of the registration for the vehicle by the motor vehicle department. The vehicle shall not thereafter be eligible for registration until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced or repaired and are in good working order.

(c) The secretary shall consult with the motor vehicle department and furnish it with technical information, including testing techniques, standards and instructions for emission control features and equipment.

(d) When rules have been issued requiring the maintenance of features or equipment in or on motor vehicles for the purpose of controlling emissions therefrom, no motor vehicle shall be issued an inspection sticker unless all the required features or equipment have been inspected in accordance with the standards, testing techniques and instructions furnished pursuant to subsection (b) hereof and has been found to meet those standards.

(e) The remedies and penalties provided here apply to violations of this section and provisions of section 568 of this title shall not apply.

(f) As used in this section "motor vehicle" shall have the same meaning as defined in section 4 of Title 23.

10 V.S.A. § 579. VEHICLE EMISSIONS LABELING PROGRAM FOR NEW MOTOR VEHICLES

(a) The secretary of natural resources, in consultation with the commissioner of motor vehicles, shall establish, by rule, a vehicle emissions labeling program for new motor vehicles

sold or leased in the state with a model year of 2010 or later. The rules adopted under this section shall require automobile manufacturers to install the labels.

(b) Vehicle emissions labels under this program shall include the vehicle's emissions score. The label required by subsection (a) of this section and the vehicle score included in the label shall be consistent with the labels and information required by other states, including the California motor vehicle greenhouse gas and smog index label and any revisions thereto. A label that complies with the requirements of the California vehicle labeling program shall be deemed to meet the requirements of this section and the rules adopted thereunder for the content of labels.

(c) The vehicle emissions label shall be affixed to the vehicle in a clearly visible location, as set forth by the secretary of natural resources in rule.

(d) On or after the effective date of the rules adopted under subsection (a) of this section, no new motor vehicle shall be sold or leased in the state unless a vehicle emissions label that meets the requirements of this section and the rules adopted thereunder is affixed to the vehicle except in the case of a trade of a new motor vehicle by a Vermont dealer, as that term is defined in 23 V.S.A. § 4(8), with a dealer from another state that does not have a similar labeling law, provided that the motor vehicle involved in the trade is sold within 30 days of the trade.

(e) As used in this section, "motor vehicle" means all passenger cars, light duty trucks with a gross vehicle weight of 8,500 pounds or less, and medium duty passenger vehicles with a gross vehicle weight of less than 10,000 pounds that are designed primarily for the transportation of persons.

23 V.S.A. § 1110. PROHIBITED IDLING OF MOTOR VEHICLES

(a)(1) General prohibition. A person shall not cause or permit operation of the primary propulsion engine of a motor vehicle for more than five minutes in any 60-minute period, while the vehicle is stationary.

(2) Exceptions. The five-minute limitation of subdivision (1) of this subsection shall not apply when:

(A) a military vehicle; an ambulance; a police, fire, or rescue vehicle; or another vehicle used in a public safety or emergency capacity idles as necessary for the conduct of official operations;

(B) an armored vehicle idles while a person remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded;

(C) a motor vehicle idles because of highway traffic conditions, at the direction of an official traffic control device or signal, or at the direction of a law enforcement official;

(D) the health or safety of a vehicle occupant requires idling, or when a passenger bus idles as necessary to maintain passenger comfort while nondriver passengers are on board;

(E) idling is necessary to operate safety equipment such as windshield defrosters, and operation of the equipment is needed to address specific safety concerns;

(F) idling of the primary propulsion engine is needed to power work-related mechanical, hydraulic, or electrical operations other than propulsion, such as mixing or processing cargo or straight truck refrigeration, and the motor vehicle is idled to power such work-related operations;

(G) a motor vehicle of a model year prior to 2018 with an occupied sleeper berth compartment is idled for purposes of air-conditioning or heating during a rest or sleep period;

(H) a motor vehicle idles as necessary for maintenance, service, repair, or diagnostic purposes or as part of a State or federal inspection;

(I) a school bus idles on school grounds in compliance with rules adopted pursuant to the provisions of subsection 1282(f) of this title;

(J) the idling of vehicles at the place of business of a registered motor vehicle dealer is necessary to maintain the premises of the place of business; or

(K) a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less idles on a driveway or parking area on private property.

(b) Operation of an auxiliary power unit, generator set, or other mobile idle reduction technology is an alternative to operating the primary propulsion engine of a motor vehicle and is not subject to the prohibition of subdivision (a)(1) of this section.

(c) In addition to the exemptions set forth in subdivision (a)(2) of this section, the Commissioner of Motor Vehicles, in consultation with the Secretary of Natural Resources, may adopt rules governing times or circumstances when operation of the primary propulsion engine of a stationary motor vehicle is reasonably required.

(d) A person adjudicated of violating subdivision (a)(1) of this section shall be:

(1) assessed a penalty of not more than $10.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), for a first violation;

(2) assessed a penalty of not more than $50.00 for a second violation; and

(3) assessed a penalty of not more than $100.00 for a third or subsequent violation.

23 V.S.A. § 1222a. EMISSIONS OF DIESEL-POWERED COMMERCIAL VEHICLES

(a) Except for voluntary exhaust-smoke emission testing, a vehicle may be stopped and an inspection performed under this section only if a law enforcement officer observes an apparent violation of the exhaust-smoke emission standard. If the equipment for smoke testing is not available, a law enforcement officer may require the operator or the owner to submit the vehicle for an emission test at a reasonably convenient time and place. Failure to submit to the test shall be conclusive evidence of the vehicle's noncompliance with the exhaust-smoke emission standard. Any test administered under this section and any notice of violation issued shall be done by a sworn law enforcement officer trained and certified by the Department of Motor Vehicles. For purposes of this section:

(1) "Commercial motor vehicle" is defined under subdivision 4103(4) of this title.

(2) "Law enforcement officer" means an officer of the Department of Motor Vehicles trained and certified by the Department of Motor Vehicles to conduct exhaust-smoke emission inspections.

(b) No diesel-powered commercial motor vehicle shall be operated on the highways of this State unless the vehicle complies with the exhaust-smoke emission standard and the rules adopted by the Commissioner of Motor Vehicles. Any person who owns or operates such a vehicle while it is operated in violation of the provisions of this section or the rules adopted by the Commissioner shall be fined:

(1) $200.00 for a first violation per vehicle, except that a person shall not be fined if, within 45 days from the date of the emission inspection, the defect is repaired and notification of the repair is provided to the Department of Motor Vehicles or the vehicle is taken out of service;

(2) $200.00 for a second violation by the same vehicle within a two-year period if the first violation was repaired within 45 days from the date of the emission inspection, except that a

person shall not be fined if the second violation occurs within 60 days from the date of repair of the first violation. For purposes of this subdivision, the "date of repair" shall be the date indicated in the notification of repair submitted to the Department of Motor Vehicles under subdivision (b)(1) of this subsection;

(3) $400.00 for a second violation by the same vehicle within a two-year period if the first violation was not repaired within 45 days from the date of the emission inspection;

(4) $ 400.00 for a third or subsequent violation committed by the same vehicle within a two-year period if the first violation was repaired within 45 days from the date of the emission inspection; and

(5) $800.00 for a third or subsequent violation committed by the same vehicle within a two-year period if the first violation was not repaired within 45 days from the date of the emission inspection.

(c) The Commissioner shall establish by rule a process by which the owner of a vehicle that has been taken out of service under this section and that is currently in violation of the exhaust-smoke emission standard shall, prior to sale or transfer of the vehicle, notify the purchaser or transferee that the vehicle does not comply with the exhaust-smoke emission standard.

(d) All fines generated from the violation of this section shall be deposited in the Transportation Fund.

B. Multi-modal Transportation

10 V.S.A. § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the District Commission shall find that the subdivision or development:

* * *

(5)(A) Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.

(B) As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. In determining appropriateness under this subdivision (B), the District Commission shall consider whether such a strategy, access, or connection constitutes a measure that a reasonable person would take given the type, scale, and transportation impacts of the proposed development or subdivision.

* * *

19 V.S.A. § 309d. POLICY FOR MUNICIPALLY MANAGED TRANSPORTATION PROJECTS

(a) Except in the case of projects or project components involving unpaved highways, for all transportation projects and project phases managed by a municipality, including planning, development, construction, or maintenance, it is the policy of this state for municipalities to consider "complete streets" principles, which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference. If, after the consideration required under this section, a project does not incorporate complete streets

principles, the municipality managing the project shall make a written determination, supported by documentation and available for public inspection at the office of the municipal clerk and at the agency of transportation, that one or more of the following circumstances exist:

(1) Use of the transportation facility by pedestrians, bicyclists, or other users is prohibited by law.

(2) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors such as land use, current and projected user volumes, population density, crash data, historic and natural resource constraints, and maintenance requirements. The municipality shall consult local and regional plans, as appropriate, in assessing these and any other relevant factors.

(3) Incorporating complete streets principles is outside the scope of a project because of its very nature.

(b) The written determination required by subsection (a) of this section shall be final and shall not be subject to appeal or further review.

19 V.S.A. § 905. CONSTRUCTION OF SIDEWALKS, BICYCLE PATHS, AND FOOTPATHS

The legislative body of a municipality may construct and maintain suitable footpaths, bicycle paths, or sidewalks, or any combination of these, within the limits of town highways where they do not conflict with travel on the highway. Permission may be granted by the agency for the construction and maintenance of these facilities on state highways.

19 V.S.A. § 2302. ESTABLISHMENT AND MAINTENANCE

The agency may establish and maintain bicycle routes separately or in conjunction with the construction, reconstruction, or maintenance of an existing or new highway. In so doing, the agency may use funds from any available source.

V. EFFICIENT USE OF ENERGY

A. Building Efficiency Goals

10 V.S.A. § 581. BUILDING EFFICIENCY GOALS

[For full text, see Section I, page 7.]

B. Building Efficiency Standards and Related Statutes

30 V.S.A. § 51. RESIDENTIAL BUILDING ENERGY STANDARDS; STRETCH CODE

(a) Definitions. In this subchapter, the following definitions apply:

(1) "Builder" means the general contractor or other person in charge of construction, who has the power to direct others with respect to the details to be observed in construction.

(2) "Residential buildings" means one-family dwellings, two-family dwellings, and multi-family housing three stories or less in height.

(A) With respect to a structure that is three stories or less in height and is a mixed-use building that shares residential and commercial users, the term "residential building" shall include the living spaces in the structure and the nonliving spaces in the structure that serve only the residential users such as common hallways, laundry facilities, residential management offices, community rooms, storage rooms, and foyers.

(B) "Residential buildings" shall not include hunting camps.

(3) "Residential construction" means new construction of residential buildings, and the construction of additions, alterations, renovations, or repairs to an existing residential building.

(4) "IECC" means the International Energy Conservation Code of the International Code Council.

(5) "Stretch code" means a building energy code for residential buildings that achieves greater energy savings than the RBES and is adopted in accordance with subsection (d) of this section.

(b) Adoption of Residential Building Energy Standards (RBES). Residential construction shall be in compliance with the standards adopted by the Commissioner of Public Service in accordance with subsection (c) of this section.

(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 3 V.S.A. chapter 25. 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 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.

(1) Any amendments to the RBES shall be:

(A) consistent with duly adopted State energy policy, as specified in section 202a of this title, and consistent with duly adopted State housing policy;

(B) evaluated relative to their technical applicability and reliability; and

(C) cost-effective and affordable from the consumer's perspective.

(2) Except for the amendments required by this subsection to be adopted by January 1, 2011, each time the RBES are amended by the Commissioner, the amended RBES shall become effective upon a date specified in the adopted rule, a date that shall not be less than three months after the date of adoption. Except for the amendments required by this subsection to be adopted by January 1, 2011, persons commencing residential construction before the effective date of the amended RBES shall have the option of complying with the applicable provisions of the earlier or the amended RBES. After the effective date of the original or the amended RBES, any person commencing residential construction shall comply with the most recent version of the RBES.

(3) In the first cycle of revision of the RBES, the Commissioner shall establish standards for ventilation and shall consider revisions including:

(A) a requirement for sealed combustion, induced or forced draft combustion equipment when exhaust-only ventilation systems are installed; and

(B) a requirement for adequate replacement air ducted directly to the combustion area of wood and pellet stoves and fireplaces.

(4)(A) As the Model Energy Code is primarily a performance-based code, the Department of Public Service shall develop and disseminate criteria that builders may use in lieu of any computer software, calculations and trade-off worksheets, or systems analysis to comply with the Code. An example package which complies with the Code shall be included in the rules and updated as appropriate.

(B) To provide for flexibility, additional packages which are equivalent to the example package under chapter 9 of the Model Energy Code and which satisfy the performance approach shall be developed by July 1, 1997 and disseminated by the Department of Public Service. Each time the RBES are amended by the Commissioner, the Department of Public Service shall develop modified compliance packages which will become available to the public by the date that the amendment becomes effective.

(5) A home energy rating conducted at the time of construction by a Vermont-accredited home energy rating organization shall be an acceptable means of demonstrating compliance if the rating indicates energy performance equivalent to the RBES.

(6) The Advisory Committee convened under this subsection, in preparing for the RBES update required on or about January 1, 1999, shall advise the Commissioner of Public Service with respect to the coordination of the RBES amendments with existing and proposed demand-side management programs offered in the State.

(d) Stretch code. The Commissioner may adopt a stretch code by rule. This stretch code shall meet the requirements of subdivision (c)(1) of this section. The stretch code shall be available for adoption by municipalities under 24 V.S.A. chapter 117 and, on final adoption by

the Commissioner, shall apply in proceedings under 10 V.S.A. chapter 151 (Act 250) in accordance with subsection (e) of this section.

(e) Role of RBES and stretch code in Act 250. Substantial and reliable evidence of compliance with the RBES and, when adopted, the stretch code established and updated under this section shall serve as a presumption of compliance with 10 V.S.A. § 6086(a)(9)(F), except no presumption shall be created insofar as compliance with subdivision (a)(9)(F) involves the role of electric resistance space heating. In attempting to rebut a presumption of compliance created under this subsection, a challenge may only focus on the question of whether or not there will be compliance with the RBES and stretch code established and updated under this subsection. A presumption under this subsection may not be overcome by evidence that the RBES and stretch code adopted and updated under this section fail to comply with 10 V.S.A. § 6086(a)(9)(F).

(f) Certification.

(1) Issuance; recording. A certification may be issued by a builder, a licensed professional engineer, a licensed architect, or an accredited home energy rating organization. If certification is not issued by a licensed professional engineer, a licensed architect, or an accredited home energy rating organization, it shall be issued by the builder. Any certification shall certify that residential construction meets the RBES. The Department of Public Service will develop and make available to the public a certificate that lists key features of the RBES. Any person certifying shall use this certificate or one substantially like it to certify compliance with RBES. Certification shall be issued by completing and signing a certificate and permanently affixing it to the outside of the heating or cooling equipment, to the electrical service panel located inside the building, or in a visible location in the vicinity of one of these three areas. The certificate shall certify that the residential building has been constructed in compliance with the requirements of the RBES. The person certifying under this subsection shall provide a copy of each certificate to the Department of Public Service and shall assure that a certificate is recorded and indexed in the town land records. A builder may contract with a licensed professional engineer, a licensed architect, or an accredited home energy rating organization to issue certification and to indemnify the builder from any liability to the owner of the residential construction caused by noncompliance with the RBES.

(2) Condition precedent. Provision of a certificate as required by subdivision (1) of this subsection shall be a condition precedent to:

(A) issuance by the Commissioner of Public Safety or a municipal official acting under 20 V.S.A. § 2736 of any final occupancy permit required by the rules of the Commissioner of Public Safety for use or occupancy of residential construction commencing on or after July 1, 2013 that is also a public building as defined in 20 V.S.A. § 2730(a); and

(B) issuance by a municipality of a certificate of occupancy for residential construction commencing on or after July 1, 2013, if the municipality requires such a certificate under 24 V.S.A. chapter 117.

(g) Action for damages.

(1) Except as otherwise provided in this subsection, a person aggrieved by noncompliance with this section may bring a civil action against a person who has the obligation of certifying compliance under subsection (e) of this section. This action may seek injunctive relief, damages, court costs, and attorney's fees. As used in this subdivision, "damages" means:

(A) costs incidental to increased energy consumption; and

(B) labor, materials, and other expenses associated with bringing the structure into compliance with RBES in effect on the date construction was commenced.

(2) A person's failure to affix the certification as required by this section shall not be an affirmative defense in such an action against the person.

(3) The rights and remedies created by this section shall not be construed to limit any rights and remedies otherwise provided by law.

(h) Applicability and exemptions. The construction of a residential addition to a building shall not create a requirement that the entire building comply with this subchapter. The following residential construction shall not be subject to the requirements of this subchapter:

(1) Buildings or additions whose peak energy use design rate for all purposes is less than 3.4 BTUs per hour, per square foot, or less than one watt per square foot of floor area.

(2) Homes subject to Title VI of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401-5426).

(3) Buildings or additions that are neither heated nor cooled.

(4) Residential construction by an owner, if all of the following apply:

(A) The owner of the residential construction is the builder, as defined under this section.

(B) The residential construction is used as a dwelling by the owner.

(C) The owner in fact directs the details of construction with regard to the installation of materials not in compliance with RBES.

(D) The owner discloses in writing to a prospective buyer, before entering into a binding purchase and sales agreement, with respect to the nature and extent of any noncompliance with RBES. Any statement or certificate given to a prospective buyer shall itemize how the home does not comply with RBES and shall itemize which measures do not meet the RBES standards in effect at the time construction commenced. Any certificate given under this subsection (h) shall be recorded in the land records where the property is located, and sent to the department of public service, within 30 days following sale of the property by the owner.

(i) Title validity not affected. A defect in marketable title shall not be created by a failure to issue certification or a certificate, as required under subsection (f) or subdivision (h)(4) of this section, or by a failure under that subsection to: affix a certificate; to provide a copy of a certificate to the Department of Public Service; or to record and index a certificate in the town records.

30 V.S.A. § 52. HOME ENERGY RATING ORGANIZATION ACCREDITATION

(a) The Department of Public Service shall carry out an accreditation process for home energy rating organizations, in consultation with representatives of interested parties, including builders, building designers, mortgage lenders, real estate licensees, home appraisers, utilities, nonutility fuel suppliers, the Vermont Housing Finance Agency, and contractors who provide home energy rating services. As part of the accreditation process, the Department of Public Service shall consider any national home energy rating system guidelines and shall determine whether each provider of home energy ratings in the State of Vermont complies with the accreditation criteria adopted pursuant to this section.

(b) Once the Department of Public Service carries out an accreditation process pursuant to subsection (a) of this section, no organization may provide home energy rating services in the State unless the organization has been accredited by the Department.

(c) The Department shall consult with the organizations described in subsection (a) of this section to facilitate a public information program to inform homeowners, renters, sellers, and others regarding the accreditation process and of the statewide home energy rating organizations accredited by the Department.

30 V.S.A. § 53. COMMERCIAL BUILDING ENERGY STANDARDS

(a) Definitions. In this subchapter, "commercial buildings" means all buildings that are not residential buildings as defined in subdivision 51(a)(2) of this title or farm structures as defined in 24 V.S.A. § 4413.

(1) The following commercial buildings, or portions of those buildings, separated from the remainder of the building by thermal envelope assemblies complying with this section shall be exempt from the building thermal envelope provisions of the standards:

(A) those that do not contain conditioned space; and

(B) those with a peak design rate of energy usage less than an amount specified in the commercial building energy standards (CBES) adopted under subsection (b) of this section.

(2) These standards shall not apply to equipment or portions of building energy systems that use energy primarily to provide for industrial or manufacturing processes.

(3) With respect to a structure that is a mixed-use building that shares residential and commercial users:

(A) if the structure is three stories or fewer in height, the term "commercial building" shall include all commercial uses within the structure and all common areas and facilities that serve both residential and commercial uses; and

(B) if the structure is four stories or more in height, the term "commercial building" shall include all uses and areas within the structure.

(b) Adoption of commercial building energy standards. Commercial building construction with respect to which any local building permit application or application for construction plan approval by the Commissioner of Public Safety pursuant to 20 V.S.A. chapter 173 has been submitted on or after January 1, 2007 shall be designed and constructed in substantial compliance with the standards contained in the 2005 Vermont Guidelines for Energy Efficient Commercial Construction, as those standards may be amended by administrative rule adopted by the Commissioner of Public Service.

(c) Revision and interpretation of energy standards. No later than January 1, 2011, the Commissioner shall complete rulemaking to amend the commercial building energy standards to ensure that commercial building construction must be designed and constructed in a manner that complies with ANSI/ASHRAE/IESNA standard 90.1-2007 or the 2009 edition of the IECC, whichever provides the greatest level of energy savings. These amendments shall be effective three months 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.

(1) Any amendments to the CBES shall be:

(A) consistent with duly adopted State energy policy, as specified in 30 V.S.A. § 202a; and

(B) evaluated relative to their technical applicability and reliability.

(2) Except for the amendments required by this subsection to be adopted by January 1, 2011, each time the CBES are amended by the Commissioner of Public Service, the amended CBES shall become effective upon a date specified in the adopted rule, a date that shall not be less than three months after the date of adoption. Except for the amendments required by this subsection to be adopted by January 1, 2011, persons submitting an application for any local permit authorizing commercial construction, or an application for construction plan approval by the Commissioner of Public Safety pursuant to 20 V.S.A. chapter 173, before the effective date of the amended CBES shall have the option of complying with the applicable provisions of the earlier or the amended CBES. After the effective date of the original or the amended CBES, any person submitting such an application for commercial construction in an area subject to the CBES shall comply with the most recent version of the CBES.

(3) The Advisory Committee convened under this subsection, in preparing for the CBES updates, shall advise the Department of Public Service with respect to the coordination of the CBES amendments with existing and proposed demand-side management programs offered in the State.

(4) The Commissioner of Public Service is authorized to adopt rules interpreting and implementing the CBES.

(5) The Commissioner of Public Service may grant written variances or exemptions from the CBES or rules adopted under this section where strict compliance would entail practical difficulty or unnecessary hardship, or is otherwise found unwarranted, provided that:

(A) Any such variance or exemption shall be consistent with State energy policy, as specified in section 202a of this title.

(B) Any petitioner for such a variance or exemption can demonstrate that the methods, means, or practices proposed to be taken in lieu of compliance with the rule or rules provide, in the opinion of the Commissioner, equal energy efficiency to that attained by compliance with the rule or rules.

(C) A copy of any such variance or exemption shall be recorded by the petitioner in the land records of the city or town in which the building is located.

(D) A record of each variance or exemption shall be maintained by the Commissioner, together with the certifications received by the Commissioner.

(d) Certification requirement.

(1) The design of commercial buildings shall be certified by the primary designer as compliant with CBES in accordance with this subsection, except as compliance is excused by a variance or exemption issued under subdivision (c)(5) of this section. If applicable law requires that the primary designer be a licensed professional engineer, licensed architect, or other licensed professional, a member of a pertinent licensed profession shall issue this certification. If one or

more licensed professional engineers or licensed architects is involved in the design of the project, one of these licensees shall issue this certificate. If a licensed professional engineer or a licensed architect is not involved in designing the project, certification shall be issued by the builder. Any certification shall be accompanied by an affidavit and shall certify that the designer acted in accordance with the designer's professional duty of care in designing the building, and that the commercial building was designed in substantial compliance with the requirements of the CBES. The Department of Public Service will develop and make available to the public a certificate that lists key requirements of the CBES, sets forth certifying language in accordance with this subdivision, and requires disclosure of persons relied upon by the primary designer who have contracted to indemnify the primary designer for damages arising out of that reliance. Any person certifying under this subdivision shall use this certificate or one substantially like it to satisfy these certification obligations. Certification shall be issued by completing and signing a certificate and permanently affixing it to the outside of the heating or cooling equipment, to the electrical service panel located inside the building, or in a visible location in the vicinity of one of these three areas. In certifying under this subsection, the certifying person may reasonably rely on one or more supporting affidavits received from other persons that contributed to the design affirming that the portions of the design produced by them were properly certifiable under this subsection. The certifying person may contract for indemnification from those on which the person relies pursuant to this subdivision (1) against damages arising out of that reliance. This indemnification shall not limit any rights of action of an aggrieved party.

(2) The construction of a commercial building shall be certified as compliant with CBES in accordance with this subsection, except as compliance is excused by a variance or exemption issued under subdivision (c)(5) of this section. This certification shall be issued by the general contractor, construction manager, or other party having primary responsibility for coordinating the construction of the subject building, or in the absence of such a person, by the owner of the building. Any certification shall be accompanied by an affidavit and shall certify that the subject commercial building was constructed in accordance with the ordinary standard of care applicable to the participating construction trades, and that the subject commercial building was constructed substantially in accordance with the construction documents including the plans and specifications certified under subdivision (1) of this subsection for that building. The Department of Public Service will develop and make available to the public a certificate that sets forth certifying language in accordance with this subdivision, and that requires disclosure of persons who have been relied upon by the person with primary responsibility for coordinating the construction of the building and who have contracted to indemnify that person for damages arising out of that reliance. The person certifying under this subdivision shall use that certificate or one substantially like it to satisfy these certification obligations. Certification shall be issued by completing and signing a certificate and permanently affixing it to the outside of the heating or cooling equipment, to the electrical service panel located inside the building, or in a visible location in the vicinity of one of these three areas. In certifying under this subdivision, the certifying person may reasonably rely on one or more supporting affidavits received from subcontractors or others engaged in the construction of the subject commercial building affirming that the portions of the building constructed by them were properly certifiable under this subdivision. The certifying person may contract for indemnification from those on which the person relies pursuant to this subdivision (2) against damages arising out of that reliance. This indemnification shall not limit any rights of action of an aggrieved party.

(3) Any person certifying under this subsection shall provide a copy of the persons certificate and any accompanying affidavit to the Department of Public Service.

(4) Provision of a certificate as required by subdivision (1) of this subsection and of a certificate as required by subdivision (2) of this subsection shall be conditions precedent to:

(A) issuance by the Commissioner of Public Safety (or a municipal official acting under 20 V.S.A. § 2736) of any final occupancy permit required by the rules of the Commissioner of Public Safety for use or occupancy of a commercial building that is also a public building as defined in 20 V.S.A. § 2730(a); and

(B) issuance by a municipality of a certificate of occupancy for commercial construction commencing on or after July 1, 2013, if the municipality requires such a certificate under 24 V.S.A. chapter 117.

(e) Private right of action for damages against a certifier.

(1) Except as otherwise provided in this subsection, a person aggrieved by another person's breach of that other person's representations contained in a certification or supporting affidavit issued or received as provided under subsection (d) of this section, within 10 years after the earlier of completion of construction or occupancy of the affected commercial building or portion of that building, may bring a civil action in Superior Court against a person who has an obligation of certifying compliance under subsection (d) of this section alleging breach of the representations contained in that person's certification. This action may seek injunctive relief, damages arising from the aggrieved party's reliance on the accuracy of those representations, court costs, and reasonable attorneys' fees in an amount to be determined by the court. As used in this subdivision, "damages" includes costs incidental to increased energy consumption.

(2) A person's failure to affix the certification as required by this section shall not be an affirmative defense in such an action against the person.

(3) The rights and remedies created by this section shall not be construed to limit any rights and remedies otherwise provided by law.

(4) The right of action established in this subsection may not be waived by contract or other agreement.

(5) It shall be a defense to an action under this subsection that either at the time of completion or at any time thereafter, the commercial building or portion of building covered by a certificate under subsection (d) of this section, as actually constructed, met or exceeded the overall performance standards established in the CBES in effect on the date construction was commenced.

(f) State or local enforcement. Any person who knowingly makes a false certification under subsection (d) of this section, or any party who fails to certify under subsection (d) of this section when required to do so, shall be subject to a civil penalty of not more than $250.00 per day, up to $10,000.00 for each year the violation continues.

(g) Title validity not affected. A defect in marketable title shall not be created by a failure to record a variance or exemption pursuant to subdivision (c)(5) of this section, by a failure to issue certification or a certificate, as required under subsection (d) of this section, or by a failure under that subsection to affix a certificate or provide a copy of a certificate to the department of public service.

30 V.S.A. § 54. COMPLIANCE PLAN

The Commissioner of Public Service:

(1) Shall issue a plan for achieving compliance with the energy standards adopted under this subchapter no later than February 1, 2017 in at least 90 percent of new and renovated residential and commercial building space. In preparing this plan, the Department shall review enforcement mechanisms for building energy codes that have been adopted in other jurisdictions and shall solicit the comments and recommendations of one or more mortgage lenders; builders; building designers; architects; civil, mechanical, and electrical engineers; utility representatives; environmental organizations; consumer advocates; energy efficiency experts; the Attorney General; and other persons who are potentially affected or have relevant expertise.

(2) May:

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

(B) Establish a system for measuring the rate of compliance each year with the energy standards adopted under this chapter. If such a system is established, the Commissioner also shall provide for such annual measurement.

(C) Adopt administrative rules pursuant to 3 V.S.A. chapter 25 to implement this subdivision (2). To the extent the implementation of this subdivision (2) places obligations on persons outside the Department of Public Service, such obligations shall be by means of administrative rules.

20 V.S.A. § 2731. RULES; INSPECTIONS; VARIANCES

* * *

(f) The Commissioner shall, in State-funded buildings or new additions to State-funded buildings on which construction is begun after June 30, 2001, meet the standards contained in "The Vermont Guidelines for Energy Efficient Commercial Construction" as published in its most recent edition by the Department of Public Service.

* * *

(l) Provision of a certificate as required by 21 V.S.A. § 266 (residential building energy standards) or 268 (commercial building energy standards) shall be a condition precedent to the issuance of a certificate of use or occupancy for a public building under the rules adopted pursuant to this section.

C. Efficiency Resource Acquisition Statutes, Including Efficiency Utilities

30 V.S.A. § 209. JURISDICTION; GENERAL SCOPE

* * *

(d) Energy efficiency.

(1) Programs and measures. The Department of Public Service, any entity appointed by the Board under subdivision (2) of this subsection, all gas and electric utility companies, and the Board upon its own motion, are encouraged to propose, develop, solicit, and monitor energy efficiency and conservation programs and measures, including appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable

air quality standards of the Agency of Natural Resources. Such programs and measures, and their implementation, may be approved by the Board if it determines they will be beneficial to the ratepayers of the companies after such notice and hearings as the Board may require by order or by rule. The Department of Public Service shall investigate the feasibility of enhancing and expanding the efficiency programs of gas utilities and shall make any appropriate proposals to the Board.

(2) Appointment of independent efficiency entities.

(A) Electricity and natural gas. In place of utility-specific programs developed pursuant to this section and section 218c of this title, the Board shall, after notice and opportunity for hearing, provide for the development, implementation, and monitoring of gas and electric energy efficiency and conservation programs and measures, including programs and measures delivered in multiple service territories, by one or more entities appointed by the Board for these purposes. The Board may include appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable air quality standards of the Agency of Natural Resources. Except with regard to a transmission company, the Board may specify that the appointment of an energy efficiency utility to deliver services within an electric utility's service territory satisfies that electric utility's corresponding obligations, in whole or in part, under section 218c of this title and under any prior orders of the Board.

(B) Thermal energy and process-fuel customers. The Board shall provide for the coordinated development, implementation, and monitoring of cost-effective efficiency and conservation programs to thermal energy and process-fuel customers on a whole buildings basis by one or more entities appointed by the Board for this purpose.

(i) In this section, "thermal energy" means the use of fuels to control the temperature of space within buildings and to heat water.

(ii) Periodically on a schedule directed by the Board, the appointed entity or entities shall propose to the Board a plan to implement this subdivision (d)(2)(B). The proposed plan shall comply with subsections (e)-(g) of this section and shall be subject to the Board's approval. The Board shall not conduct the review of the proposed plan as a contested case under 3 V.S.A. chapter 25 but shall provide notice and an opportunity for written and oral comments to the public and affected parties and State agencies.

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Board and deposited into an Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Board. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

(A) Balances in the Electric Efficiency Fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the Fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the State. Interest earned shall remain in the Fund. The Board will annually provide the General Assembly with a report detailing the revenues collected and the expenditures made for energy efficiency programs under this section. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(B) The charge established by the Board pursuant to this subdivision (3) shall be in an amount determined by the Board by rule or order that is consistent with the principles of least-cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the Board shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value. The Board, by rule or order, shall establish a process by which a customer who pays an average annual energy efficiency charge under this subdivision (3) of at least $5,000.00 may apply to the Board to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Board. The remaining portion of the charge shall be used for systemwide energy benefits. The Board in its rules or order shall establish criteria for approval of these applications.

(C) The Board may authorize the use of funds raised through an energy efficiency charge on electric ratepayers to reduce the use of fossil fuels for space heating by supporting electric technologies that may increase electric consumption, such as air source or geothermal heat pumps if, after investigation, it finds that deployment of the technology:

(i) will be beneficial to electric ratepayers as a whole;

(ii) will result in cost-effective energy savings to the end-user and to the State as a whole;

(iii) will result in a net reduction in State energy consumption and greenhouse gas emissions on a life-cycle basis and will not have a detrimental impact on the environment through other means such as release of refrigerants or disposal. In making a finding under this subdivision, the Board shall consider the use of the technology at all times of year and any likely new electricity demand created by such use;

(iv) will be part of a comprehensive energy efficiency and conservation program that meets the requirements of subsections (d)-(g) of this section and that makes support for the technology contingent on the energy performance of the building in which the technology is to be installed. The building's energy performance shall achieve or shall be improved to achieve an energy performance level that is approved by the Board and that is consistent with meeting or exceeding the goals of 10 V.S.A. § 581 (building efficiency);

(v) among the product models of the technology that are suitable for use in Vermont, will employ the product models that are the most efficient available;

(vi) will be promoted in conjunction with demand management strategies offered by the customer's distribution utility to address any increase in peak electric consumption that may be caused by the deployment;

(vii) will be coordinated between the energy efficiency and distribution utilities, consistent with subdivision (f)(5) of this section; and

(viii) will be supported by an appropriate allocation of funds among the funding sources described in this subsection (d) and subsection (e) of this section. In the case of measures used to increase the energy performance of a building in which the technology is to be installed, the Board shall assume installation of the technology in the building and then determine the allocation according to the proportion of the benefits provided to the regulated fuel and unregulated fuel sectors. In this subdivision (viii), "regulated fuel" and "unregulated fuel" shall have the same meaning as under subsection (e) of this section.

(4) Contract or order of appointment. Appointment of an entity under subdivision (2) of this subsection may be by contract or by an order of appointment. An appointment, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Board deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Board may amend or revoke an order of appointment.

(5) Appointed entity; supervision. Any entity appointed by order of appointment under subdivisions (2) and (4) of this subsection that is not an electric or gas utility already regulated under this title shall not be considered to be a company as defined under section 201 of this title, but shall be subject to the provisions of sections 18-21, 30-32, 205-208, subsection 209(a), sections 219, 221, and subsection 231(b) of this title, to the same extent as a company as defined under section 201 of this title. The Board and the Department of Public Service shall have jurisdiction under those sections over the entity, its directors, receivers, trustees, lessees, or other persons or companies owning or operating the entity and of all plants, equipment, and property of that entity used in or about the business carried on by it in this State as covered and included in this section. This jurisdiction shall be exercised by the Board and the Department so far as may be necessary to enable them to perform the duties and exercise the powers conferred upon them by law. The Board and the Department each may, when they deem the public good requires, examine the plants, equipment, and property of any entity appointed by order of appointment under subdivisions (2) and (4) of this subsection.

(e) Thermal energy and process fuel efficiency funding.

(1) Each of the following shall be used to deliver thermal energy and process fuel energy efficiency services in accordance with this section for unregulated fuels to Vermont consumers of such fuels.

(A) 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)(A) of this subsection that are not transferred to the State PACE Reserve Fund under 24 V.S.A. § 3270(c). These revenues shall be deposited into the Electric Efficiency Fund established by this section. In delivering services with respect to heating systems using the revenues subject to this subdivision (A), the entity shall give priority to incentives for the installation of high efficiency 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. In this subdivision (A), "biomass" means organic nonfossil material constituting a source of renewable energy within the meaning of section 8002 of this title. Provision of an incentive under this subdivision (A) for a 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.

(B) Net revenues above costs from the sale of carbon credits under the cap and trade program established under section 255 of this title, which shall be deposited into the Electric Efficiency Fund established by this section.

(C) Any other monies that are appropriated to or deposited in the Electric Efficiency Fund for the delivery of thermal energy and process fuel energy efficiency services.

(2) If a program combines regulated fuel efficiency services with unregulated fuel efficiency services supported by funds under this section, the Board shall allocate the costs of the program among the funding sources for the regulated and unregulated fuel sectors in proportion to the benefits provided to each sector.

(3) In this subsection:

(A) "Efficiency services" includes the establishment of a statewide information clearinghouse under subsection (g) of this section.

(B) "Regulated fuels" means electricity and natural gas delivered by a regulated utility.

(C) "Unregulated fuels" means fuels used by thermal energy and process fuel customers other than electricity and natural gas delivered by a regulated utility.

(f) Goals and criteria; all energy efficiency programs. With respect to all energy efficiency programs approved under this section, the Board shall:

(1) Ensure that all retail consumers, regardless of retail electricity, gas, or heating or process fuel provider, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation.

(2) Require that continued or improved efficiencies be made in the production, delivery, and use of energy efficiency services, including the use of compensation mechanisms for any energy efficiency entity appointed under subdivision (d)(2) of this section that are based upon verified savings in energy usage and demand, and other performance targets specified by the Board. The linkage between compensation and verified savings in energy usage and demand (and other performance targets) shall be reviewed and adjusted not less than triennially by the Board.

(3) Build on the energy efficiency expertise and capabilities that have developed or may develop in the State.

(4) Promote program initiatives and market strategies that address the needs of persons or businesses facing the most significant barriers to participation, including those who do not own their place of residence.

(5) Promote and ensure coordinated program delivery, including coordination with low-income weatherization programs, entities that fund and support affordable housing, regional and local efficiency entities within the State, other efficiency programs, and utility programs.

(6) Consider innovative approaches to delivering energy efficiency, including strategies to encourage third party financing and customer contributions to the cost of efficiency measures.

(7) Provide a reasonably stable multiyear budget and planning cycle in order to promote program improvement, program stability, enhanced access to capital and personnel, improved integration of program designs with the budgets of regulated companies providing energy services, and maturation of programs and delivery resources.

(8) Approve programs, measures, and delivery mechanisms that reasonably reflect current and projected market conditions, technological options, and environmental benefits.

(9) Provide for delivery of these programs as rapidly as possible, taking into consideration the need for these services, and cost-effective delivery mechanisms.

(10) Provide for the independent evaluation of programs delivered under subsection (d) of this section.

(11) Require that any entity appointed by the Board under subsection (d) of this section deliver Board-approved programs in an effective, efficient, timely, and competent manner and meet standards that are consistent with those in section 218c of this title, the Board's orders in Public Service Board docket 5270, and any relevant Board orders in subsequent energy efficiency proceedings.

(12) Require verification, on or before January 1, 2003, and every three years thereafter, by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by any entity appointed by the Board to deliver energy efficiency programs under subdivision (d)(2) of this section.

(13) Ensure that any energy efficiency program approved by the Board shall be reasonable and cost-effective.

(14) Consider the impact on retail electric rates and bills of programs delivered under subsection (d) of this section and the impact on fuel prices and bills.

(15) Ensure that the energy efficiency programs implemented under this section are designed to make continuous and proportional progress toward attaining the overall State building efficiency goals established by 10 V.S.A. § 581, by promoting all forms of energy end-use efficiency and comprehensive sustainable building design.

(g) Thermal energy and process fuel efficiency programs; additional criteria. With respect to energy efficiency programs delivered under this section to thermal energy and process fuel customers, the Board shall:

(1) Ensure that programs are delivered on a whole-buildings basis to help meet the State's building efficiency goals established by 10 V.S.A. § 581 and to reduce greenhouse gas emissions from thermal energy and process fuel use in Vermont.

(2) Require the establishment of a statewide information clearinghouse to enable effective access for customers to and effective coordination across programs. The clearinghouse shall serve as a portal for customers to access thermal energy and process fuel efficiency services and for coordination among State, regional, and local entities involved in the planning or delivery of such services, making referrals as appropriate to service providers and to entities having information on associated environmental issues such as the presence of asbestos in existing insulation.

(3) In consultation with the Agency of Natural Resources, establish annual interim goals starting in 2014 to meet the 2017 and 2020 goals for improving the energy fitness of housing stock stated in 10 V.S.A. § 581(1).

(4) Ensure the monitoring of the State's progress in meeting the goals of 10 V.S.A. § 581(1). This monitoring shall be performed according to a standard methodology and on a periodic basis that is not less than annual.

* * *

(j) Self-managed energy efficiency programs.

(1) There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The Board, by order, shall enact this class of programs.

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

ratepayer approved to participate in this program class also is a customer of a natural gas utility, the ratepayer shall be exempt from all charges under subdivision (d)(3) of this section or contained within the rates charged by the natural gas utility to the ratepayer that support energy efficiency programs performed by or on behalf of that utility, provided that the ratepayer complies with this subsection.

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

(A) A member of the transmission or industrial electric rate classes shall be eligible to apply to participate in the self-managed energy efficiency program class if the charges to the applicant, or to its predecessor in interest at the served property, under subdivision (d)(3) of this section were a minimum of $1.5 million during calendar year 2008.

(B) A cost-based fee to be determined by the Board shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Board and Department. The Board shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section.

(C) An applicant shall demonstrate to the Board that it has a comprehensive energy management program with annual objectives. Achievement of certification of ISO standard 14001 shall be eligible to satisfy the requirements of having a comprehensive program.

(D) An applicant shall commit to an annual average energy efficiency investment during each three-year period that the applicant participates in the program of no less than $1 million. To achieve the exemption from energy efficiency charges related to natural gas under subdivision (3) of this subsection (j), the applicant shall make an additional annual energy efficiency investment in an amount not less than $55,000.00.

(E) Participation in the self-managed program includes efficiency programs and measures applicable to electric and other forms of energy. A participant may balance efficiency investments across all types of energy or fuels without limitations.

(F) A participant shall provide to the Board and Department annually an accounting of energy investments and energy savings in the form prescribed by the Board, which may conduct reasonable audits to ensure accuracy of the data provided.

(G) The Board shall report to the General Assembly annually by April 30 concerning the prior calendar year's class of self-managed energy efficiency programs. The report shall include identification of participants, their annual investments, and resulting savings, and any actions taken to exclude entities from the program.

(H) Upon approval of an application by the Board, the applicant shall be able to participate in the class of self-managed energy efficiency programs.

(I) On a determination that, for a given three-year period, a participant in the self-managed efficiency program class did not meet or has not met the commitment required by subdivision (4)(D) of this subsection, the Board shall terminate the participant's eligibility for the self-managed program class.

(i) On such termination, the former participant will be subject fully to the then existing charges applicable to its rate class without exemption under subdivision (3) of this subsection, and within 90 days of such termination shall pay:

(I) the difference between the investment it made pursuant to the self-managed energy efficiency program during the three-year period of noncompliance and the full amount of the charges and rates related to energy efficiency it would have incurred during that period absent exemption under subdivision (3) of this subsection; and

(II) the difference between the investment it made pursuant to the program within the current three-year period, if different from the period of noncompliance, and the full amount of the charges and rates related to energy efficiency it would have incurred during the current period absent exemption under subdivision (3) of this subsection.

(ii) Payments under subdivision (4)(i) of this subsection (j) shall be made to the entities to which the full amount of charges and rates would have been paid absent exemption under subdivision (3) of this subsection.

(iii) A former participant may not reapply for membership in the self-managed program after termination under this subdivision (4)(I).

(J) A participant in the self-managed program class may request confidentiality of data it reports to the Board if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is requested, the Board shall disclose the data only in accordance with a protective agreement approved by the Board and signed by the recipient of the data, unless a court orders otherwise.

(K) Any data not subject to a confidentiality request under subdivision (4)(J) of this subsection will be a public record.

(L) A participant in the self-managed program class may submit projects to the independent system operator of New England, including through recognized aggregators, for payments under that operator's forward capacity market program, and shall invest such payments in electric or fuel efficiency.

(M) A participant in the self-managed program class may receive funding from an energy program administered by a government or other entity which is not the participant but may not count such funds received as part of the annual commitment to its self-managed energy efficiency program.

(N) If, at the end of every third year after an applicant's approval to participate in the self-managed efficiency program (the three-year period), the applicant has not met the commitment required by subdivision (4)(D) of this subsection, the applicant shall pay the difference between the investment the applicant made while in the self-managed energy efficiency program and the full amount of charges and rates that the applicant would have incurred absent the exemption under subdivision (3) of this subsection. This payment shall be made no later than 90 days after the end of the three-year period to the entities to which the full amount of those charges and rates would have been paid absent the exemption.

(5) This subdivision applies to a transferee of all or substantially all of the assets at the served property of an entity approved to participate in the self-managed energy efficiency program. The Board shall allow the transferee to continue as a participant in the self-managed energy efficiency program class in the same manner and under the same terms and conditions that the transferor participant was authorized to participate, provided:

(A) the transferor participant met the requirements of subdivision (4)(A) of this subsection (j) and the transferee otherwise meets the requirements of this subsection; and

(B) the transferee assumes the obligation to fulfill any outstanding commitment of the transferor participant under subdivision (4)(D) of this subsection.

30 V.S.A. § 218b. FARM CUSTOMERS; ENERGY EFFICIENCY; ELECTRIC ENERGY GENERATION

Each Vermont electric distribution utility shall develop and implement comprehensive energy efficiency programs for its livestock and domestic fowl farm customers. Such programs shall include all program measures that the public service board determines will be cost-effective as part of the utility's least-cost integrated plan. Utilities shall file such proposed programs by August 1, 1991. The board shall require each utility to deliver approved program measures to farm customers as rapidly as possible thereafter, taking into consideration the need for these services, utility financial constraints, and cost-effective delivery mechanisms.

30 V.S.A. § 203a. FUEL EFFICIENCY FUND

(a) Fuel Efficiency Fund. There is established the Fuel Efficiency Fund to be administered by a fund administrator appointed by the Board. Balances in the Fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the Fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the State. Interest earned shall remain in the Fund. The Fund shall contain such sums as appropriated by the General Assembly or as otherwise provided by law, in addition to revenues from the sale of credits under the RGGI cap and trade program as provided for under section 255 of this title.

(b) Use of the Fund. The Fuel Efficiency Fund shall be used to support the delivery of energy efficiency services to Vermont heating and process fuel consumers and to carry out cost-effective efficiency measures and reductions in greenhouse gas emissions from those sectors. These energy efficiency services shall be delivered by the service provider or providers selected by the Department of Public Service under section 235 of this title to perform these functions.

(c) Report. On or before January 15, 2010, and annually thereafter, the Department of Public Service shall report to the General Assembly on the expenditure of funds from the Fuel Efficiency Fund to meet the public's needs for energy efficiency services. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(d) Department costs. Up to five percent of amounts allocated to the Department of Public Service from the Fund may be used for administrative costs directly related to the Fuel Efficiency Fund.

30 V.S.A. § 235. HEATING AND PROCESS FUEL EFFICIENCY PROGRAM

(a) After consultation with fuel dealers, any appointed efficiency entity, financial institutions, the Board, representatives of the weatherization program, and other stakeholders, the Department of Public Service shall propose, develop, solicit, and monitor any combination of energy efficiency and conservation programs, measures, and compensation mechanisms to provide fuel efficiency services on a statewide basis for Vermont heating or process fuel consumers. The Department shall select one or more service providers as needed and pursuant to a competitive bidding process to implement those programs, measures, or compensation mechanisms by means of performance-based contracts that are based upon verified savings in energy usage and demand, and other performance targets. The contracts entered into during the first year after

March 19, 2008 shall be for a period of time of no greater than three years. Those programs, measures, and compensation mechanisms shall include fuel efficiency services that:

(1) produce whole building and process heat efficiency, regardless of the fuel type used;

(2) facilitate appropriate fuel switching; and

(3) promote coordination, to the fullest practical extent, with the electric efficiency programs established and administered pursuant to this chapter, as well as with low-income weatherization programs and any utility energy efficiency programs.

(b) Prior to the Department of Public Service entering a contract with service providers under this section and after such notice and hearings as it may require, the Public Service Board shall review the programs, measures, and compensation mechanisms selected by the Department to determine whether these programs, measures, and compensation mechanisms promote the public good. The Board may alter or impose conditions on any combination of these programs, measures, or compensation mechanisms as it deems necessary to promote the public good. If the Department thereafter changes the programs, measures, or compensation mechanisms, it shall request review under this section by the Board prior to implementing those changes.

(c) Funding for the program established under this section shall be provided from the Fuel Efficiency Fund established under section 203a of this title. During fiscal year 2009, any contracts or grants to be made from the Fund for other than administrative purposes shall be subject to appropriation by the General Assembly. The Department shall provide the Joint Fiscal Committee, at the Committee's November 2008 meeting, with a preliminary report on the program to be presented to the Public Service Board.

(d) The Department, subject to the oversight of the Board, shall:

(1) Ensure that all retail consumers, regardless of retail electricity, gas, or heating or process fuel provider, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation.

(2) Require that continued or improved efficiencies be made in the production, delivery, and use of energy efficiency services, including the use of compensation mechanisms that are based upon verified savings in energy usage and demand, and other performance targets specified by the Board. The linkage between compensation and verified savings in energy usage and demand (and other performance targets) shall be reviewed and adjusted not less than triennially by the Board.

(3) Build on the energy efficiency expertise and capabilities that have developed or may develop in the State.

(4) Promote program initiatives and market strategies that address the needs of persons or businesses facing the most significant barriers to participation.

(5) Promote coordinated program delivery, including coordination with low-income weatherization programs, other efficiency programs, and utility programs.

(6) Consider innovative approaches to delivering energy efficiency, including strategies to encourage third-party financing and customer contributions to the cost of efficiency measures.

(7) Provide a reasonably stable multiyear budget and planning cycle in order to promote program improvement, program stability, enhanced access to capital and personnel, improved integration of program designs with the budgets of regulated companies providing energy services, and maturation of programs and delivery resources.

(8) Develop and approve programs, measures, and delivery mechanisms that reasonably reflect current and projected market conditions, technological options, and environmental benefits.

(9) Provide for delivery of these programs as rapidly as possible, taking into consideration the need for these services, and cost-effective delivery mechanisms.

(10) Provide for the independent evaluation of programs delivered under this section.

(11) Require that any service provider under this section deliver programs in an effective, efficient, timely, and competent manner and meet standards that are consistent with those in section 218c of this title, the Board's orders in Public Service Board docket 5270, and any relevant board orders in subsequent energy efficiency proceedings.

(12) Require verification, on or before January 1, 2011, and every three years thereafter, by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by any entity selected to be a service provider under this section.

(13) Ensure that any energy efficiency program implemented under this section shall be reasonable and cost-effective.

(14) Consider the impact of programs delivered under this section on the amount of fuel used, fuel prices, and fuel bills.

(15) Ensure that the energy efficiency programs implemented under this section are designed to make continuous and proportional progress toward attaining the overall state building efficiency goals established by 10 V.S.A. § 581, by promoting all forms of energy end-use efficiency and comprehensive sustainable building design.

(e) Any disputes under this section shall be resolved by the board.

30 V.S.A. § 2925. CONSERVATION AND LOAD MANAGEMENT

(a) Municipal electric utilities may expend their funds, including the proceeds of their notes, bonds, or other obligations, for the purposes of modifying demand for electric capacity or energy through conservation or load management by participation in such facilities, projects, and programs as the legislative body or other governing body of the municipal electric utility determines will effectively accomplish such purposes. Such facilities, projects and programs may include providing or financing facilities or programs for conservation or load management, which may be (i) owned or operated by the municipal electric utility or by others, (ii) leased or licensed by the municipal electric utility to others, or financed by loans by the municipal electric utility to others, in either case on such terms and conditions as the legislative body or other governing body of the municipal electric utility may determine.

(b) A municipal electric utility may issue its notes, bonds, or other obligations pursuant to any statutory authority conferring such power for carrying out the purposes of this section.

30 V.S.A. § 3045. CONSERVATION AND LOAD MANAGEMENT

(a) Cooperatives may expend their funds, including the proceeds of their notes, bonds, or other obligations, for the purposes of modifying demand for electric capacity or energy through conservation or load management by participation in such facilities, projects, and programs as the governing board of the cooperative determines will effectively accomplish such purposes. Such facilities, projects and programs may include providing or financing facilities or programs for conservation or load management, which may be: (i) owned or operated by the cooperative or

by others, (ii) leased or licensed by the cooperative to others, or financed by loans by the cooperative to others, in either case on such terms and conditions as the governing board of the cooperative may determine.

(b) A cooperative may issue its notes, bonds, or other obligations pursuant to any statutory authority conferring such power for carrying out the purposes of this section.

D. Energy Efficiency Standards for Appliances: 9 V.S.A. chapter 74

9 V.S.A. § 2791. GENERAL PURPOSE

This chapter establishes minimum efficiency standards for certain products sold or installed in the State.

9 V.S.A. § 2792. FINDINGS

The General Assembly finds that:

(1) Efficiency standards for certain products sold or installed in the State assure consumers and businesses that those products meet minimum efficiency performance levels, thus saving money on utility bills.

(2) These efficiency standards save energy and thus reduce pollution and other environmental impacts associated with the production, distribution, and use of electricity, natural gas, and oil.

(3) These efficiency standards can make electricity systems more reliable by reducing the strain on the electricity grid during peak demand periods. Furthermore, improved energy efficiency can reduce or delay the need for new power plants, power transmission lines, and power distribution system upgrades.

(4) Energy efficiency standards contribute to the economy of this State by helping to balance better energy supply and demand, thus reducing pressure for higher natural gas and electricity prices. By saving consumers and businesses money on energy bills, efficiency standards help the State and local economy since energy bill savings can be spent on local goods and services.

9 V.S.A. § 2793. DEFINITIONS

As used in this chapter:

(1) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current, and waveform) for starting and operating the lamp.

(2) "Commissioner" means the Commissioner of the Department of Public Service.

(3) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(4) "Electricity ratio (ER)" is the ratio of furnace electricity use to total furnace energy use. ER = (3.412*EAE)/(1000*EF + 3.412 EAE) where EAE (average annual auxiliary electrical consumption) and EF (average annual fuel energy consumption) are defined in 10 C.F.R. Part 430, Subpart B, Appendix N.

(5) "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas and in which the light-producing arc is

stabilized by bulb wall temperature, and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

(6) "Medium voltage dry-type distribution transformer" means a transformer that:

(A) has an input voltage of more than 600 volts but less than or equal to 34,500 volts;

(B) is air-cooled;

(C) does not use oil as a coolant; and

(D) is rated for operation at a frequency of 60 hertz.

(7) "Metal halide lamp" means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(8) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(9) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an ignitor and which instead starts lamps by using a third starting electrode probe in the arc tube.

(10) "Residential boiler" means a self-contained appliance that is primarily designed for space heating by means of steam or hot water and that uses only single-phase electric current in conjunction with natural gas, propane, or home heating oil, and which has a heat input rate of less than 300,000 Btus per hour.

(11) "Residential furnace" means a self-contained space heater designed to supply heated air through ducts of more than 10 inches in length and which utilizes only single-phase electric current or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which:

(A) is designed to be the principal heating source for the living space of one or more residences;

(B) is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btus per hour; and

(C) has a heat input rate of less than 225,000 Btus per hour.

(12) "Single-voltage external AC to DC power supply" means a device that:

(A) is designed to convert line voltage AC input into lower voltage DC output;

(B) is able to convert to only one DC output voltage at a time;

(C) is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load;

(D) is contained within a separate physical enclosure from the end-use product;

(E) is connected to the end-use product via a removable or hard-wired male or female electrical connection, cable, cord, or other wiring;

(F) does not have batteries or battery packs, including those that are removable, that physically attach directly to the power supply unit;

(G) does not have a battery chemistry or type selector switch and indicator light; or does not have a battery chemistry or type selector switch and a state of charge meter; and

(H) has a nameplate output power less than or equal to 250 watts.

(13) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, that has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, and a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and that falls into either of the following categories:

(A) a blown PAR (BPAR), bulged reflector (BR), or elliptical reflector (ER) bulb shape, with a diameter which equals or exceeds 2.25 inches; or

(B) a reflector (R), parabolic aluminized reflector (PAR), or similar bulb shape with a diameter of 2.25 to 2.75 inches.

(14)(A) "Transformer" means a device that consists of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another, in order to change the original voltage or current value.

(B) The term "transformer" does not include:

(i) devices with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap; or

(ii) devices, such as those commonly known as drive transformers, rectifier transformers, auto transformers, uninterruptible power system transformers, impedance transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications.

9 V.S.A. § 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

(1) Medium voltage dry-type distribution transformers.

(2) Metal halide lamp fixtures.

(3) Residential furnaces and residential boilers.

(4) Single-voltage external AC to DC power supplies.

(5) State-regulated incandescent reflector lamps.

(6) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

9 V.S.A. § 2795. EFFICIENCY STANDARDS

Not later than June 1, 2007, the Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

(1) Medium voltage dry-type distribution transformers shall at a minimum meet the efficiency requirements set forth for such transformers in 10 C.F.R. § 431.196, as those requirements may be amended from time to time.

(2) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide ballast.

(3)(A) Residential furnaces and residential boilers shall meet or exceed the following Annual Fuel Utilization Efficiency (AFUE) and electricity ratio values:

Product Type	Minimum AFUE	Maximum Electricity ratio
Natural gas-and propane-fired furnaces	90%	2.0%
Oil-fired furnaces ≥ 94,000 Btus/hour in capacity	83%	2.0%
Oil-fired furnaces > 94,000 Btus/hour in capacity	83%	2.3%
Natural gas-, oil-, and propane-fired not hot water residential boilers	84%	Not applicable
Natural gas-, oil-, and propane-fired steam residential boilers	82%	Not applicable

(B) AFUE shall be measured in accordance with the federal test method for measuring the energy consumption of furnaces and boilers contained in Appendix N to subpart B of part 430, Title 10, Code of Federal Regulations.

(C) The Commissioner may adopt rules to exempt compliance with these residential furnace or residential boiler AFUE standards at any building, site, or location where complying with these standards would be in conflict with any local zoning ordinance, building or plumbing code, or other rule regarding installation and venting of residential boilers or residential furnaces.

(4)(A) Single-voltage external AC to DC power supplies shall meet the energy efficiency requirements of the following table:

Nameplate output power	Minimum efficiency in Active
0 to < 1 watt	0.49* Nameplate Output
≥ 1 watt and < 49 watts	0.09*Ln(Nameplate Output power) + 0.49
> 49 watts	0.84
	Maximum Energy Consumption in No-Load Mode
0 to < 10 watts	0.5 watts
≥ 10 watts and ≤ 250 watts	0.75 watts

* Where Ln (Nameplate Output) = Natural logarithm of the nameplate output expressed in watts.

(B) This standard applies to single voltage AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product. Single voltage AC to DC power supplies that are made available by a product manufacturer as accessories, service parts, or spare parts for its products manufactured prior to January 1, 2008 shall be exempt from the requirements of this standard.

(C) For purposes of this subdivision (4), the efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the test methodology specified by the U.S. Environmental Protection Agency's Energy Star Program, "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies (August 11, 2004)."

(5)(A) State-regulated incandescent reflector lamps shall meet the minimum average lamp efficacy requirements for federally regulated incandescent reflector lamps contained in 42 U.S.C. § 6295(i)(1)(A).

(B) The following types of incandescent reflector lamps are exempt from these requirements:

(i) lamps rated at 50 watts or less of the following types: BR30, ER30, BR40, and ER40;

(ii) lamps rated at 65 watts of the following types: BR30, BR40, and ER40; and

(iii) R20 lamps of 45 watts or less.

9 V.S.A. § 2796. IMPLEMENTATION

(a) No new medium voltage dry-type distribution transformer, State-regulated incandescent reflector lamp, or single-voltage external AC to DC power supply manufactured on or after January 1, 2008 may be sold or offered for sale in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(b) On or after January 1, 2009, no new metal halide lamp fixture may be sold or offered for sale in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(c) No later than six months after the date of enactment of this chapter, the Commissioner, in consultation with the Attorney General, shall determine if implementation of State standards for residential furnaces and residential boilers requires a waiver from federal preemption. If the Commissioner determines that a waiver from federal preemption is not needed, those State standards shall go into effect on June 1, 2008, or if this determination is made after June 1, 2007, those standards shall go into effect one year after the date of this determination. If the Commissioner determines that a waiver from federal preemption is required, the Commissioner shall apply for that waiver within one year of that determination and upon approval of that waiver application, the applicable standards shall go into effect at the earliest date permitted by federal law.

(d) One year after the date upon which the sale or offering for sale of certain products becomes subject to the requirements of subsection (a) or (b) of this section, no new products may be installed for compensation in the State unless the efficiency of a new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(e) Owners and operators of commercial and industrial facilities shall be allowed to utilize appliances and equipment that do not meet the requirements of section 2795 of this title for the repair or replacement of existing equipment, provided that the equipment being repaired or replaced was acquired before the implementation date determined according to the provisions of this section. At the discretion of the owners and operators, these appliances and equipment may be used at any time before or after the effective date of those requirements.

9 V.S.A. § 2797. REVISED STANDARDS

The Commissioner may adopt rules, in accordance with the provisions of 3 V.S.A. chapter 25, to revise efficiency standards for the products listed in section 2794 of this title, in order to make the standards conform to standards in effect in other states, where to do so is in the interests of the electrical energy consumers of the State. In considering increased standards, the Commissioner shall set efficiency standards upon a determination that increased efficiency standards would serve to promote energy conservation in the State and would be cost-effective for consumers who purchase and use those products. No increased efficiency standards shall become effective within one year following the adoption of any amended rules establishing those increased efficiency standards. The Commissioner may apply for a waiver of federal preemption in accordance with federal procedures (42 U.S.C. § 6297(d)) for State efficiency standards for any product regulated by the federal government.

9 V.S.A. § 2798. TESTING, CERTIFICATION, LABELING, AND ENFORCEMENT

(a) The Commissioner shall adopt test protocols for determining the energy efficiency of the new products covered by section 2794 of this title if those protocols are not provided for in section 2795 of this title or in the Residential Building Energy Standards adopted under 30 V.S.A. § 51. The Commissioner shall require U.S. Department of Energy-approved test methods, or in the absence of those test methods, other appropriate nationally recognized test methods. The manufacturers of these products shall cause samples of their products to be tested in accordance with the test protocols adopted pursuant to this chapter or those specified in the Residential Building Energy Standards. The Commissioner may adopt updated test methods when new versions of test protocols become available.

(b) Manufacturers of new products covered by section 2794 of this title, except for single voltage external AC to DC power supplies, shall certify to the Commissioner that these products are in compliance with the provisions of this chapter. These certifications shall be based on test results. The Commissioner shall adopt rules governing the certification of those products and shall coordinate with the certification programs of other states with similar standards.

(c) Manufacturers of new products covered by section 2794 of this title shall identify each product offered for sale or installation in the State as being in compliance with the provisions of this chapter by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The Commissioner shall adopt rules governing the identification of these products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards. The Commissioner shall allow the use of existing marks, labels, or tags which connote compliance with the efficiency requirements of this chapter.

(d) The Commissioner may test products covered by section 2794 of this title. If any product so tested is found not to be in compliance with the minimum efficiency standards established under section 2795 of this title, the Commissioner shall:

(1) charge the manufacturer of that product for the cost of product purchase and testing; and

(2) make available to the public information on products found not to be in compliance with the standards.

(e) With prior notice and at reasonable and convenient hours, the Commissioner may cause periodic inspections to be made of distributors or retailers of new products covered by section 2794 of this title in order to determine compliance with the provisions of this chapter.

(f) The Commissioner is granted the authority to adopt further rules as necessary to ensure the proper implementation of the provisions of this chapter.

(g) Any manufacturer, or distributor, or any person who installs a product covered by this chapter for compensation, who violates any provision of this chapter shall be subject to a civil penalty of not more than $250.00. Each violation shall constitute a separate offense, and each day that such violation continues shall constitute a separate offense. Penalties assessed under this subsection are in addition to costs assessed under subsection (d) of this section.

E. Energy Efficiency Standards for Light Bulbs: 9 V.S.A. chapter 84

9 V.S.A. § 3153. DEFINITIONS

For purposes of this chapter:

(1) "Department" means the Department of Public Service.

(2) "New product" means reflector incandescent and four-foot, eight-foot, and F40/U fluorescent light bulbs that are sold at retail, offered for retail sale, or installed within the State for the first time.

9 V.S.A. § 3154. ADOPTION OF STANDARDS

(a)(1) Rulemaking authority. The Department of Public Service shall adopt by rule, modify, revise, update, and maintain Vermont energy-efficiency standards with respect to new products installed in the State by a contractor or other construction professional or sold at retail in the State. These standards in every instance shall be designed to ensure consumers' easy access to new products that meet consumers' needs and preferences and that will be cost effective. These shall be minimum standards and shall not pre-empt stricter standards otherwise duly established by State or local authority.

(2) Federal action. If federal legislation is passed prior to July 1, 1993, which requires adoption of light bulb standards which are substantially equivalent to those required under this chapter, and they are required to be in effect by July 1, 1995, the Department may forego adoption of the rules required under this chapter. If federal standards are not, in fact, in effect as of July 1, 1995, the Department shall proceed with adoption of standards required under this chapter.

(b) Standards for new products. By no later than July 1, 1993, the Department shall adopt rules establishing energy-efficiency standards for new products, so that each new product covered by those standards shall consume less power in watts per unit of light output in lumens

than a maximum reference level to be established by the Department. These rules shall ensure that the standards allow for new products whose fit, availability, and performance are substantially the equivalent of products currently on the market and whose energy savings compensate for any increased cost. If substantially equivalent fit, availability, and performance is not readily attainable in these new products, the rules shall allow products currently on the market to continue to be sold at retail and installed by contractors and construction professionals in the State.

(c) Inventory. Notwithstanding the provisions of this chapter, a retailer may sell light bulbs from the retailer's stock as it existed on the effective date of the prohibitions established in this chapter.

9 V.S.A. § 3155. APPLICABILITY

Subject to the effective date provided by section 3154 of this title, no new product covered by this chapter may be sold at retail, offered for retail sale, imported for retail sale or use, or installed by a contractor or other construction professional in buildings or structures in the State unless the efficiency rating of the product meets or exceeds the levels established by this chapter. The rules shall provide for waiver of the requirements of this section in the event of lack of availability of products of any given category, or for other good cause.

9 V.S.A. § 3156. TEST METHODS

The manufacturer shall cause the testing of samples of each model of each product covered by this chapter in a manner consistent with any test methods established by rule of the Department.

9 V.S.A. § 3157. CERTIFICATION STATEMENTS

(a) Manufacturers of products covered by this chapter shall certify to the Department that those products are in compliance with the provisions of this chapter.

(b) Each product, or its packaging that is visible to a retail consumer, shall specify the product's energy efficiency level in a manner established by rule of the Department.

(c) The Department may require, by rule, other information necessary to permit the determination that products covered by this chapter comply with the standards established by this chapter.

9 V.S.A. § 3158. ENFORCEMENT AND PENALTIES

(a) The Department may investigate complaints received concerning violations of this chapter and shall report the results of its investigation to the Attorney General or a State's Attorney. The Attorney General or a State's Attorney may institute proceedings to enjoin any person found to be violating the provisions of this chapter.

(b) The Department may cause periodic inspections to be made of manufacturers, distributors, or retailers of new products in Vermont in order to determine compliance with this chapter. The Department, by rule, may adopt procedures for inspection and verification of products.

(c) Any manufacturer, distributor, retailer, or contractor who, by a continuing course of conduct on his or her part, or on the part of an employee or agent, willfully violates any provision of this chapter is subject to a civil penalty of not more than $50.00.

F. Low-Income Weatherization: 33 V.S.A. chapter 25

33 V.S.A. § 2501. HOME WEATHERIZATION ASSISTANCE FUND

(a) There is created in the State Treasury a fund to be known as the Home Weatherization Assistance Fund to be expended by the Director of the State Office of Economic Opportunity in accordance with federal law and this chapter.

(b) The Fund shall be composed of the receipts from the gross receipts tax on retail sales of fuel imposed by section 2503 of this title, such funds as may be allocated from the Oil Overcharge Fund, such funds as may be allocated from the federal Low Income Energy Assistance Program, and such other funds as may be appropriated by the General Assembly.

(c) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund. Disbursements from the Fund shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management. Disbursements may be made from the Fund only to support the programs established by this chapter or otherwise as authorized by this chapter.

33 V.S.A. § 2502. HOME WEATHERIZATION ASSISTANCE PROGRAM

(a) The Director of the State Office of Economic Opportunity shall administer a Home Weatherization Assistance Program under such rules, regulations, funding, and funding requirements as may be imposed by federal law.

(b) In addition, the Director shall supplement, or supplant, any federal program with a State Home Weatherization Assistance Program.

(1) The State program shall provide an enhanced weatherization assistance amount exceeding the federal per unit limit allowing amounts up to an average of $8,000.00 per unit allocated on a cost-effective basis. In units where costs exceed the allowable average by more than 25 percent, prior approval of the Director of the State Economic Opportunity Office shall be required before work commences. This amount shall be adjusted annually by increasing the last year's amount by the percentage increase in the Consumer Price Index for the previous year.

(2) The State program shall provide amounts for low-income customers utilizing any high operating cost fuel, to convert to another fuel source under rules adopted by the Director based on the cost effectiveness of the converted facility over the life cycle of the equipment.

(3) The Director, in collaboration with the weatherization service providers and other stakeholders, shall develop the State program so that it will include:

(A) Facilitating the development and implementation of a statewide common energy-audit tool or tools that work well on all Vermont housing, including multi-family buildings.

(B) With regard to multi-family buildings, requiring either of the following requirements to be met:

(i) At least 25 percent or more of the tenants in the building are eligible for the Program.

(ii) At least 50 percent of the units are weatherization affordable, and at least one tenant of the building has applied for the Program and has been determined to be eligible. For purposes of this subdivision, "weatherization affordable" means a unit having a rent that is established at less than 30 percent of the income level established by computing 80 percent of the area median income level or 80 percent of the State median income level, whichever is higher, for the relevant household size. Relevant household size means the number of bedrooms in the unit, plus one.

(C) Establishing Program eligibility levels at 80 percent of the area median income, or 80 percent of the State median income, whichever is higher. Subject to the priority under section 2608 of this title given to participants in the Home Heating Fuel Assistance Program, the State program shall, when weighing factors to assign priority to buildings or units eligible for weatherization assistance, assign the greatest weight to those buildings and units that require the most Btus to heat a square foot of space.

(D) Eliminating the lien requirements on weatherized rental properties, so long as the landlord executes a rent stabilization agreement which has a term of at least one year.

(E) Generally, allowing flexibility to accommodate special circumstances in which greater energy savings can be realized or health and safety problems may be alleviated.

(F) Increasing the number of low income homes weatherized each year, or the scope of services provided, or both, to reflect increased revenues in the Home Weatherization Assistance Fund.

(G) With respect to multi-family buildings housing recipients of home heating fuel assistance under chapter 26 of this title, targeted outreach efforts to ensure the highest weatherization participation rates by owners of such buildings.

(4) Funding for the installation of solar domestic hot water systems and other renewable energy systems on eligible homes, where cost-effective and consistent with other program needs.

(c) The Secretary of Human Services shall by rule establish rent stabilization agreements and provisions to recapture amounts expended for weatherization of a rental unit which exceed the amount of energy cost reductions projected to be obtained by eligible tenants of the unit. The time periods established for rent stabilization and recapture shall be set taking into account the size of benefits received by tenants and landlords as well as the effect on program participation. Funds recaptured under this section shall be deposited into the Home Weatherization Assistance Trust Fund established under section 2501 of this title.

(d) Subject to budgetary approval by the General Assembly, or approval by the Emergency Board, amounts in the Home Weatherization Assistance Fund created by section 2501 of this title may be transferred to the Home Heating Fuel Assistance Fund created by section 2603 of this title, and used for energy assistance to low income persons, provided that such transfer does not reduce the fiscal capacity of the State Office of Economic Opportunity to meet the budgetary obligations of the Weatherization Program as set forth in this chapter, and that in the event of approval by the Emergency Board, the Emergency Board so certifies.

(e) [Repealed.]

33 V.S.A. § 2503. FUEL TAX

(a)(1) There is imposed a tax on the retail sale of heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business, at the rate of $0.02 per gallon.

(2) There is imposed a gross receipts tax of 0.75 percent on the retail sale of natural gas and coal.

(3) There is imposed a gross receipts tax of 0.5 percent on the retail sale of electricity.

(b) The tax shall be levied upon and collected monthly from the seller. Fuel sellers may itemize the tax on the invoice or bill, and if the seller does itemize the amount, the invoice or bill shall include a statement that the tax is "for support of Vermont's Low Income Home Weatherization Program."

(c) The tax shall be administered by the Commissioner of Taxes, and all receipts shall be deposited by the Commissioner in the Home Weatherization Assistance Fund. All provisions of law relating to the collection, administration, and enforcement of the sales and use tax imposed by 32 V.S.A. chapter 233 shall apply to the tax imposed by this chapter.

(d) No tax under this section shall be imposed for any month ending after June 30, 2019.

VI. PROGRAMS OR INCENTIVES FOR UTILITIES TO PROVIDE RENEWABLE ELECTRICITY

A. Renewable Energy Chapter, Definitions

30 V.S.A. § 8002. DEFINITIONS

As used in this chapter:

(1) "Board" means the Public Service Board under section 3 of this title, except when used to refer to the Clean Energy Development Board.

(2) "Commissioned" or "commissioning" means the first time a plant is put into operation following initial construction or modernization if the costs of modernization are at least 50 percent of the costs that would be required to build a new plant including all buildings and structures technically required for the new plant's operation. However, these terms shall not include activities necessary to establish operational readiness of a plant.

(3) "CPI" means the Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(4) "Customer" means a retail electric consumer.

(5) "Department" means the Department of Public Service under section 1 of this title, unless the context clearly indicates otherwise.

(6) "Energy conversion efficiency" means the effective use of energy and heat from a combustion process.

(7) "Environmental attributes" means the characteristics of a plant that enable the energy it produces to qualify as renewable energy and include any and all benefits of the plant to the environment such as avoided emissions or other impacts to air, water, or soil that may occur through the plant's displacement of a nonrenewable energy source.

(8) "Existing renewable energy" means renewable energy produced by a plant that came into service prior to or on June 30, 2015.

(9) "Greenhouse gas reduction credits" shall be as defined in section 8006a of this title.

(10) "Group net metering system" means a net metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net metering system. A union or district school facility shall be considered in the same group net metering system with buildings of its member municipalities that are located within the service area of the same retail electricity provider that serves the facility.

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

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

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

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

(15) "Net metering" means measuring the difference between the electricity supplied to a customer and the electricity fed back by the customer's net metering system during the customer's billing period:

(A) using a single, non-demand meter or such other meter that would otherwise be applicable to the customer's usage but for the use of net metering; or

(B) if the system serves more than one customer, using multiple meters. The calculation shall be made by converting all meters to a non-demand, non-time-of-day meter, and equalizing them to the tariffed kWh rate.

(16) "Net metering system" means a plant for generation of electricity that:

(A) is of no more than 500 kW capacity;

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

(C) is intended primarily to offset the customer's own electricity requirements; and

(D)(i) employs a renewable energy source; or

(ii) is a qualified micro-combined heat and power system of 20 kW or fewer that meets the definition of combined heat and power in subsection 8015(b) of this title and uses any fuel source that meets air quality standards.

(17) "New renewable energy" means renewable energy produced by a specific and identifiable plant coming into service after June 30, 2015.

(A) Energy from within a system of generating plants that includes renewable energy shall not constitute new renewable energy, regardless of whether the system includes specific plants that came or come into service after June 30, 2015.

(B) "New renewable energy" also may include the additional energy from an existing renewable energy plant retrofitted with advanced technologies or otherwise operated, modified, or expanded to increase the kWh output of the plant in excess of an historical baseline established by calculating the average output of that plant for the 10-year period that ended June 30, 2015. If the production of new renewable energy through changes in operations, modification, or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions.

(18) "Plant" means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities is part of the same project.

(19) "Plant capacity" means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term shall mean the aggregate AC nameplate capacity of all inverters used to convert the plant's output to AC power.

(20) "Plant owner" means a person who has the right to sell electricity generated by a plant.

(21) "Renewable energy" means energy produced using a technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate.

(A) For purposes of this subdivision (21), methane gas and other flammable gases produced by the decay of sewage treatment plant wastes or landfill wastes and anaerobic digestion of agricultural products, byproducts, or wastes, or of food wastes shall be considered renewable energy resources, but no other form of solid waste, other than silvicultural waste, shall be considered renewable.

(B) For purposes of this subdivision (21), no form of nuclear fuel shall be considered renewable.

(C) The only portion of electricity produced by a system of generating resources that shall be considered renewable is that portion generated a technology that qualifies as renewable under this subdivision (21).

(D) The Board by rule may add technologies or technology categories to the definition of "renewable energy," provided that technologies using the following fuels shall not be considered renewable energy supplies: coal, oil, propane, and natural gas.

(E) In this chapter, renewable energy refers to either "existing renewable energy" or "new renewable energy."

(22)(A) "Renewable pricing" shall mean an optional service provided or contracted for by an electric company:

(i) under which the company's customers may voluntarily either:

(I) purchase all or part of their electric energy from renewable sources as defined in this chapter; or

(II) cause the purchase and retirement of tradeable renewable energy credits on the participating customer's behalf; and

(ii) which increases the company's reliance on renewable sources of energy beyond those the electric company would otherwise be required to provide under section 218c of this title.

(B) Renewable pricing programs may include:

(i) contribution-based programs in which participating customers can determine the amount of a contribution, monthly or otherwise, that will be deposited in a Board-approved fund for new renewable energy project development;

(ii) energy-based programs in which customers may choose all or a discrete portion of their electric energy use to be supplied from renewable resources;

(iii) facility-based programs in which customers may subscribe to a share of the capacity or energy from specific new renewable energy resources.

(23) "Retail electricity provider" or "provider" means a company engaged in the distribution or sale of electricity directly to the public.

(24) "Standard Offer Facilitator" means an entity appointed by the Board pursuant to subsection 8005a(a) of this title.

(25) [Repealed.]

(26) "Tradeable renewable energy credits" means all of the environmental attributes associated with a single unit of energy generated by a renewable energy source where:

(A) those attributes are transferred or recorded separately from that unit of energy;

(B) the party claiming ownership of the tradeable renewable energy credits has acquired the exclusive legal ownership of all, and not less than all, the environmental attributes associated with that unit of energy; and

(C) exclusive legal ownership can be verified through an auditable contract path or pursuant to the system established or authorized by the Board or any program for tracking and verification of the ownership of environmental attributes of energy legally recognized in any state and approved by the Board.

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

(28) "Energy transformation project" means an undertaking that provides energy-related goods or services but does not include or consist of the generation of electricity and that results

in a net reduction in fossil fuel consumption by the customers of a retail electricity provider and in the emission of greenhouse gases attributable to that consumption. Examples of energy transformation projects may include home weatherization or other thermal energy efficiency measures; air source or geothermal heat pumps; high efficiency heating systems; increased use of biofuels; biomass heating systems; support for transportation demand management strategies; support for electric vehicles or related infrastructure; and infrastructure for the storage of renewable energy on the electric grid.

(29) "RES" means the Renewable Energy Standard established under sections 8004 and 8005 of this title.

B. Renewable Energy Standard

30 V.S.A. § 8004. SALES OF ELECTRIC ENERGY; RENEWABLE ENERGY STANDARD (RES)

(a) Establishment; requirements. The RES is established. Under this program, a retail electricity provider shall not sell or otherwise provide or offer to sell or provide electricity in the State of Vermont without ownership of sufficient energy produced by renewable energy plants or sufficient tradeable renewable energy credits from plants whose energy is capable of delivery in New England that reflect the required amounts of renewable energy set forth in section 8005 of this title or without support of energy transformation projects in accordance with that section. A retail electricity provider may meet the required amounts of renewable energy through eligible tradeable renewable energy credits that it owns and retires, eligible renewable energy resources with environmental attributes still attached, or a combination of those credits and resources.

(b) Rules. The Board shall adopt the rules that are necessary to allow the Board and the Department to implement and supervise further the implementation and maintenance of the RES.

(c) RECS; banking. The Board shall allow a provider that has met the required amount of renewable energy in a given year, commencing with 2017, to retain tradeable renewable energy credits created or purchased in excess of that amount for application to the provider's required amount of renewable energy in one of the following three years.

(d) Alternative compliance payment. In lieu of purchasing renewable energy or tradeable renewable energy credits or supporting energy transformation projects to satisfy the requirements of this section and section 8005 of this title, a retail electricity provider in this State may pay to the Vermont Clean Energy Development Fund established under section 8015 of this title an alternative compliance payment at the applicable rate set forth in section 8005.

(e) VPPSA members. In the case of members of the Vermont Public Power Supply Authority, the requirements of this chapter may be met in the aggregate.

(f) Joint efforts. Retail electricity providers may engage in joint efforts to meet one or more categories within the RES.

30 V.S.A. § 8005. RES CATEGORIES

(a) Categories. This section specifies three categories of required resources to meet the requirements of the RES established in section 8004 of this title: total renewable energy, distributed renewable generation, and energy transformation.

(1) Total renewable energy.

(A) Purpose; establishment. To encourage the economic and environmental benefits of renewable energy, this subdivision establishes, for the RES, minimum total amounts of renewable energy within the supply portfolio of each retail electricity provider. To satisfy this requirement, a provider may use renewable energy with environmental attributes attached or any class of tradeable renewable energy credits generated by any renewable energy plant whose energy is capable of delivery in New England.

(B) Required amounts. The amounts of total renewable energy required by this subsection shall be 55 percent of each retail electricity provider's annual retail electric sales during the year beginning on January 1, 2017, increasing by an additional four percent each third January 1 thereafter, until reaching 75 percent on and after January 1, 2032.

(C) Relationship to other categories. Distributed renewable generation used to meet the requirements of subdivision (2) of this subsection shall also count toward the requirements of this subdivision. However, an energy transformation project under subdivision (3) of this subsection shall not count toward the requirements of this subdivision.

(D) Municipal providers; petition. On petition by a provider that is a municipal electric utility serving not more than 6,000 customers, the Board may reduce the provider's required amount under this subdivision (1) for a period of up to three years. The Board may approve one such period only for a municipal provider. The Board may reduce this required amount if it finds that:

(i) the terms or conditions of an environmental permit or certification necessitate a reduction in the electrical energy generated by an in-state hydroelectric facility that the provider owns and that this reduction will require the provider to purchase other renewable energy with environmental attributes attached or tradeable renewable energy credits in order to meet this required amount; and

(ii) this purchase will:

(I) cause the provider to increase significantly its retail rates; or

(II) materially impair the provider's ability to meet the public's need for energy services after safety concerns are addressed, in the manner set forth in subdivision 218c(a)(1)(least-cost integrated planning) of this title.

(2) Distributed renewable generation.

(A) Purpose; establishment. This subdivision establishes a distributed renewable generation category for the RES. This category encourages the use of distributed generation to support the reliability of the State's electric system; reduce line losses; contribute to avoiding or deferring improvements to that system necessitated by transmission or distribution constraints; and diversify the size and type of resources connected to that system. This category requires the use of renewable energy for these purposes to reduce environmental and health impacts from air emissions that would result from using other forms of generation.

(B) Definition. As used in this section, "distributed renewable generation" means one of the following:

(i) a renewable energy plant that is new renewable energy; has a plant capacity of five MW or less; and

(I) is directly connected to the subtransmission or distribution system of a Vermont retail electricity provider; or

(II) is directly connected to the transmission system of an electric company required to submit a Transmission System Plan under subsection 218c(d) of this title, if the plant is part of a plan approved by the Board to avoid or defer a transmission system improvement

needed to address a transmission system reliability deficiency identified and analyzed in that Plan; or

(ii) a net metering system approved under the former section 219a or under section 8010 of this title if the system is new renewable energy and the interconnecting retail electricity provider owns and retires the system's environmental attributes.

(C) Required amounts. The required amounts of distributed renewable generation shall be one percent of each retail electricity provider's annual retail electric sales during the year beginning January 1, 2017, increasing by an additional three-fifths of a percent each subsequent January 1 until reaching 10 percent on and after January 1, 2032.

(D) Distributed generation greater than five MW. On petition of a retail electricity provider, the Board may for a given year allow the provider to employ energy with environmental attributes attached or tradeable renewable energy credits from a renewable energy plant with a plant capacity greater than five MW to satisfy the distributed renewable generation requirement if the plant would qualify as distributed renewable generation but for its plant capacity and the provider demonstrates that it is unable during that year to meet the requirement solely with qualifying renewable energy plants of five MW or less. To demonstrate this inability, the provider shall issue one or more requests for proposals, and show that it is unable to obtain sufficient ownership of environmental attributes to meet its required amount under this subdivision (2) from:

(i) the construction and interconnection to its system of distributed renewable generation that is consistent with its approved least-cost integrated resource plan under section 218c of this title at a cost less than or equal to the sum of the applicable alternative compliance payment rate and the applicable rates published by the Department under the Board's rules implementing subdivision 209(a)(8) of this title; and

(ii) purchase of tradeable renewable energy credits for distributed renewable generation at a cost that is less than the applicable alternative compliance rate.

(3) Energy transformation.

(A) Purpose; establishment. This subdivision establishes an energy transformation category for the RES. This category encourages Vermont retail electricity providers to support additional distributed renewable generation or to support other projects to reduce fossil fuel consumed by their customers and the emission of greenhouse gases attributable to that consumption. A retail electricity provider may satisfy the energy transformation requirement through distributed renewable generation in addition to the generation used to satisfy subdivision (2) of this subsection (a) or energy transformation projects or a combination of such generation and projects.

(B) Required amounts. For the energy transformation category, the required amounts shall be two percent of each retail electricity provider's annual retail electric sales during the year beginning January 1, 2017, increasing by an additional two-thirds of a percent each subsequent January 1 until reaching 12 percent on and after January 1, 2032. However, in the case of a provider that is a municipal electric utility serving not more than 6,000 customers, the required amount shall be two percent of the provider's annual retail sales beginning on January 1, 2019, increasing by an additional two-thirds of a percent each subsequent January 1 until reaching 10 and two-thirds percent on and after January 1, 2032. Prior to January 1, 2019, such a municipal electric utility voluntarily may engage in one or more energy transformation projects in accordance with this subdivision (3).

(C) Eligibility criteria. For an energy transformation project to be eligible under this subdivision (a)(3), each of the following shall apply:

(i) Implementation of the project shall have commenced on or after January 1, 2015.

(ii) Over its life, the project shall result in a net reduction in fossil fuel consumed by the provider's customers and in the emission of greenhouse gases attributable to that consumption, whether or not the fuel is supplied by the provider.

(iii) The project shall meet the need for its goods or services at the lowest present value life cycle cost, including environmental and economic costs. Evaluation of whether this subdivision (iii) is met shall include analysis of alternatives that do not increase electricity consumption.

(iv) The project shall cost the utility less per MWH than the applicable alternative compliance payment rate.

(D) Conversion. For the purpose of determining eligibility and the application of the energy transformation project to a provider's annual requirement, the provider shall convert the net reduction in fossil fuel consumption resulting from the energy transformation project to a MWH equivalent of electric energy, in accordance with rules adopted by the Board. The conversion shall use the most recent year's approximate heat rate for electricity net generation from the total fossil fuels category as reported by the U.S. Energy Information Administration in its Monthly Energy Review. If an energy transformation project is funded by more than one regulated entity, the Board shall prorate the reduction in fossil fuel consumption among the regulated entities. In this subdivision (D), "regulated entity" includes each provider and each efficiency entity appointed under subsection 209(d) of this title.

(E) Other sources.

(i) A retail electricity provider or a provider's partner may oversee an energy transformation project under this subdivision (3). However, the provider shall deliver the project's goods or services in partnership with persons other than the provider unless exclusive delivery through the provider is more cost-effective than delivery by another person or there is no person other than the provider with the expertise or capability to deliver the goods or services.

(ii) An energy transformation project may provide incremental support to a program authorized under Vermont statute that meets the eligibility criteria of this subdivision (3) but may take credit only for the additional amount of service supported and shall not take credit for that program's regularly budgeted or approved investments.

(iii) To meet the requirements of this subdivision (3), one or more retail electricity providers may jointly propose with an energy efficiency entity appointed under subdivision 209(d)(2) of this title an energy transformation project or group of such projects. The proposal shall include standards of measuring performance and methods to allocate savings and reductions in fossil fuel consumption and greenhouse gas emissions among each participating provider and efficiency entity.

(F) Implementation. To carry out this subdivision (3), the Board shall adopt rules:

(i) For the conversion methodology in accordance with subdivision (3)(D) of this subsection (a).

(ii) To provide a process for prior approval of energy transformation projects by the Board or its designee. This process shall ensure that each of these projects meets the requirements of this subdivision (3) and need not consist of individual review of each energy transformation project prior to implementation as long as the mechanism ensures those

requirements are met. An energy transformation project that commenced prior to initial adoption of rules under this subdivision (F) may seek approval after such adoption.

(iii) For cost-effectiveness screening of energy transformation projects. This screening shall be consistent with the provisions of this subdivision (3) and, as applicable, the screening tests developed under subsections 209(d)(energy efficiency) and 218c(a)(least-cost integrated planning) of this title.

(iv) To allow a provider who has met its required amount under this subdivision (3) in a given year to apply excess net reduction in fossil fuel consumption, expressed as a MWH equivalent, from its energy transformation project or projects during that year toward the provider's required amount in a future year.

(v) To ensure periodic evaluation of an energy transformation project's claimed fossil fuel reductions, avoided greenhouse gas emissions, conversion to MWH equivalent, cost-effectiveness and, if applicable, energy savings, and to ensure annual verification and auditing of a provider's claims regarding project completion and resulting MWH equivalent. Changes to project claims resulting from periodic evaluations shall not reduce retroactively claims made on behalf of a project approved under subdivision (3)(F)(ii) of this subsection (a) or reduce verified claims carried forward under subdivision (3)(F)(iv) of this subsection (a).

(vi) To ensure that all ratepayers have an equitable opportunity to participate in, and benefit from, energy transformation projects regardless of rate class, income level, or provider service territory.

(vii) To ensure the coordinated delivery of energy transformation projects with the delivery of similar services, including low-income weatherization programs, entities that fund and support affordable housing, energy efficiency programs delivered under section 209 of this title, and other energy efficiency programs delivered locally or regionally within the State.

(viii) To ensure that, if an energy transformation project will increase the use of electric energy, the project incorporates best practices for demand management, uses technologies appropriate for Vermont, and encourages the installation of the technologies in buildings that meet minimum energy performance standards.

(ix) To provide a process under which a provider may withdraw from or terminate, in an orderly manner, an ongoing energy transformation project that no longer meets the eligibility criteria because of one or more factors beyond the control of the project and the provider.

(G) Petitions. On petition of a retail electricity provider in any given year, the Board may:

(i) reduce the provider's required amount under this subdivision (3) for that year, without penalty or alternative compliance payment, if the Board finds that compliance with the required amount for that year will:

(I) cause the provider to increase significantly its retail rates; or

(II) materially impair the provider's ability to meet the public's need for energy services after safety concerns are addressed, in the manner set forth in subdivision 218c(a)(1)(least-cost integrated planning) of this title; or

(ii) allow a provider who failed to achieve the required amount under this subdivision (3) during the preceding year to avoid paying the alternative compliance payment if the Board:

(I) finds that the provider made a good faith effort to achieve the required amount and its failure to achieve that amount resulted from market factors beyond its control; and

(II) directs that the provider add the difference between the required amount and the provider's actually achieved amount for that year to its required amount for one or more future years.

(4) Alternative compliance rates.

(A) The alternative compliance payment rates for the categories established by this subsection (a) shall be:

(i) total renewable energy requirement - $0.01 per kWh; and

(ii) distributed renewable generation and energy transformation requirements - $0.06 per kWh.

(B) The Board shall adjust these rates for inflation annually commencing January 1, 2018, using the CPI.

(b) Reduced amounts; providers; 100 percent renewable.

(1) The provisions of this subsection shall apply to a retail electricity provider that:

(A) as of January 1, 2015, was entitled, through contract, ownership of energy produced by its own generation plants, or both, to an amount of renewable energy equal to or more than 100 percent of its anticipated total retail electric sales in 2017, regardless of whether the provider owned the environmental attributes of that renewable energy; and

(B) annually each July 1 commencing in 2018, owns and has retired tradeable renewable energy credits monitored and traded on the New England Generation Information System or otherwise approved by the Board equivalent to 100 percent of the provider's total retail sales of electricity for the previous calendar year.

(2) A provider meeting the requirements of subdivision (1) of this subsection may:

(A) satisfy the distributed renewable generation requirement of this section by accepting net metering systems within its service territory pursuant to the provisions of this title that govern net metering; and

(B) if the Board has appointed the provider as an energy efficiency entity under subsection 209(d) of this title, propose to the Board to reduce the energy transformation requirement that would otherwise apply to the provider under this section.

(i) The provider may make and the Board may review such a proposal in connection with a periodic submission made by the provider pursuant to its appointment under subsection 209(d) of this title.

(ii) The Board may approve a proposal under this subdivision (B) if it finds that:

(I) the energy transformation requirement that would otherwise apply under this section exceeds the achievable potential for cost-effective energy transformation projects in the provider's service territory that meet the eligibility criteria for these projects under this section; and

(II) the reduced energy transformation requirement proposed by the provider is not less than the amount sufficient to ensure the provider's deployment or support of energy transformation projects that will acquire that achievable potential.

(iii) The measure of cost-effectiveness under this subdivision (B) shall be the alternative compliance payment rate established in this section for the energy transformation requirement.

(c) Biomass.

(1) Distributed renewable generation that employs biomass to produce electricity shall be eligible to count toward a provider's distributed renewable generation or energy transformation

requirement only if the plant produces both electricity and thermal energy from the same biomass fuel and the majority of the energy recovered from the plant is thermal energy.

(2) Distributed renewable generation and energy transformation projects that employ forest biomass to produce energy shall comply with renewability standards adopted by the Commissioner of Forests, Parks and Recreation under 10 V.S.A. § 2751.

(d) Hydropower. A hydroelectric renewable energy plant shall be eligible to satisfy the distributed renewable generation or energy transformation requirement only if, in addition to meeting the definition of distributed renewable generation, the plant:

(1) is and continues to be certified by the Low-impact Hydropower Institute; or

(2) after January 1, 1987, received a water quality certification pursuant to 33 U.S.C. § 1341 from the Agency of Natural Resources.

30 V.S.A. § 8006. TRADEABLE CREDITS; ENVIRONMENTAL ATTRIBUTES; RECOGNITION, MONITORING, AND DISCLOSURE

(a) The Board shall establish or adopt a system of tradeable renewable energy credits for renewable resources that may be earned by electric generation qualifying for the RES. The system shall recognize tradeable renewable energy credits monitored and traded on the New England Generation Information System (GIS); shall provide a process for the recognition, approval, and monitoring of environmental attributes attached to renewable energy that are eligible to satisfy the requirements of sections 8004 and 8005 of this title but are not monitored and traded on the GIS; and shall otherwise be consistent with regional practices.

(b) The Board shall ensure that all electricity provider and provider-affiliate disclosures and representations made with regard to a provider's portfolio are accurate and reasonably supported by objective data. Further, the Board shall ensure that providers disclose the types of generation used and shall clearly distinguish between energy or tradeable energy credits provided from renewable and nonrenewable energy sources and existing and new renewable energy.

C. Standard Offer Program

30 V.S.A. § 8005a. STANDARD OFFER PROGRAM

(a) Establishment. A Standard Offer Program is established. To achieve the goals of section 8001 of this title, the Board shall issue standard offers for renewable energy plants that meet the eligibility requirements of this section. The Board shall implement these standard offers by rule, order, or contract and shall appoint a Standard Offer Facilitator to assist in this implementation. For the purpose of this section, the Board and the Standard Offer Facilitator constitute instrumentalities of the State.

(b) Eligibility. To be eligible for a standard offer under this section, a plant must constitute a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, must not be a net metering system under section 219a of this title, and must be a new standard offer plant. In this section, "new standard offer plant" means a renewable energy plant that is located in Vermont, that has a plant capacity of 2.2 MW or less, and that is commissioned on or after September 30, 2009.

(c) Cumulative capacity. In accordance with this subsection, the Board shall issue standard offers to new standard offer plants until a cumulative plant capacity amount of 127.5 MW is reached.

(1) Pace. Annually commencing April 1, 2013, the Board shall increase the cumulative plant capacity of the Standard Offer Program (the annual increase) until the 127.5-MW cumulative plant capacity of this subsection is reached.

(A) Annual amounts. The amount of the annual increase shall be five MW for the three years commencing April 1, 2013, 7.5 MW for the three years commencing April 1, 2016, and 10 MW commencing April 1, 2019.

(B) Blocks. Each year, a portion of the annual increase shall be reserved for new standard offer plants proposed by Vermont retail electricity providers (the provider block), and the remainder shall be reserved for new standard offer plants proposed by persons who are not providers (the independent developer block).

(i) The portion of the annual increase reserved for the provider block shall be 10 percent for the three years commencing April 1, 2013, 15 percent for the three years commencing April 1, 2016, and 20 percent commencing April 1, 2019.

(ii) If the provider block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the annual increase for each following year until that capacity is subscribed and shall be made available to new standard offer plants proposed by persons who are not providers.

(iii) If the independent developer block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the annual increase for each following year until that capacity is subscribed and:

(I) shall be made available to new standard offer plants proposed by persons who are not providers; and

(II) may be made available to a provider following a written request and specific proposal submitted to and approved by the Board.

(C) Adjustment; greenhouse gas reduction credits. The Board shall adjust the annual increase to account for greenhouse gas reduction credits by multiplying the annual increase by one minus the ratio of the prior year's greenhouse gas reduction credits to that year's statewide retail electric sales.

(i) The amount of the prior year's greenhouse gas reduction credits shall be determined in accordance with subdivision 8006a(a) of this title.

(ii) The adjustment in the annual increase shall be applied proportionally to the independent developer block and the provider block.

(iii) Greenhouse gas reduction credits used to diminish a provider's obligation under section 8004 of this title may be used to adjust the annual increase under this subsection I.

(D) Pilot project; preferred locations. For one year commencing on January 1, 2017, the Board shall allocate one-sixth of the annual increase to new standard offer plants that will be wholly located in one or more preferred locations other than parking lots or parking lot canopies and, separately, one-sixth of the annual increase to new standard offer plants that will be wholly located over parking lots or on parking lot canopies.

(i) To qualify for these allocations, the plant shall not require the construction of a new substation by the interconnecting retail electricity provider or by increasing the capacity of one or more of the provider's existing facilities. To qualify for the allocation to plants wholly

located over parking lots or on parking lot canopies, the location shall remain in use as a parking lot.

(ii) These allocations shall apply proportionally to the independent developer block and provider block.

(iii) If an allocation under this pilot project is not fully subscribed, the Board in 2017 shall allocate the unsubscribed capacity to new standard offer plants outside the pilot project.

(iv) As used in this subdivision (D), "preferred location" means a site within the State on which a renewable energy plant will be located that is one of the following:

(I) A new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity.

(II) A parking lot canopy over a paved parking lot, provided that the location remains in use as a parking lot.

(III) A tract previously developed for a use other than siting a plant on which a structure or impervious surface was lawfully in existence and use prior to July 1 of the year preceding the year in which an application for a certificate of public good under section 248 of this title for the plant is filed or in which the plant seeks an award of a contract under the Standard Offer Program under this section, whichever is earlier. To qualify under this subdivision (III), the limits of disturbance of a proposed renewable energy plant must include either the existing structure or impervious surface and shall not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forestlands, and primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

(IV) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642.

(V) A sanitary landfill as defined in 10 V.S.A. § 6602, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and is suitable for the development of the plant.

(VI) The disturbed portion of a gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that all activities pertaining to site reclamation required by applicable law or permit condition are satisfied prior to the installation of the plant.

(VII) A specific location designated in a duly adopted municipal plan under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or specific type or size of renewable energy plant, provided that the plant meets any siting criteria recommended in the plan for the location.

(VIII) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms each of the following:

(aa) The site is listed on the NPL.

(bb) Development of the plant on the site will not compromise or interfere with remedial action on the site.

(cc) The site is suitable for development of the plant.

(IX) A new hydroelectric generation facility at a dam in existence as of January 1, 2016 or a hydroelectric generation facility that was in existence but not in service for a period of at least 10 years prior to January 1, 2016 and that will be redeveloped for electric

generation, if the facility has received approval or a grant of exemption from the U.S. Federal Energy Regulatory Commission.

(2) Technology allocations. The Board shall allocate the 127.5-MW cumulative plant capacity of this subsection among different categories of renewable energy technologies. These categories shall include at least each of the following: methane derived from a landfill; solar power; wind power with a plant capacity of 100 kW or less; wind power with a plant capacity greater than 100 kW; hydroelectric power; and biomass power using a fuel other than methane derived from an agricultural operation or landfill.

(d) Plants outside cumulative capacity. The following categories of plants shall not count toward the cumulative capacity amount of subsection I of this section, and the Board shall make standard offers available to them provided that they are otherwise eligible for such offers under this section:

(1) Plants using methane derived from an agricultural operation.

(2) New standard offer plants that the Board determines will have sufficient benefits to the operation and management of the electric grid or a provider's portion thereof because of their design, characteristics, location, or any other discernible benefit. To enhance the ability of new standard offer plants to mitigate transmission and distribution constraints, the Board shall require Vermont retail electricity providers and companies that own or operate electric transmission facilities within the State to make sufficient information concerning these constraints available to developers who propose new standard offer plants.

(A) By March 1, 2013, the Board shall develop a screening framework or guidelines that will provide developers with adequate information regarding constrained areas in which generation having particular characteristics is reasonably likely to provide sufficient benefit to allow the generation to qualify for eligibility under this subdivision (2).

(B) Once the Board develops the screening framework or guidelines under subdivision (2)(A) of this subsection (d), the Board shall require Vermont transmission and retail electricity providers to make the necessary information publicly available in a timely manner, with updates at least annually.

(C) Nothing in this subdivision shall require the disclosure of information in contravention of federal law.

(e) Term. The term of a standard offer required by this section shall be 10 to 20 years, except that the term of a standard offer for a plant using solar power shall be 10 to 25 years.

(f) Price. The categories of renewable energy for which the Board shall set standard offer prices shall include at least each of the categories established pursuant to subdivision I(2) of this section. The Board by order shall determine and set the price paid to a plant owner for each kWh generated under a standard offer required by this section, with a goal of ensuring timely development at the lowest feasible cost. The Board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25.

(1) Market-based mechanisms. For new standard offer projects, the Board shall use a market-based mechanism, such as a reverse auction or other procurement tool, to obtain up to the authorized amount of a category of renewable energy, if it first finds that use of the mechanism is consistent with:

(A) applicable federal law; and

(B) the goal of timely development at the lowest feasible cost.

(2) Avoided cost.

(A) The price paid for each category of renewable energy shall be the avoided cost of the Vermont composite electric utility system if the Board finds either of the following:

(i) Use of the pricing mechanism described in subdivision (1)(market-based mechanisms) of this subsection (f) is inconsistent with applicable federal law.

(ii) Use of the pricing mechanism described in subdivision (1)(market-based mechanisms) of this subsection (f) is reasonably likely to result in prices higher than the prices that would apply under this subdivision (2).

(B) For the purpose of this subsection (f), the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase through the standard offer, such providers would obtain from distributed renewable generation that uses the same generation technology as the category of renewable energy for which the Board is setting the price. For the purpose of this subsection (f), the term "avoided cost" also includes the Board's consideration of each of the following:

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

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

(iii) The availability, during the system's daily and seasonal peak periods, of capacity or energy purchased through the standard offer, and the estimated savings from mitigating peak load.

(iv) The relationship of the availability of energy or capacity purchased through the standard offer to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(v) The costs or savings resulting from variations in line losses and other impacts to the transmission or distribution system from those that would have existed in the absence of purchases through the standard offer.

(vi) The supply and cost characteristics of plants eligible to receive the standard offer.

(3) Price determinations. The Board shall take all actions necessary to determine the pricing mechanism and implement the pricing requirements of this subsection (f) no later than March 1, 2013 for effect on April 1, 2013. Annually thereafter, the Board shall review the determinations previously made under this subsection to decide whether they should be modified in any respect in order to achieve the goal and requirements of this subsection. Any such modification shall be effective on a prospective basis commencing one month after it has been made. Once a pricing determination made or modified under this subsection goes into effect, subsequently executed standard offer contracts shall comply with the most recently effective determination.

(4) Price stability. Once a plant owner has executed a contract for a standard offer under this section, the plant owner shall continue to receive the price agreed on in that contract regardless of whether the Board subsequently changes the price applicable to the plant's category of renewable energy.

(5) Price; preferred location pilots. For the period during which the Board allocates capacity to new standard offer plants that will be wholly located in one or more preferred locations as set forth in subdivision I(1)(D) of this section, the following shall apply to the price paid to such a plant:

(A) If the Board uses a market-based mechanism under subdivision (1) of this subsection (f) to determine this price for one or both of the two allocations of capacity, the Board shall compare only the proposals of plants that qualify for the allocation.

(B) If the Board uses avoided costs under subdivision (2) of this subsection (f) to determine this price for one or both of the two allocations of capacity, the Board shall apply the definition of "avoided costs" as set forth in subdivision (2)(B) of this subsection with the modification that the avoided energy or capacity shall be from distributed renewable generation that is sited on a location that qualifies for the allocation.

(C) With respect to the allocation to the new standard offer plants that will be wholly located over parking lots or on parking lot canopies, if the Board receives only one application or multiple applications for plants owned or controlled by the same person as defined in 10 V.S.A. § 6001, the Board shall investigate each application and shall have discretion to reduce the price to be consistent with the standard offer price for plants outside the pilot project using the same generation technology.

(g) Qualifying existing agricultural plants. Notwithstanding any other provision of this section, on and after June 8, 2010, a standard offer shall be available for a qualifying existing plant as defined in Sec. 3 of No. 159 of the Acts of the 2009 Adj. Sess. (2010)(Act 159). The provisions of subdivision 8005(b)(2) of this title, as they existed on June 4, 2010, the effective date of Act 159, shall govern a standard offer under this subsection. Standard offers for these plants shall not be subject to subsection (c) of this section (cumulative capacity; new standard offer plants).

(h) Application process. The Board shall administer the process of applying for and obtaining a standard offer contract in a manner that ensures that the resources and capacity of the Standard Offer Program are used for plants that are reasonably likely to achieve commissioning.

(i) Interconnection application. No contract under this section for a new standard offer plant shall be executed unless and until the plant owner submits a complete application to interconnect the plant to the subtransmission or distribution system of the applicable retail electricity provider.

(j) Termination; reallocation. In the event a proposed plant accepting a standard offer fails to meet the requirements of the Program in a timely manner, the plant's standard offer contract shall terminate, and any capacity reserved for the plant within the Program shall be reallocated to one or more eligible plants.

(1) For the purpose of this subsection, the requirements of the program shall include commissioning of all new standard offer plants, except plants using methane derived from an agricultural operation, within the following periods after execution of the plant's standard offer contract:

(A) 24 months if the plant is solar power or is wind power with a plant capacity of 100 kW or less; and

(B) 36 months if the plant uses a fuel source not described in subdivision 1(A) of this subsection (j) or is wind power of greater than 100 kW capacity.

(2) At the request of a plant owner, the Board may extend a period described in subdivision (1) of this subsection (j) if it finds that the plant owner has proceeded diligently and in good faith and that commissioning of the plant has been delayed because of litigation or appeal or because of the need to obtain an approval the timing of which is outside the Board's control.

(k) Executed standard offer contracts; transferability; allocation of benefits and costs. With respect to executed contracts for standard offers under this section:

(1) A contract shall be transferable. The contract transferee shall notify the Standard Offer Facilitator of the contract transfer within 30 days of transfer.

(2) The Standard Offer Facilitator shall distribute the electricity purchased to the Vermont retail electricity providers at the price paid to the plant owners, allocated to the providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay the Standard Offer Facilitator for the electricity. However, during any given calendar year:

(A) Calculation of pro rata shares under this subdivision (2) shall include an adjustment in the allocation to a provider if one or more of the provider's customers created greenhouse gas reduction credits under section 8006a of this title that are used to reduce the size of the annual increase under subdivision (c)(1)(C)(adjustment; greenhouse gas reduction credits) of this section. The adjustment shall ensure that any and all benefits or costs from the use of such credits flow to the provider whose customers created the credits. The savings that a provider realizes as a result of this application of greenhouse gas reduction credits shall be passed on proportionally to the customers that created the credits.

(B) A retail electricity provider shall be exempt and wholly relieved from the requirements of this subdivision if, during the immediately preceding 12-month period ending October 31, the amount of renewable energy supplied to the provider by generation owned by or under contract to the provider, regardless of whether the provider owned the energy's environmental attributes, was not less than the amount of energy sold by the provider to its retail customers.

(3) The Standard Offer Facilitator shall transfer the environmental attributes, including any tradeable renewable energy credits, of electricity purchased under standard offer contracts to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (2) of this subsection (k), except that in the case of a plant using methane from agricultural operations, the plant owner shall retain such attributes and credits to be sold separately at the owner's discretion. It shall be a condition of a standard offer issued under this section that tradeable renewable energy credits associated with a plant that accepts the standard offer are owned by the retail electricity providers purchasing power generated by the plant, except in the case of a plant using methane from agricultural operations.

(4) The Standard Offer Facilitator shall transfer all capacity rights attributable to the plant capacity associated with the electricity purchased under standard offer contracts to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (2) of this subsection (k).

(5) All reasonable costs of a Vermont retail electricity provider incurred under this subsection shall be included in the provider's revenue requirement for purposes of ratemaking under sections 218, 218d, 225, and 227 of this title. In including such costs, the Board shall appropriately account for any credits received under subdivisions (3) and (4) of this subsection (k). Costs included in a retail electricity provider's revenue requirement under this subdivision (5) shall be allocated to the provider's ratepayers as directed by the Board.

(l) Standard Offer Facilitator; expenses; payment. With respect to standard offers under this section, the Board shall:

(1) determine a Standard Offer Facilitator's reasonable expenses arising from its role and the allocation of the expenses among plant owners and Vermont retail electricity providers;

(2) determine the manner and timing of payments by a Standard Offer Facilitator to plant owners for energy purchased under an executed contract for a standard offer;

(3) determine the manner and timing of payments to the Standard Offer Facilitator by the Vermont retail electricity providers for energy distributed to them under executed contracts for standard offers;

(4) establish reporting requirements of a Standard Offer Facilitator, a plant owner, and a Vermont retail electricity provider.

(m) Metering. With respect to standard offers under this section, the Board shall make rule revisions concerning metering and the allocation of metering costs as needed to implement the standard offer requirements of this section.

(n) Wood biomass. In addition to the other requirements of this section, wood biomass resources may receive a standard offer under this section only if they have a design system efficiency (the sum of full load design thermal output and electric output divided by the heat input) of at least 50 percent.

(o) Voluntary contracts. The existence of a standard offer under this section shall not preclude a voluntary contract between a plant owner and a Vermont retail electricity provider on terms that may be different from those under the standard offer. A plant owner who declines a voluntary contract may still accept a standard offer under this section.

(p) Existing hydroelectric plants. Notwithstanding any contrary requirement of this section, no later than January 15, 2013, the Board shall make a standard offer contract available to existing hydroelectric plants in accordance with this subsection.

(1) In this subsection:

(A) "Existing hydroelectric plant" means a hydroelectric plant of five MW plant capacity or less that is located in the State, that was in service as of January 1, 2009, that is a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, and that does not have an agreement with the Board's purchasing agent for the purchase of its power pursuant to subdivision 209(a)(8) of this title and Board rules adopted under subdivision (8). The term includes hydroelectric plants that have never had such an agreement and hydroelectric plants for which such an agreement has expired, provided that the expiration date is prior to December 31, 2015.

(B) "LIHI" means the Low-Impact Hydropower Institute.

(2) The term of a standard offer contract under this subsection shall be 10 or 20 years, at the election of the plant owner.

(3) Unless inconsistent with applicable federal law, the price of a standard offer contract shall be the lesser of the following:

(A) $0.08 per kWh, adjusted for inflation annually commencing January 15, 2013 using the CPI; or

(B) The sum of the following elements:

(i) a two-year rolling average of the ISO New England Inc. (ISO-NE) Vermont zone hourly locational marginal price for energy;

(ii) a two-year rolling average of the value of the plant's capacity in the ISO-NE forward capacity market;

(iii) the value of avoided line losses due to the plant as a fixed increment of the energy and capacity values;

(iv) the value of environmental attributes, including renewable energy credits; and

(v) the value of a 10- or 20-year contract.

(4) The Board shall determine the price to be paid under this section no later than January 15, 2013.

(A) Annually by January 15 commencing in 2014, the Board shall recalculate and adjust the energy and capacity elements of the price under subdivisions (3)(B)(i) and (ii) of this subsection (p). The recalculated and adjusted energy and capacity elements shall apply to all contracts executed under this subdivision, whether or not the contracts were executed prior to the adjustments.

(B) With respect to the price elements specified in subdivisions (3)(B)(iii) (avoided line losses), (iv) (environmental attributes), and (v) (value of long-term contract) of this subsection (p):

(i) These elements shall remain fixed at their values at the time a contract is signed for the duration of the contract, except that the Board may periodically adjust the value of environmental attributes that are applicable to an executed contract based upon whether the plant becomes certified by LIHI or loses such certification.

(ii) The Board annually may adjust these elements for inclusion in contracts that are executed after the date any such adjustments are made.

(5) In addition to the limits specified in subdivision (3) of this subsection (p), in no event shall an existing hydroelectric plant receive a price in one year higher than its price in the previous year, adjusted for inflation using the CPI, except that if a plant becomes certified by LIHI, the Board may add to the price any incremental increase in the value of the plant's environmental attributes resulting from such certification.

(6) Once a plant owner has executed a contract for a standard offer under this subsection (p), the plant owner shall continue to receive the pricing terms agreed on in that contract regardless of whether the Board subsequently changes any pricing terms under this subsection.

(7) Capacity of existing hydroelectric plants executing a standard offer contract under this subsection shall not count toward the cumulative capacity amount of subsection I of this section.

(q) Allocation of regulatory costs. The Board and Department may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and research services in conjunction with implementing their responsibilities under this section. In lieu of allocating such costs pursuant to subsection 21(a) of this title, the Board or Department may allocate the expense in the same manner as the Standard Offer Facilitator's costs under subdivision (l)(1) of this section.

(r) State; nonliability. 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 Standard Offer Program, including costs associated with a standard offer contract 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.

30 V.S.A. § 8006a. GREENHOUSE GAS REDUCTION CREDITS

(a) Standard offer adjustment. In accordance with this section, greenhouse gas reduction credits generated by an eligible ratepayer shall result in an adjustment of the standard offer under subdivision 8005a(c)(1) of this title (cumulative capacity; pace). For the purpose of adjusting the standard offer under subdivision 8005a(c)(1) of this title, the amount of a year's greenhouse gas reduction credits shall be the lesser of the following:

(1) The amount of greenhouse gas reduction credits created by the eligible ratepayers served by all providers.

(2) The providers' annual retail electric sales during that year to those eligible ratepayers creating greenhouse gas reduction credits.

(b) Definitions. In this section:

(1) "Eligible ratepayer" means a customer of a Vermont retail electricity provider who takes service at 115 kilovolts and has demonstrated to the Board that it has a comprehensive energy and environmental management program. Provision of the customer's certification issued under standard 14001 (environmental management systems) of the International Organization for Standardization (ISO) shall constitute such a demonstration.

(2) "Eligible reduction" means a reduction in non-energy-related greenhouse gas emissions from manufacturing processes at an in-state facility of an eligible ratepayer, provided that each of the following applies:

(A) The reduction results from a specific project undertaken by the eligible ratepayer at the in-state facility after January 1, 2012.

(B) The specific project reduces or avoids greenhouse gas emissions above and beyond any reductions of such emissions required by federal and State statutes and rules.

(C) The reductions are quantifiable and verified by an independent third party as approved by the Board. Such independent third parties shall be certified by a body accredited by the American National Standards Institute (ANSI) as having a certification program that meets the ISO standards applicable to verification and validation of greenhouse gas assertions.

(3) "Greenhouse gas" shall be as defined under 10 V.S.A. § 552.

(4) "Greenhouse gas reduction credit" means a credit for eligible reductions, calculated in accordance with subsection I of this section and expressed as a kWh credit.

I Calculation. Greenhouse gas reduction credits shall be calculated as follows:

(1) Eligible reductions shall be quantified in metric tons of CO2 equivalent, in accordance with the methodologies specified under 40 C.F.R. part 98, and may be counted annually for the life of the specific project that resulted in the reduction.

(2) Metric tons of CO2 equivalent quantified under subdivision (1) of this subsection shall be converted into units of energy through calculation of the equivalent number of kWh of generation by renewable energy plants, other than biomass, that would be required to achieve the same level of greenhouse gas emission reduction through the displacement of market power purchases. For the purpose of this subdivision, the value of the avoided greenhouse gas emissions shall be based on the aggregate greenhouse gas emission characteristics of system power in the regional transmission area overseen by the Independent System Operator of New England (ISO-NE).

(d) Reporting. An eligible ratepayer shall report to the Board annually on each specific project undertaken to create eligible reductions. The Board shall specify the required contents of such reports, which shall be publicly available.

(e) Savings. A provider shall pass on savings that it realizes through greenhouse gas reduction credits proportionally to the eligible ratepayers generating the credits.

D. Baseload Renewable Portfolio Requirement: 30 V.S.A. § 8009

30 V.S.A. § 8009. BASELOAD RENEWABLE POWER PORTFOLIO REQUIREMENT

(a) In this section:

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

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

(3) "Biomass" means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of subdivision 8002(17) of this title.

(4) [Repealed.]

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

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

(d) The Board shall determine the price to be paid to a plant used to satisfy the baseload renewable power portfolio requirement. The Board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25. The price shall be the avoided cost of the Vermont composite electric utility system. In this subsection, the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase from the plant proposed to satisfy the baseload renewable power portfolio requirement, such providers would obtain from a source using the same generation technology as the proposed plant. In this subsection, the term "avoided cost" also includes the Board's consideration of each of the following:

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

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

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

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

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

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

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

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

(1) The Standard Offer Facilitator shall purchase the baseload renewable power, and shall allocate the electricity purchased and any associated costs to the Vermont retail electricity

providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay those costs.

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

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

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

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

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

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

E. Net Metering: 30 V.S.A. § 8010

30 V.S.A. § 8010. SELF-GENERATION AND NET METERING

(a) A customer may install and operate a net metering system in accordance with this section and the rules adopted under this section.

(b) A net metering customer shall pay the same rates, fees, or other payments and be subject to the same conditions and requirements as all other purchasers from the interconnecting retail electricity provider in the same rate-class, except as this section or the rules adopted under this section may provide, and except for appropriate and necessary conditions approved by the Board for the safety and reliability of the electric distribution system.

(c) In accordance with this section, the Board shall adopt and implement rules that govern the installation and operation of net metering systems.

(1) The rules shall establish and maintain a net metering program that:

(A) advances the goals and total renewables targets of this chapter and the goals of 10 V.S.A. § 578 (greenhouse gas reduction) and is consistent with the criteria of subsection 248(b) of this title;

(B) achieves a level of deployment that is consistent with the recommendations of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of this title,

unless the Board determines that this level is inconsistent with the goals and targets identified in subdivision (1)(A) of this subsection. Under this subdivision (B), the Board shall consider the Plans most recently issued at the time the Board adopts or amends the rules;

(C) to the extent feasible, ensures that net metering does not shift costs included in each retail electricity provider's revenue requirement between net metering customers and other customers;

(D) accounts for all costs and benefits of net metering, including the potential for net metering to contribute toward relieving supply constraints in the transmission and distribution systems and to reduce consumption of fossil fuels for heating and transportation;

(E) ensures that all customers who want to participate in net metering have the opportunity to do so;

(F) balances, over time, the pace of deployment and cost of the program with the program's impact on rates;

(G) accounts for changes over time in the cost of technology; and

(H) allows a customer to retain ownership of the environmental attributes of energy generated by the customer's net metering system and of any associated tradeable renewable energy credits or to transfer those attributes and credits to the interconnecting retail provider, and:

(i) if the customer retains the attributes, reduces the value of the credit provided under this section for electricity generated by the customer's net metering system by an appropriate amount; and

(ii) if the customer transfers the attributes to the interconnecting provider, requires the provider to retain them for application toward compliance with sections 8004 and 8005 of this title.

(2) The rules shall include provisions that govern:

(A) whether there is a limit on the cumulative plant capacity of net metering systems to be installed over time and what that limit is, if any;

(B) the transfer of certificates of public good issued for net metering systems and the abandonment of net metering systems;

(C) the respective duties of retail electricity providers and net metering customers;

(D) the electrical safety, power quality, interconnection, and metering of net metering systems;

(E) the formation of group net metering systems, the resolution of disputes between group net metering customers and the interconnecting provider, and the billing, crediting, and disconnection of group net metering customers by the interconnecting provider; and

(F) the amount of the credit to be assigned to each kWh of electricity generated by a net metering customer in excess of the electricity supplied by the interconnecting provider to the customer, the manner in which the customer's credit will be applied on the customer's bill, and the period during which a net metering customer must use the credit, after which the credit shall revert to the interconnecting provider. When assigning an amount of credit under this subdivision (F), the Board shall consider making multiple lengths of time available over which a customer may take a credit and differentiating the amount according to the length of time chosen. For example, a monthly credit amount may be higher if taken over 10 years and lower if taken over 20 years. Factors relevant to this consideration shall include the customer's ability to finance the net metering system, the cost of that financing, and the net present value to all ratepayers of the net metering program.

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures:

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

(B) The rules may modify notice and hearing requirements of this title as the Board considers appropriate.

(C) The rules shall seek to simplify the application and review process as appropriate, including simplifying the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system.

(D) With respect to net metering systems that exceed 150 kW in plant capacity, the rules shall apply the so-called "Quechee" test for aesthetic impact as described by the Vermont Supreme Court in the case of In re Halnon, Vt. 515 (2002)(mem.). The rules and application form shall state the components of this test.

(E) The rules shall not waive or include provisions that are less stringent than the requirements of subdivision 248(a)(4)(J)(required information) of this title.

(F) This subdivision (F) applies to an application for a net metering system with a capacity that is greater than 15 kilowatts, unless the system is located on a new or existing structure the primary purpose of which is not the generation of electricity. With respect to such a system, the rules shall not waive or include provisions that are less stringent than each of the following:

(i) the requirement of subdivision 248(a)(4)(C) of this title to provide a copy of the application to the Agencies of Agriculture, Food and Markets and of Natural Resources; the Department of Public Service; the Division for Historic Preservation; the municipal legislative body; and the municipal and regional planning commissions; and

(ii) the requirements of subsection 248(f)(preapplication submittal) of this title.

(4) This section does not require the Board to adopt identical requirements for the service territory of each retail electricity provider.

(5) Each retail electricity provider shall implement net metering in its service territory through a rate schedule that is consistent with this section and the rules adopted under this section and is approved by the Board.

(d) On or before January 15, 2020 and every third January 15 thereafter, the Department shall submit to the Board a report that evaluates the current state of net metering in Vermont. The Department shall make this report publicly available. The report shall:

(1) analyze the current pace of net metering deployment, both statewide and within the service territory of each retail electricity provider;

(2) after considering the goals and policies of this chapter, of 10 V.S.A. § 578 (greenhouse gas reduction), of section 202a (State energy policy) of this title, and of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of this title, recommend the future pace of net metering deployment statewide and within the service territory of each provider;

(3) analyze the existence and degree of cross-subsidy between net metering customers and other customers on a statewide and on an individual provider basis;

(4) evaluate the effect of net metering on retail electricity provider infrastructure and revenue;

(5) evaluate the benefits to net metering customers of connecting to the provider's distribution system;

(6) analyze the economic and environmental benefits of net metering, and the short- and long-term impacts on rates, both statewide and for each provider;

(7) analyze the reliability and supply diversification costs and benefits of net metering;

(8) evaluate the ownership and transfer of the environmental attributes of energy generated by net metering systems and of any associated tradeable renewable energy credits; and

(9) examine and evaluate best practices for net metering identified from other states.

(e) If a hydroelectric generation plant seeking approval as a net metering system is subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1, the Board shall require the plant to obtain such approval through means other than by application for a certificate of public good under section 248 of this title.

F. Long-term Contracts for Renewable Energy: 30 V.S.A. § 248(a)(1)

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

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

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

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

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

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

* * *

G. Regulatory Incentives for Renewable Generation: 30 V.S.A. § 218(f)

30 V.S.A. § 218. JURISDICTION OVER CHARGES AND RATES

* * *

(f) Regulatory incentives for renewable generation.

(1) Notwithstanding any other provision of law, an electric distribution utility subject to rate regulation under this chapter shall be entitled to recover in rates its prudently incurred costs in applying for and seeking any certificate, permit, or other regulatory approval issued or to be issued by federal, State, or local government for the construction of new renewable energy to be sited in Vermont, regardless of whether the certificate, permit, or other regulatory approval ultimately is granted.

(2) The Board is authorized to provide to an electric distribution utility subject to rate regulation under this chapter an incentive rate of return on equity or other reasonable incentive

on any capital investment made by such utility in a renewable energy generation facility sited in Vermont.

(3) To encourage joint efforts on the part of electric distribution utilities to support renewable energy and to secure stable, long-term contracts beneficial to Vermonters, the Board may establish standards for preapproving the recovery of costs incurred on a renewable energy plant that is the subject of that joint effort, if the construction of the plant requires a certificate of public good under section 248 of this title and all or part of the electricity generated by the plant will be under contract to the utilities involved in that joint effort.

* * *

VII. LAND USE/SITING STATUTES RE: ENERGY EFFICIENCY, RENEWABLES, GHGS, OR PLAN INCORP.

A. Act 250: 10 V.S.A. § 6086(a), (9)(F), (G), (J), (L), (10)

10 V.S.A. § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the District Commission shall find that the subdivision or development:

* * *

(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a District Commission.

* * *

(F) Energy conservation. A permit will be granted when it has been demonstrated by the applicant that, in addition to all other applicable criteria, the planning and design of the subdivision or development reflect the principles of energy conservation, including reduction of greenhouse gas emissions from the use of energy, and incorporate the best available technology for efficient use or recovery of energy. An applicant seeking an affirmative finding under this criterion shall provide evidence that the subdivision or development complies with the applicable building energy standards under 30 V.S.A. § 51 or 53.

(G) Private utility services. A permit will be granted for a development or subdivision which relies on privately owned utility services or facilities, including central sewage or water facilities and roads, whenever it is demonstrated by the applicant that, in addition to all other applicable criteria, the privately owned utility services or facilities are in conformity with a capital program or plan of the municipality involved, or adequate surety is provided to the municipality and conditioned to protect the municipality in the event that the municipality is required to assume the responsibility for the services or facilities.

* * *

(J) Public utility services. A permit will be granted for a development or subdivision whenever it is demonstrated that, in addition to all other applicable criteria, necessary supportive governmental and public utility facilities and services are available or will be available when the development is completed under a duly adopted capital program or plan, an excessive or uneconomic demand will not be placed on such facilities and services, and the provision of such facilities and services has been planned on the basis of a projection of reasonable population increase and economic growth.

* * *

(L) Settlement patterns. To promote Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision:

(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure; and

(ii)(I) will not contribute to a pattern of strip development along public highways; or

(II) if the development or subdivision will be confined to an area that already constitutes strip development, will incorporate infill as defined in 24 V.S.A. § 2791 and is designed to reasonably minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.

(10) Is in conformance with any duly adopted local or regional plan or capital program under 24 V.S.A. chapter 117. In making this finding, if the District Commission finds applicable provisions of the town plan to be ambiguous, the District Commission, for interpretive purposes, shall consider bylaws, but only to the extent that they implement and are consistent with those provisions, and need not consider any other evidence.

* * *

B. Local Land Use

24 V.S.A. § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

* * *

(6) Heights of renewable energy resource structures. The height of wind turbines with blades less than 20 feet in diameter, or rooftop solar collectors less than 10 feet high on sloped roofs, any of which are mounted on complying structures, shall not be regulated unless the bylaws provide specific standards for regulation. For the purpose of this subdivision, a sloped roof means a roof having a slope of more than five degrees. In addition, the regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, may be exempt from review under this chapter according to the provisions of that section.

* * *

24 V.S.A. § 4413. LIMITATIONS ON MUNICIPAL BYLAWS

*** * ***

(g) Notwithstanding any provision of law to the contrary, a bylaw adopted under this chapter shall not:

(1) Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, "flat roof" means a roof having a slope less than or equal to five degrees.

(2) Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (1) of this subsection, clotheslines, or other energy devices based on renewable resources.

* * *

24 V.S.A. § 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(3) Conditional uses.

(A) In any district, certain uses may be allowed only by approval of the appropriate municipal panel, if general and specific standards to which each allowed use must conform are prescribed in the appropriate bylaws and if the appropriate municipal panel, under the procedures in subchapter 10 of this chapter, determines that the proposed use will conform to those standards. These general standards shall require that the proposed conditional use shall not result in an undue adverse effect on any of the following:

(i) The capacity of existing or planned community facilities.

(ii) The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.

(iii) Traffic on roads and highways in the vicinity.

(iv) Bylaws and ordinances then in effect.

(v) Utilization of renewable energy resources.

(B) The general standards set forth in subdivision (3)(A) of this section may be supplemented by more specific criteria, including requirements with respect to any of the following:

(i) Minimum lot size.

(ii) Distance from adjacent or nearby uses.

(iii) Performance standards, as under subdivision (5) of this section.

(iv) Criteria adopted relating to site plan review pursuant to section 4416 of this title.

(v) Any other standards and factors that the bylaws may include.

(C) One or more of the review criteria found in 10 V.S.A. § 6086 may be adopted as standards for use in conditional use review.

* * *

(6) Access to renewable energy resources. Any municipality may adopt zoning and subdivision bylaws to encourage energy conservation and to protect and provide access to, among others, the collection or conversion of direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources, including those recommendations contained in the adopted municipal plan, regional plan, or both. The bylaw shall establish a standard of review in conformance with the municipal plan provisions required pursuant to subdivision 4382(a)(9) of this title.

* * *

(14) Green development incentives. A municipality may encourage the use of low-embodied energy in construction materials, planned neighborhood developments that allow for reduced use of fuel for transportation, and increased use of renewable technology by providing for regulatory incentives, including increased densities and expedited review.

* * *

24 V.S.A. § 4416. SITE PLAN REVIEW

(a) As prerequisite to the approval of any use other than one- and two-family dwellings, the approval of site plans by the appropriate municipal panel may be required, under procedures set forth in subchapter 10 of this chapter. In reviewing site plans, the appropriate municipal panel may impose, in accordance with the bylaws, appropriate conditions and safeguards with respect

to: the adequacy of parking, traffic access, and circulation for pedestrians and vehicles; landscaping and screening; *the protection of the utilization of renewable energy resources*; exterior lighting; the size, location, and design of signs; and other matters specified in the bylaws. The bylaws shall specify the maps, data, and other information to be presented with applications for site plan approval and a review process pursuant to section 4464 of this title.

(b) Whenever a proposed site plan involves access to a State highway, the application for site plan approval shall include a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 V.S.A. § 1111, and setting out any conditions that the Agency proposes to attach to the section 1111 permit.

C. Electric Generation and Transmission, and Natural Gas Facilities: 30 V.S.A. § 248(b)(1), (2), (5), (6), (7), (11), (o), (r)

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

* * *

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

(A) With respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located.

(B) With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Board finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

(2) Is required to meet the need for present and future demand for service which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy-efficiency and load management measures, including those developed pursuant to the provisions of subsection 209(d), section 218c, and subsection 218(b) of this title. In determining whether this criterion is met, the Board shall assess the environmental and economic costs of the purchase, investment, or construction in the manner set out under subdivision 218c(a)(1)(least-cost integrated plan) of this title and, as to a generation facility, shall consider whether the facility will avoid, reduce, or defer transmission or distribution system investments.

* * *

(5) With respect to an in-state facility, will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary agricultural soils as defined in 10 V.S.A. § 6001, and greenhouse gas impacts.

(6) With respect to purchases, investments, or construction by a company, is consistent with the principles for resource selection expressed in that company's approved least-cost integrated plan.

(7) Except as to a natural gas facility that is not part of or incidental to an electric generating facility, is in compliance with the electric energy plan approved by the Department under section 202 of this title, or that there exists good cause to permit the proposed action.

* * *

(11) With respect to an in-state generation facility that produces electric energy using woody biomass, will:

(A) comply with the applicable air pollution control requirements under the federal Clean Air Act, 42 U.S.C. § 7401 et seq.;

(B) achieve the highest design system efficiency that is commercially available, feasible, and cost-effective for the type and design of the proposed facility; and

(C) comply with harvesting procedures and procurement standards that ensure long-term forest health and sustainability. These procedures and standards at a minimum shall be consistent with the guidelines and standards developed pursuant to 10 V.S.A. § 2750 (harvesting guidelines and procurement standards) when adopted under that statute.

* * *

(o) The Board shall not reject as incomplete a petition under this section for a wind generation facility on the grounds that the petition does not specify the exact make or dimensions of the turbines and rotors to be installed at the facility as long as the petition provides the maximum horizontal and vertical dimensions of those turbines and rotors and the maximum decibel level that the turbines and rotors will produce as measured at the nearest residential structure over a 12-hour period commencing at 7:00 p.m.

* * *

(r) The Board may provide that, in any proceeding under subdivision (a)(2)(A) of this section for the construction of a renewable energy plant, a demonstration of compliance with subdivision (b)(2) of this section, relating to establishing need for the plant, shall not be required if all or part of the electricity to be generated by the plant is under contract to one or more Vermont electric distribution companies and if no part of the plant is financed directly or indirectly through

investments, other than power contracts, backed by Vermont electricity ratepayers. In this subsection, "plant" and "renewable energy" shall be as defined in section 8002 of this title.

VIII. INCENTIVES THAT FURTHER ENERGY POLICY GOALS (OTHER THAN TAXATION)

A. Clean Energy Development Fund: 30 V.S.A. §§ 8015, 8016

30 V.S.A. § 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

(a) Creation of Fund.

(1) There is established the Vermont Clean Energy Development Fund to consist of each of the following:

(A) The proceeds due the State under the terms of the memorandum of understanding between the Department of Public Service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered under Public Service Board docket 6812; together with the proceeds due the State under the terms of any subsequent memoranda of understanding entered before July 1, 2005 between the Department of Public Service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc.

(B) Any other monies that may be appropriated to or deposited into the Fund.

(2) Balances in the Fund shall be expended solely for the purposes set forth in this subchapter and shall not be used for the general obligations of government. All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited in the Fund. This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5.

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

(1) "Clean energy resources" means electric power supply and demand-side resources, or thermal energy or geothermal resources, that are "combined heat and power facilities," "cost-effective energy efficiency resources," or "renewable energy" resources.

(2) "Combined heat and power (CHP) facility" means a generator that sequentially produces both electric power and thermal energy from a single source or fuel. In order for a fossil fuel-based CHP system to participate in the clean energy program set out in this section, at least 20 percent of its fuel's total recovered energy must be thermal and at least 13 percent must be electric, the design system efficiency (the sum of full load design thermal output and electric output divided by the heat input) must be at least 65 percent, and it must meet air quality standards established by the Agency of Natural Resources.

(3) "Cost-effective energy efficiency" means those energy efficiency and conservation measures that would qualify as part of a utility's least-cost integrated plan under section 218c of this title or that would be an eligible expenditure under section 209(d) of this title.

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

(5) "Renewable energy" has the meaning established under section 8002 of this title, and shall include the following: solar photovoltaic and solar thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer methane recovery; low emission, advanced

biomass power, and combined heat and power technologies using biomass fuels such as wood, agricultural or food wastes, energy crops, and organic refuse-derived waste, but not municipal solid waste; advanced biomass heating technologies and technologies using biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

(c) Purposes of Fund. The purposes of the Fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources 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 and electric vehicles in accordance with subdivisions (d)(1)(K) and (L) of this section, respectively. The General Assembly expects and intends that the Public Service Board, Department of Public Service, and the State's power and efficiency utilities will actively implement the authority granted in this title to acquire all reasonably available cost-effective energy efficiency resources for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

(1) Projects for funding may include the following:

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

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

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

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

(E) small scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the Small-scale Renewable Energy Incentive Program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

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

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

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

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow;

(L) electric vehicles and associated charging stations.

(2) If during a particular year, the 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 Commissioner shall consult with the Clean Energy Development Board, and shall consider transferring funds to the Energy Efficiency Fund established under the provisions of subsection 209(d) of this title. 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) Notwithstanding any contrary provision of this section, the Clean Energy Development Fund shall use all of the monies from alternative compliance payments under sections 8004 and 8005 of this title for projects that meet the definition of "energy transformation project" under section 8002 of this title and the eligibility criteria for those projects under section 8005 of this title. The Fund shall implement projects in the service territory of the retail electricity provider or providers making the alternative compliance payments used to support the projects and, in the case of a project delivered in more than one territory, shall prorate service delivery according to each provider's contribution. A provider shall not count, toward its required amount under the energy transformation category of section 8005 of this title, support provided by the Fund for an energy transformation project.

(e) Management of Fund.

(1) 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 monies 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 ensure 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 Department of Public Service from the Fund may be used for administrative costs related to the Clean Energy Development Fund.

(3) 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) 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 May 25, 2011, 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 members of the Clean Energy Development Board otherwise regularly employed by the State, the compensation of the members shall be the same as that provided by 32 V.S.A. § 1010(a).

(6) In performing its duties, the Clean Energy Development Board may utilize the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Clean Energy Development Board with administrative services.

(7) The Department shall perform each of the following:

(A) By January 15 of each year, 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. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the report to be made under this subdivision.

(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. In 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(c) (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.

(8) At least 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 they deem necessary to fulfill their obligations under this section.

(f) Clean Energy Development Fund Manager. The Clean Energy Development Fund shall have a Fund Manager who shall be an employee 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 8016 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. After consultation with the Clean Energy Development Board, the Commissioner of Public Service shall have discretion to use non-ARRA monies within the fund to support all or a portion of these categories and shall direct any ARRA monies for which non-ARRA monies have been substituted to the support of other eligible projects, programs, or activities under ARRA and this section.

(1) The Vermont Small-scale Renewable Energy Incentive Program currently administered by the Renewable Energy Resource Center, for use in residential and business installations. These funds may be used by the Program for all forms of renewable energy as defined by section 8002 of this title, including biomass and geothermal heating. The disbursement to this Program shall seek to promote continuous funding for as long as funds are available.

(2) Grant and loan programs for renewable energy resources, including thermal resources such as district biomass heating that may not involve the generation of electricity.

(3) Grants and loans to thermal energy efficiency incentive programs, community-scale renewable energy financing programs, certification and training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(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. In 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.

(5) $2 million to the Vermont Housing and Conservation Board (VHCB) to make grants and deferred loans to nonprofit organizations for weatherization and renewable energy activities allowed by federal law, including assistance for nonprofit owners and occupants of permanently affordable housing.

(6) $2 million to the Vermont Telecommunications Authority (VTA) to make grants of no more than $10,000 per turbine for installation of small-scale wind turbines and associated towers on which telecommunications equipment is to be collocated and which are developed in association with the VTA.

(7) $880,000.00 to the 11 regional planning commissions ($80,000.00 to each such commission) to conduct energy efficiency and energy conservation activities that are eligible under the EECBG program.

(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 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 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 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 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 and shall consult with each other either before or during the rulemaking process.

30 V.S.A. § 8016. ARRA ENERGY MONIES

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 8015(e)(4) of this title, and shall be made in accordance with subdivisions 8015(d)(1) (expenditures authorized), and (e)(7)(A)(reporting) and subsections 8015(f) (Fund manager), (h)(ARRA funds), and (i) (rules) 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 U.S. Department of Energy through the Energy Efficiency and Conservation Block Grant Program.

B. Transportation Alternatives Grant Program: 19 V.S.A. § 38

19 V.S.A. § 38. TRANSPORTATION ALTERNATIVES GRANT PROGRAM

(a) The Transportation Alternatives Grant Committee is created and shall comprise:

(1) the Secretary of Transportation or his or her designee;

(2) a representative from the Division of Historic Preservation appointed by the Secretary of Commerce and Community Development;

(3) one member appointed by the Secretary of Commerce and Community Development to represent the tourism and marketing industry;

(4) a representative of the Agency of Natural Resources appointed by the Secretary of Natural Resources;

(5) three municipal representatives appointed by the governing body of the Vermont League of Cities and Towns;

(6) one member representing and appointed by the governing board of the Vermont Association of Planning and Development Agencies;

(7) two members from the House designated by the Speaker; and

(8) two members from the Senate designated by the Committee on Committees.

(b) Municipal and legislative members of the Transportation Alternatives Grant Committee shall serve concurrently for two-year terms and the initial appointments of these members shall be made in a manner which allows for them to serve a full legislative biennium. In the event a municipal or legislative member ceases to serve on the Committee prior to the full term, the appointing authority shall fill the position for the remainder of the term. The Committee shall, to the greatest extent practicable, encompass a broad geographic representation of Vermont.

(c) The Transportation Alternatives Grant Program is created. The Grant Program shall be administered by the Agency, and shall be funded in the amount provided for in 23 U.S.C. § 213(a), less the funds set aside for the Recreational Trails Program as specified in 23 U.S.C. § 213(f). Awards shall be made to eligible entities as defined under 23 U.S.C. § 213(c)(4), and

awards under the Grant Program shall be limited to the activities described at 23 U.S.C. § 213(b) other than Recreational Trails Program grants.

(d) Eligible entities awarded a grant must provide all funds required to match federal funds awarded for a Transportation Alternatives project. All grant awards shall be decided and awarded by the Transportation Alternatives Grant Committee.

(e) Transportation Alternatives grant awards shall be announced annually by the Transportation Alternatives Grant Committee not earlier than December and not later than the following March.

(f) Each year, $1,100,000.00 of Grant Program funds, or such lesser sum if all eligible applications amount to less than $1,100,000.00, shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects. Regarding the balance of Grant Program funds, in evaluating applications for Transportation Alternatives grants, the Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the Transportation Alternatives Grant Committee.

(g) The Agency shall develop an outreach and marketing effort designed to provide information to communities with respect to the benefits of participating in the Transportation Alternatives Grant Program. The outreach and marketing activities shall include apprising municipalities of the availability of grants for salt and sand sheds. The outreach effort should be directed to areas of the State historically underserved by this Program.

C. Property-Assessed Clean Energy: 24 V.S.A. chapter 87, subchapter 2

24 V.S.A. § 3261. PROPERTY-ASSESSED CLEAN ENERGY 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 district. In a 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(17), or to eligible projects relating to energy efficiency as defined by section 3267 of this title, undertaken by owners of dwellings, as defined in Section 103(v) of the federal Truth in Lending Act, within the boundaries of the town, city, or incorporated village.

24 V.S.A. § 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 a dwelling,

as defined in Section 103(v) of the federal Truth in Lending Act, within the boundaries of a 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 established by the Department of Financial Regulation, 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.

(b) Prior to entering into a written agreement, a property owner shall have an analysis performed to quantify the project costs and energy savings and estimated carbon impacts of the proposed energy improvements, including an annual cash-flow analysis. This analysis shall be conducted by the entities appointed as energy efficiency utilities under 30 V.S.A. § 209(d)(2), or conducted by another entity deemed qualified by the participating municipality. All analyses shall be reviewed and approved by the entities appointed as energy efficiency utilities.

(c) A written agreement shall provide that:

(1) The length of time allowed for the property owner to repay the assessment shall not exceed the life expectancy of the project. In instances where multiple projects have been installed, the length of time shall not exceed the average lifetime of all projects, weighted by cost. Lifetimes of projects shall be determined by the entities appointed as energy efficiency utilities under 30 V.S.A. § 209(d)(2) or another qualified technical entity designated by a participating municipality.

(2) Notwithstanding any other provision of law:

(A) At the time of a transfer of property ownership 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 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 that municipality and shall be disclosed to potential buyers prior to transfer of property 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; and

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

(e) At least 30 days prior to entering into a written agreement, the property owner shall provide to the holders of any existing mortgages on the property notice of his or her intent to enter into the written agreement.

(f) The total amount of assessments under this subchapter shall not exceed more than 15 percent of the assessed value of the property. The combined amount of the assessment plus any outstanding mortgage obligations for the property shall not exceed 90 percent of the assessed value of that property.

(g) With respect to an agreement 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 9 V.S.A. §§ 41a, 43, 44, and 46-50;

(2) the maximum length of time for the owner to repay the 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.

24 V.S.A. § 3263. COSTS OF OPERATION OF DISTRICT

The owners of real property who have entered into written agreements with the municipality under section 3262 of this title shall be obligated to cover the costs of operating the district. A municipality may use other available funds to operate the district.

24 V.S.A. § 3264. RIGHTS OF PROPERTY OWNERS

A property owner who has entered into a written agreement with the municipality under section 3262 of this title may enter into a private agreement for the installation or construction of a project relating to renewable energy, as defined in 30 V.S.A. § 8002(17), or relating to energy efficiency as defined in section 3267 of this title.

24 V.S.A. § 3265. LIABILITY OF MUNICIPALITY

(a) A municipality that incurs indebtedness for or otherwise finances projects under this subchapter shall not be liable for the failure of performance of a project.

(b) A municipality that incurs indebtedness for bonding under this subchapter shall pledge the full faith and credit of the municipality.

24 V.S.A. § 3266. INTERMUNICIPAL AGREEMENTS

Two or more municipalities, by resolution of their respective legislative bodies or boards, may establish and enter into agreements for incurring indebtedness or otherwise financing projects under this subchapter.

24 V.S.A. § 3267. ELIGIBLE ENERGY EFFICIENCY PROJECTS; ASSISTANCE TO MUNICIPALITIES

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

(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.

24 V.S.A. § 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 full payment of the value of the assessment.

(b) Notice of a release of 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 that municipality.

24 V.S.A. § 3269. RESERVE FUND

(a) A reserve fund is created for use in paying the past due balances of an assessment under this subchapter in the event that there is a foreclosure upon 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 past due balances 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 Financial Regulation 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.

(d) The reserve fund shall be capitalized in accordance with standards and procedures approved by the Commissioner of Financial Regulation 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 monies 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 9 V.S.A. chapter 147. The administrator shall apply the same investment objectives and policies adopted by the Vermont State Employees' Retirement System, where appropriate, to the investment of monies in the fund.

(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, monies from the reserve fund to apply to the past due balances of the assessment. In no event shall other monies 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 Financial Regulation and of Public Service.

24 V.S.A. § 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 monies 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) Monies deposited to the State PACE Reserve Fund and any interest on monies 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 monies received or held by the State of Vermont, other than monies deposited into the State PACE Reserve Fund or interest on monies 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.

24 V.S.A. § 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 Financial Regulation 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).

D. Vermont Sustainable Energy Loan Fund

10 V.S.A. § 280cc. CREATION; PURPOSE; DEFINITIONS

(a) There is established within the Authority the Vermont Sustainable Energy Loan Fund, referred to in this subchapter as "the Fund," the purpose of which shall be to enable the Authority to make loans and provide other forms of financing for projects that stimulate and encourage development and deployment of sustainable energy projects in the State of Vermont.

(b) In this subchapter:

(1) "Renewable energy" shall have the same meaning as in 30 V.S.A. § 8002(17).

(2) "Sustainable energy" means energy efficiency, renewable energy, and technologies that enhance or support the development and implementation of renewable energy or energy efficiency, or both.

10 V.S.A. § 280dd. LOAN PROGRAMS ADMINISTERED WITHIN THE FUND

(a) The Fund shall consist of:

(1) Existing sustainable energy loans made by the Authority, the Vermont Small Business Development Corporation, and the Vermont Agricultural Credit Corporation.

(2) Sustainable energy loans originated under the following programs:

(A) The Small Business Energy Efficiency Loan Program, under which the Authority provides loans for qualifying commercial energy efficiency improvements.

(B) The Renewable Energy Loan Program, which the Authority may create to provide loans for qualifying renewable energy projects.

(C) The Agricultural Energy Loan Program, which the Authority may create to provide loans for qualifying agriculture- and forest product-based sustainable energy projects.

(D) The Energy Efficiency Loan Guarantee Program, which the Authority may create to provide loan guarantees to participating lending institutions that enroll loans for sustainable energy projects in the Program.

(3) Programs created by the Authority pursuant to subsection (c) of this section.

(b) The Fund shall be administered by the Authority and shall not be subject to 32 V.S.A. chapter 7, subchapter 5.

(c) The Authority may establish:

(1) New financing programs that the Authority determines are necessary to encourage and promote sustainable energy projects and reduce reliance upon fossil fuel sources.

(2) Policies and procedures for programs within the Fund that the Authority determines are necessary to carry out the purposes of this subchapter.

(d) For all sustainable energy loans, the Authority shall maintain records on the projected reductions in greenhouse gas emissions and, for energy efficiency loans, the projected energy savings from the financed improvements and shall provide data on the projected greenhouse gas emissions reductions and projected energy savings to the Department of Public Service, the Public Service Board, and the Agency of Natural Resources on request. The methods used for calculating and reporting this data shall be the same methods used in programs delivered under 30 V.S.A. § 209(d) and (e). The data provided shall be used for the purpose of tracking progress toward the greenhouse gas reduction goals of section 578 of this title and the building efficiency goals of section 581 of this title.

E. Vermont Village Green Pilot Program: 30 V.S.A. §§ 8101, 8102

30 V.S.A. § 8101. PILOT PROGRAM; CERTIFICATION

(a) The Vermont Village Green Renewable Pilot Program is created to consist of no more than two Vermont village green renewable projects, one each in the City of Montpelier and in the Town of Randolph. Another municipality may seek certification under this chapter in the event either the City of Montpelier or the Town of Randolph or both decline to seek or are denied certification.

(b) On application of a host community, the Department may certify a Vermont village green renewable project under this chapter on finding each of the following:

(1) The host community proposes a Vermont village green renewable project.

(2) The host community has submitted an application to the Board that includes each of the following:

(A) A description and map of the proposed Vermont village green renewable project, showing its location within the host community.

(B) A complete description of the existing industrial, commercial, or residential uses to be served by the Vermont village green renewable project, of how the project will serve those uses, and of the billing, payment, and customer service arrangements.

(C) A letter submitted by the host community in support of the application and, if the host community has a town plan, the letter shall confirm that the proposed project is consistent with that plan.

(D) A letter issued by the appropriate regional planning commission indicating that the regional impacts of the proposed project and selected site have been considered and that the project conforms with the applicable regional plan.

(E) A letter from the Vermont Downtown Development Board, as described under 24 V.S.A. § 2792, that the Development Board has been notified of the Vermont village green renewable project.

(3) The Vermont village green renewable project is consistent with the purposes of the Clean Energy Development Fund as established in 30 V.S.A. § 8015.

(4) The host community will invest in the Vermont village green renewable project the incentive created under section 8102 of this title and has provided a plan that demonstrates that such investment will be made.

(5) The Vermont village green renewable project, if it uses woody biomass as a fuel, will use procurement standards, management practices, and a supply chain that are third party certified using a performance-based audit.

(6) The Vermont village green renewable project will comply with all applicable national ambient air quality standards and air pollution control regulations of the Agency of Natural Resources. If, during 2009, the U.S. Environmental Protection Agency proposes updated emissions standards applicable to wood-fueled boilers to be used in connection with the project, the project shall comply with such proposed standards.

(7) The Vermont village green renewable project meets all applicable requirements of this chapter.

(c) Notwithstanding any other provision of law, certification under this section shall not be subject to the provisions of 3 V.S.A. chapter 25 and shall not be subject to appeal.

(d) A host community does not need to obtain certification unless it seeks its Vermont village green renewable project to be eligible for incentives under section 8102 of this title or rates for electricity as provided under subsection 8104(b) of this title. Certification shall not be required to qualify for net metering under section 219a of this title.

30 V.S.A. § 8102. INCENTIVES

(a) The Clean Energy Development Fund created under section 8015 of this title shall provide at least $100,000.00 in incentives to customers who will connect to a certified Vermont village green renewable project. Any such incentive shall be applied by the customer to the cost of constructing the customer's connection to the project.

(b) Notwithstanding the provisions of subsection (a) of this section or any other law, on and after April 1, 2012, the Clean Energy Development Fund shall make up to $100,000.00 of funds that would otherwise have been available to customers connecting to Vermont village green renewable projects under this section available to other district heating on a competitive basis. The use of such funds shall not be limited to customer connections. For the purpose of this subsection, it shall not be necessary that the district heating be proposed by a municipality, serve a downtown development district or growth center under 24 V.S.A. § 2793 or 2793c, or obtain certification under this chapter.

F. Incentives Available to Energy but Not Energy-Specific

1. Vermont Community Loan Fund

10 V.S.A. § 9. INVESTMENT IN VERMONT COMMUNITY LOAN FUND

Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the State Treasurer is authorized to invest up to $1,000,000.00 of short-term operating or restricted funds in the Vermont Community Loan Fund on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)-(c).

2. Local Investment Credit Facility: 10 V.S.A. §§ 10, 11

10 V.S.A. § 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)-(c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer, and the renewal or replacement of those credit facilities.

10 V.S.A. § 11. TREASURER'S LOCAL INVESTMENT ADVISORY COMMITTEE

(a) Creation of committee. The Treasurer's Local Investment Advisory Committee is established to advise the Treasurer on funding priorities and address other mechanisms to increase local investment.

(b) Membership.

(1) The Advisory Committee shall be composed of six members as follows:

(A) the State Treasurer or designee;

(B) the Chief Executive Officer of the Vermont Economic Development Authority or designee;

(C) the Chief Executive Officer of the Vermont Student Assistance Corporation or designee;

(D) the Executive Director of the Vermont Housing Finance Agency or designee;

(E) the Director of the Municipal Bond Bank or designee; and

(F) the Director of Efficiency Vermont or designee.

(2) The State Treasurer shall be the Chair of the Advisory Committee and shall appoint a vice chair and secretary. The appointed members of the Advisory Committee shall be appointed for terms of six years and shall serve until their successors are appointed and qualified.

(c) Powers and duties. The Advisory Committee shall:

(1) meet regularly to review and make recommendations to the State Treasurer on funding priorities and using other mechanisms to increase local investment in the State of Vermont;

(2) invite regularly State organizations, citizens' groups, and members of the public to Advisory Committee meetings to present information on needs for local investment, capital gaps, and proposals for financing; and

(3) consult with constituents and review feedback on changes and needs in the local and State investment and financing environments.

(d) Meetings.

(1) Meetings of the Advisory Committee shall occur at the call of the Treasurer.

(2) A majority of the members of the Advisory Committee who are physically present at the same location or available electronically shall constitute a quorum, and a member may participate and vote electronically.

(3) To be effective, action of the Advisory Committee shall be taken by majority vote of the members at a meeting in which a quorum is present.

(e) Report. On or before January 15, the Advisory Committee annually shall submit a report to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, on Finance, and on Government Operations and the House Committees on Appropriations, on Commerce and Economic Development, on Ways and Means, and on Government Operations. The report shall include the following:

(1) the amount of the subsidies associated with lending through each credit facility authorized by the General Assembly and established by the Treasurer;

(2) a description of the Advisory Committee's activities; and

(3) any information gathered by the Advisory Committee on the State's unmet capital needs, and other opportunities for State support for local investment and the community.

3. VEGI—Enhanced Incentive for Environmental Technology Business:
32 V.S.A. §§ 3330, 3335

32 V.S.A. § 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES; ELIGIBLE APPLICANT

(a) Purpose. The purpose of the Vermont Employment Growth Incentive Program is to generate net new revenue to the State by encouraging a business to add new payroll, create new jobs, and make new capital investments and sharing a portion of the revenue with the business.

(b) Form of incentives; enhanced incentives.

(1) The Vermont Economic Progress Council may approve an incentive under this subchapter in the form of a direct cash payment in annual installments.

(2) The Council may approve the following enhanced incentives:

(A) an enhanced incentive for a business in a labor market area with higher than average unemployment or lower than average wages pursuant to section 3334 of this title;

(B) an enhanced incentive for an environmental technology business pursuant to section 3335 of this title; and

(C) an enhanced incentive for a business that participates in a State workforce training program pursuant to section 3336 of this title.

(c) Eligible applicant. Only a business may apply for an incentive pursuant to this subchapter.

32 V.S.A. § 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL TECHNOLOGY BUSINESS

(a) As used in this section, an "environmental technology business" means a business that:

(1) is subject to income taxation in Vermont; and

(2) seeks an incentive for economic activity in Vermont that the Secretary of Commerce and Community Development certifies is primarily research, design, engineering, development, or manufacturing related to one or more of the following:

(A) waste management, including waste collection, treatment, disposal, reduction, recycling, and remediation;

(B) natural resource protection and management, including water and wastewater purification and treatment, air pollution control and prevention or remediation, soil and groundwater protection or remediation, and hazardous waste control or remediation;

(C) energy efficiency or conservation;

(D) clean energy, including solar, wind, wave, hydro, geothermal, hydrogen, fuel cells, waste-to-energy, or biomass.

(b) The Council shall consider and administer an application from an environmental technology business pursuant to the provisions of this subchapter, except that:

(1) the business's potential share of new revenue growth shall be 90 percent; and

(2) to calculate qualifying payroll, the Council shall:

(A) determine the background growth rate in payroll for the applicable business sector in the award year;

(B) multiply the business's full-time payroll for the award year by 20 percent of the background growth rate; and

(C) subtract the product from the payroll performance requirement for the award year.

IX. TAXATION

32 V.S.A. § 3481. DEFINITIONS

* * *

(D)(i) For real and personal property comprising a renewable energy plant generating electricity from solar power, except land and property that is exempt under subdivision 3802(17) of this title, the appraisal value shall be determined by an income capitalization or discounted cash flow approach that includes the following:

(I) an appraisal model identified and published by the Director employing appraisal industry standards and inputs;

(II) a discount rate determined and published annually by the Director;

(III) the appraisal value shall be 70 percent of the value calculated using the model published by the Director based on an expected 25-year project life and shall be set in the grand list next lodged after the plant is commissioned and each subsequent grand list for the lesser of the remaining life of the project or 25 years;

(IV) for the purposes of calculating appraisal value for net metered systems receiving a credit specified in 30 V.S.A. § 219a (h)(1)(k), the model used to calculate value will not incorporate a factor for electricity rate escalation; and

(V) for plants operating as a net-metered system as described in 30 V.S.A. § 219a with a capacity of 50 kW or greater, the plant capacity used to determine value in the model shall be reduced by 50 kW and the appraisal value shall be calculated only on additional capacity in excess of 50 kW.

* * *

32 V.S.A. § 3802. PROPERTY TAX

The following property shall be exempt from taxation:

* * *

(17) Real and personal property, except land, composing a renewable energy plant generating electricity from solar power which has a plant capacity of less than 50 kW and is either:

(A) operated on a net-metered system; or

(B) not connected to the electric grid and provides power only on the property on which the plant is located.

* * *

32 V.S.A. § 3845. RENEWABLE ENERGY SOURCES

(a) At an annual or special meeting warned for that purpose, a town may, by a majority vote of those present and voting, exempt renewable energy sources, as defined herein, from real and personal property taxation. Such exemption shall first be applicable against the grand list of the year in which the vote is taken and shall continue until voted otherwise, in the same manner, by the town.

(b) As used in this section, renewable energy shall have the same meaning as in 30 V.S.A. § 8002(17) for energy used on the premises for private, domestic, or agricultural purposes, no part of which may be for sale or exchange to the public. The term shall include grist mills,

windmills, facilities for the collection of solar energy or the conversion of organic matter to methane, net-metering systems regulated by the Public Service Board under 30 V.S.A. § 8010, and all component parts thereof, but excluding land upon which the facility is located.

32 V.S.A. § 5400. STATUTORY PURPOSES

* * *

(g) The statutory purpose of the wind-powered electric generating facilities alternative tax scheme in subdivision 5401(10)(J)(i) of this title is to provide an alternative to the traditional valuation method in order to achieve consistent valuation across municipalities.

(h) The statutory purpose of the renewable energy plant generating electricity from solar power alternative tax structure in subdivision 5401(10)(J)(ii) is to provide an alternative to the traditional valuation method in order to achieve consistent valuation across municipalities.

32 V.S.A. § 5401. DEFINITIONS

* * *

(10) "Nonresidential property" means all property except:

* * *

(J) Buildings and fixtures of:

(i) wind-powered electric generating facilities taxed under section 5402c of this title; and

(ii) renewable energy plants generating electricity from solar power that are taxed under section 8701 of this title.

* * *

32 V.S.A. § 5402. EDUCATION PROPERTY TAX LIABILITY

(a) A statewide education tax is imposed on all nonresidential and homestead property at the following rates:

(1) The tax rate for nonresidential property shall be $1.59 per $100.00.

(2) The tax rate for homestead property shall be $1.00 multiplied by the education property tax spending adjustment for the municipality per $100.00 of equalized education property value as most recently determined under section 5405 of this title. The homestead property tax rate for each municipality which is a member of a union or unified union school district shall be calculated as required under subsection (e) of this section.

(b) The statewide education tax shall be calculated as follows:

(1) The Commissioner of Taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the Commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed.

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property.

(3) If a district has not voted a budget by June 30, an interim homestead education tax shall be imposed at the base rate determined under subdivision (a)(2) of this section, divided by the municipality's most recent common level of appraisal, but without regard to any spending adjustment under subdivision 5401(13) of this title. Within 30 days after a budget is adopted and the deadline for reconsideration has passed, the Commissioner shall determine the municipality's homestead tax rate as required under subdivision (1) of this subsection.

(c) The treasurer of each municipality shall by December 1 of the year in which the tax is levied and on June 1 of the following year pay to the State Treasurer for deposit in the education fund one-half of the municipality's statewide nonresidential tax and one-half of the municipality's homestead education tax, as determined under subdivision (b)(1) of this section. The Secretary of Education shall determine the municipality's net nonresidential education tax payment and its net homestead education tax payment to the State based on grand list information received by the Secretary no later than the March 15 prior to the June 1 net payment. Payment shall be accompanied by a return prescribed by the Secretary of Education. The municipality may retain 0.225 of one percent of the total education tax collected, only upon timely remittance of net payment to the State Treasurer. The municipality may also retain $15.00 for each late property tax adjustment claim filed after April 15 and before September 2, as notified by the Department of Taxes, for the cost of issuing a new property tax bill.

(d) A municipality which has upon its grand list an operating electric generating plant subject to the tax under chapter 213 of this title shall be subject to the nonresidential education property tax at three-quarters of the rate provided in subdivision (a)(1) of this section, as adjusted under section 5402b of this chapter; and shall be subject to the homestead education property tax at three-quarters of the base rate provided in subdivision (a)(2) of this section, as adjusted under section 5402b of this chapter, and multiplied by its spending adjustment under subdivision 5401(13) of this title.

(e) The Commissioner of Taxes shall determine a homestead education tax rate for each municipality which is a member of a union or unified union school district as follows:

(1) For a municipality which is a member of a unified union school district, use the base rate determined under subdivision (a)(2) of this section and a spending adjustment under subdivision 5401(13) of this title based upon the education spending per equalized pupil of the unified union.

(2) For a municipality which is a member of a union school district:

(A) Determine the municipal district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a spending adjustment under subdivision 5401(13) of this title based on the education spending per total equalized pupil in the municipality who attends a school other than the union school.

(B) Determine the union district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a spending adjustment under subdivision 5401(13) of this title based on the education spending per equalized pupil of the union school district.

(C) Determine a combined homestead tax rate by calculating the weighted average of the rates determined under subdivisions (A) and (B) of this subdivision (2), with weighting based upon the ratio of union school equalized pupils from the member municipality to total equalized pupils of the member municipality; and the ratio of equalized pupils attending a school other

than the union school to total equalized pupils of the member municipality. Total equalized pupils of the member municipality is based on the number of pupils who are legal residents of the municipality and attending school at public expense. If necessary, the Commissioner may adopt a rule to clarify and facilitate implementation of this subsection.

32 V.S.A. § 5402c. WIND-POWERED ELECTRIC GENERATING FACILITIES TAX

(a) A facility certified by the Commissioner of Public Service as a facility which produces electrical energy for resale, generated solely from wind power, which has an installed capacity of at least one megawatt, which was placed in service after January 1, 2007, and which holds a valid certificate of public good issued under 30 V.S.A. § 248, shall be assessed an alternative education property tax on its buildings and fixtures used directly and exclusively in the generation of electrical energy from wind power.

(b) The tax shall be imposed at a rate per kWh of electrical energy produced by the certified facility, as determined by the Public Service Department for the six months ending April 30 and the six months ending October 31 each year. The rate of the tax shall be $0.003.

(c) In no case shall the tax imposed for any six-month period be less than an amount equal to the rate per kWh imposed by this subsection multiplied by the number of kWh that would be generated if the facility operated at 15 percent of the facility's average capacity factor.

(d) The tax imposed by this section shall be paid to the Commissioner of Taxes by the person or entity then owning or operating the certified facility by December 1 for the period ending October 31 and by June 1 for the period ending April 30 for deposit into the Education Fund. A person or entity failing to make returns or pay the tax imposed by this section within the time required shall be subject to and governed by the provisions of sections 3202 and 3203 and subchapters 8 and 9 of chapter 151 of this title.

(e) Unless buildings and fixtures are taxed under this section, they shall remain subject to taxation under section 5402 of this title. Buildings and fixtures subject to the education property tax under this section shall not be taken into account in determining the common level of appraisal for the municipality.

32 V.S.A. § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX CREDITS

(a) Historic rehabilitation tax credit. The qualified applicant of a qualified historic rehabilitation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, corporate income tax, or bank franchise or insurance premiums tax liability a credit of 10 percent of qualified rehabilitation expenditures as defined in the Internal Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally certified rehabilitation.

(b) Façade improvement tax credit. The qualified applicant of a qualified façade improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 25 percent of qualified expenditures up to a maximum tax credit of $25,000.00.

(c) Code or technology improvement tax credit. The qualified applicant of a qualified code or technology improvement project shall be entitled, upon the approval of the State Board, to

claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of $12,000.00 for installation or improvement of a platform lift, a maximum credit of $40,000.00 for the installation or improvement of a limited use/limited application elevator, a maximum tax credit of $50,000.00 for installation or improvement of an elevator, a maximum tax credit of $50,000.00 for installation or improvement of a sprinkler system, a maximum tax credit of $30,000.00 for the combined costs of installation or improvement of data or network wiring or a heating, ventilating, or cooling system, and a maximum tax credit of $50,000.00 for the combined costs of all other qualified code improvements.

32 V.S.A. § 8701. UNIFORM CAPACITY TAX

(a) As used in this section, the terms "kW," "plant," "plant capacity," and "renewable energy" shall be as defined in 30 V.S.A. § 8002; provided, however, that any tax or exemption under this chapter shall only apply to the fixtures and personal property of a plant, and not to the underlying land.

(b) There is assessed on any renewable energy plant in Vermont commissioned to generate solar power an annual tax of $4.00 per kW plant capacity. The tax shall be paid to the Department of Taxes no later than April 15 of each year and accompanied by a return with such information as the Department of Taxes may require. The Department of Taxes shall deposit the taxes collected under this section into the Education Fund. T he Department of Taxes may adopt procedures and rules necessary to implement the tax in this section.

(c) A renewable energy plant that generates electricity from solar power shall be exempt from taxation under this section if it has a plant capacity less than 50kW.

(d) The existence of a renewable energy plant subject to tax under subsection (b) of this section shall not alter the exempt status of any underlying property under section 3802 or subdivision 5401(10)(F) of this title.

X. HOME HEATING FUEL ASSISTANCE: 33 V.S.A. CHAPTER 26

33 V.S.A. § 2601. POLICY AND PURPOSE

(a) It is the purpose of this chapter to secure the safety and health of low income Vermont households by providing needy Vermonters with assistance for the purchase of essential home heating fuel. To further this purpose, application acceptance, processing, and eligibility determination should as much as is practical be coordinated with other economic benefit programs administered by the Agency of Human Services.

(b) This chapter establishes a Home Heating Fuel Assistance Program in the Agency of Human Services with both a seasonal fuel assistance component and a crisis component.

33 V.S.A. § 2601a. DEFINITIONS

As used in this chapter:

(1) "Household" means any individual or group of individuals who live together as one economic unit:

(A) for whom energy for home heating fuel is customarily purchased in common; or

(B) who make undesignated payments for energy for home heat in the form of rent.

(2) The following individuals are members of the same household based on their being legally responsible for the financial support of the applicant or recipient or another member of the household:

(A) an individual residing in the dwelling unit who is the husband, wife, or civil union partner, or minor daughter or son of the applicant or recipient;

(B) an individual residing in the dwelling unit who is the parent of any minor daughter or son included in the household, any minor daughter or son of such parent not already included in the household, the husband, wife, or civil union partner, of any minor included in the household, or the minor daughter or son of any minor included in the household.

(3) The following individuals shall be presumed to be members of the same household, unless the applicant or recipient provides to the Office of Home Heating Fuel Assistance reasonable evidence that such individuals are not members of the same household economic unit:

(A) An individual residing in the dwelling unit who is related by blood, civil marriage, or adoption to another resident of the dwelling unit and has not been included in the household in accordance with the provisions of subdivision (2) of this section. Such relationships include the relationship of the adult applicant or adult recipient to his or her father, mother, grandmother, grandfather, adult son, adult daughter, grandson, granddaughter, brother, sister, stepfather, stepmother, stepbrother, or stepsister.

(B) An unrelated individual residing in the dwelling unit who does not pay reasonable compensation to rent one or more rooms as separate living quarters, or who does not make reasonable compensation in the form of caretaker or companionship services in the case of an applicant or recipient who is 60 years of age or older or disabled.

(4) The following individuals shall be presumed not to be members of the same household, provided that the applicant or recipient provides to the Office of Home Heating Fuel Assistance reasonable evidence that such individuals meet the standards specified below for exclusion from the economic unit:

(A) individuals in the custody of and placed in foster care by the Department for Children and Families, and individuals placed in a home by or through a program administered by the Department of Health or of Disabilities, Aging, and Independent Living;

(B) individuals providing medically necessary personal care or homemaker services to a member of the household who is 60 years of age or older or disabled.

33 V.S.A. § 2602. ADMINISTRATION

(a) The Agency of Human Services shall administer the Home Heating Fuel Assistance Program through an Office of Home Heating Fuel Assistance to be assigned within the Agency as determined by the Secretary, and to be headed by a Director appointed by the Secretary.

(b) The Secretary of Human Services shall adopt rules, pursuant to 3 V.S.A. chapter 25, necessary for the implementation of this chapter, or pursuant to any applicable federal laws or regulations.

(c) The Secretary shall engage in cost-effective purchasing practices to maximize the purchasing power of public funds used in connection with the Home Heating Fuel Assistance Program. Such practices shall include preseason purchases of fuel, fixed price agreements, automatic fuel delivery, and negotiations with fuel suppliers on behalf of Program beneficiaries for additional fuel price discounts. The practices authorized by this subsection shall be used in connection with all applicable fuels purchased by Program beneficiaries. The Secretary shall make available to Program recipients the list of fuel suppliers who have agreed to provide fuel discounts.

(d) The Secretary shall require that an applicant to the Home Heating Fuel Assistance Program submit the approximate number of square feet and bedroom count of the household's dwelling unit. For those households that receive a Home Heating Fuel Assistance benefit, the Secretary shall provide the dwelling unit's square footage and bedroom count and each household's heating fuel consumption for the previous year to the Administrator of the Home Weatherization Assistance Program established under chapter 25 of this title.

33 V.S.A. § 2602a. OFFICE OF HOME ENERGY ASSISTANCE

(a) There is created an Office of Home Energy Assistance to be assigned to a department within the Agency of Human Services as designated by the Secretary, and to be headed by a director appointed by the Secretary.

(b) The responsibilities of the Office of Home Energy Assistance shall include:

(1) administering the Low Income Home Energy Assistance Program (LIHEAP), 42 U.S.C. § 8621 et seq., and coordinating it with other related heating and weatherization programs;

(2) developing and recommending policy changes for the Secretary;

(3) coordinating home energy advocacy training and statewide outreach;

(4) monitoring related federal developments and projects in other states;

(5) exploring alternative and additional funding possibilities to LIHEAP, both private and public;

(6) preparing a written annual report addressing the above functions as well as energy needs, caseload and funding projections, recommendations, if any, for appropriate pilot projects,

and, in coordination with the Home Energy Assistance Task Force, recommendations to the General Assembly; and

(7) coordinating with the Vermont Housing Finance Agency and the Vermont Economic Development Authority in establishing income, efficiency, and administrative guidelines for the Energy Efficiency Loan Program.

(c) A Home Energy Assistance Task Force shall advise the Office of Home Energy Assistance. The Task Force shall be composed of the Commissioner of the designated department or the Commissioner's designee, one member of the low-income community selected by the Vermont Low Income Advocacy Council, Inc., one representative of elders selected by the Community of Vermont Elders, one representative of people with disabilities selected by the Vermont Coalition for Disability Rights, one representative of unregulated fuel providers selected by unregulated fuel providers, one representative of electric utilities selected by the electric utilities, one representative of gas utilities selected by the gas utilities, one representative of the State Office of Economic Opportunity, and one representative of the Department of Public Service. If any constituency group cannot agree on its representative, the Secretary shall make those selections. Members of the Task Force shall be entitled to reimbursement for reasonable travel and meal expenses. The Task Force shall report regularly to the Director, and on request to the General Assembly, for the purpose of making recommendations for improving Vermont's Home Energy Assistance Programs.

33 V.S.A. § 2603. HOME HEATING FUEL ASSISTANCE FUND

(a) There is created in the State Treasury a fund to be known as the Home Heating Fuel Assistance Fund.

(b) The Fund shall consist of the receipts from any taxes dedicated to the Fund and such other State funds as may be appropriated to it by the General Assembly and the federal Low Income Home Energy Assistance Program (LIHEAP). These funds shall be expended by the Secretary of Human Services or designee in accordance with this chapter, rules adopted pursuant to this chapter, and relevant federal law.

(c) All balances in the Home Heating Fuel Assistance Fund at the end of any fiscal year shall remain in the fund for future disbursements.

(d) The Secretary or designee may spend, in anticipation of federal receipts into the Home Heating Fuel Assistance Fund established under this section, a sum no greater than 75 percent of the federal block grant funds allocated to Vermont for the current federal fiscal year under the Low Income Home Energy Assistance Program (LIHEAP), for the purpose of permitting preseason purchases of fuel and other cost-effective purchasing practices authorized by subsection 2602(c) of this title, in accordance with rules adopted by the Secretary.

33 V.S.A. § 2604. ELIGIBLE BENEFICIARIES; REQUIREMENTS

(a) Household income eligibility requirements. The Secretary of Human Services or designee, by rule, shall establish household income eligibility requirements of beneficiaries in the Seasonal Fuel Assistance Program including the income of all residents of the household. The income eligibility requirements shall require that households have a gross household income no greater than 185 percent of the federal poverty level nor in excess of income maximums established by LIHEAP in order to be potentially eligible for benefits. To the extent allowed by

federal law, the Secretary of Human Services or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the Secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

(b) Fuel cost requirements. The Secretary of Human Services or designee shall by procedure establish a table that contains amounts that will function as a proxy for applicant households' annual heating fuel cost for the previous year. The seasonal fuel expenditure estimates contained within the table shall closely approximate the actual home heating costs experienced by participants in the Home Heating Fuel Assistance Program. Data on actual heating costs collected pursuant to subsection 2602(d) of this title shall be used in lieu of the proxy table when available. The table shall be revised no less frequently than every three years based on data supplied by certified fuel suppliers, the Department of Public Service, and other industry sources to the Office of Home Heating Fuel Assistance. The Secretary or designee shall provide a draft of the table to the Home Energy Assistance Task Force established pursuant to subsection 2602a(c) of this title and solicit input from the Task Force prior to finalizing the table.

(c) In determining heating fuel costs of households:

(1) Residents of housing units subsidized by the federal, State, or local government shall be deemed to have incurred no annual home heating fuel costs, except to the extent required by any federal law or regulation if federal funds are utilized for the Home Heating Fuel Assistance Program, and with the following additional exception. Housing unit residents who participate in Reach Up under chapter 11 of this title, or who receive Supplemental Security Income/Aid to the Aged, Blind, and Disabled (SSI/AABD), Emergency Assistance, or General Assistance benefits that are used in whole or in part to pay for their housing or utility costs and do not receive other federal, State, or local government assistance targeted specifically to their housing or utility needs shall, with the exception of households for which the cost of heat is supplied by the landlord, be assumed to incur annual home heating fuel costs and their eligibility for annual heating fuel assistance shall not be limited by this subsection.

(2) The annual heating fuel cost for a household unit shall be only for the cost of the primary heating fuel source of the unit, which may be for wood, electricity, or any other fuel source, but annual heating fuel costs shall be only for the cost of heat and not include the cost of the fuel for any other uses of the household.

33 V.S.A. § 2605. BENEFIT AMOUNTS

(a) The Secretary of Human Services or designee shall by rule establish a table that specifies maximum percentages of applicant households' annual heating fuel costs, based on the proxy table established pursuant to subsection 2604(b) of this title and, when available, the data collected pursuant to subsection 2602(d) of this title, that can be authorized for payment as annual home heating fuel assistance benefits for the following year. The maximum percentages contained within this table shall vary by household size and annual household income. In no instance shall the percentage exceed 90 percent.

(b) The maximum percentages of annual heating fuel costs table established in subsection (a) of this section shall provide proportionally higher benefit percentages to households with a gross income of 154 percent of the federal poverty guidelines or less and proportionally lower benefit percentages to households with a gross income of 155 to 185 percent of the federal poverty guideline.

(c) Annually, based on the number of eligible households that have applied or are projected to apply, and on the eligibility of households in the benefit categories established in this section, the Secretary of Human Services or designee shall, by procedure, set the payment rate that shall be used to determine the amount of annual Home Heating Fuel Assistance for each eligible household. In no event shall the payment rate be greater than 100 percent of the maximum percentage established by rule as required by subsection (a) of this section.

(d) In the case of a household for which the cost of heat is not supplied by the landlord, the household's annual Home Heating Fuel Assistance benefit is the household's annual heating fuel cost as defined in subsection 2604(b) of this title, multiplied by the maximum percentage for that household found in the table established by subsection (a) of this section, multiplied by the payment rate established in subsection (c) of this section.

(e) Households that make undesignated payments for energy for home heat in the form of rent and that are not participating in a public, subsidized, or Section 8 housing program shall be eligible for an annual Home Heating Fuel Assistance benefit in an amount equal to 30 percent of the benefit the household would have received if the household were purchasing energy for home heating fuel directly or in the amount of $50.00, whichever amount is greater.

(f) Households that make undesignated payments for energy for home heat in the form of rent and are participating in a public, subsidized, or Section 8 housing program shall be eligible for a nominal annual Home Heating Fuel Assistance benefit of $21.00.

(g) Residents of the dwelling unit who make reasonable compensation in the form of room rent and who are not members of the same household shall be eligible for an annual Home Heating Fuel Assistance benefit in the amount of $21.00.

(h) Households receiving benefits from 3SquaresVT whose head of household is not otherwise eligible for a fuel benefit under this section shall be eligible for a nominal annual Home Heating Fuel Assistance benefit of $21.00.

33 V.S.A. § 2606. APPLICATION PERIOD; ASSISTANCE

(a) The Secretary of Human Services or designee may accept applications on an ongoing basis beginning on April 1, 2010. The Secretary or designee may establish by rule the procedure for accepting applications and determining eligibility under this subsection.

(b) No qualified applicant shall be penalized through a reduction of benefits for a late-filed application, except that such applicant shall not receive benefits for any period prior to the month of application.

(c) The Secretary of Human Services or designee shall process applications and related tasks, including assisting households in applying and providing required information, and locating and contacting fuel suppliers certified under section 2607 of this title.

33 V.S.A. § 2607. PAYMENTS TO FUEL SUPPLIERS

(a) The Secretary of Human Services or designee shall certify fuel suppliers, excluding firewood and wood pellet suppliers, to be eligible to participate in the Home Heating Fuel Assistance Program. Beneficiaries may use their seasonal fuel assistance benefit to obtain home heating fuel or energy only from a fuel supplier certified by the Director, except that beneficiaries who heat with firewood or wood pellets may obtain their firewood or wood pellets from any supplier they choose.

(b) Certified fuel suppliers shall agree to conduct reasonable efforts in order to inform and assist beneficiaries in their service areas, maintain records of amounts and costs of all fuel deliveries, send periodic statements to customers receiving home heating fuel assistance informing them of their account's credit or debit balance as of the last statement, deliveries or usage since that statement and the charges for such, payments made or applied, indicating their source, since that statement, and the ending credit or debit balance. Certified fuel suppliers shall also agree to provide the Secretary of Human Services or designee such information deemed necessary for the efficient administration of the Program.

(c) Certified fuel suppliers shall not disclose the beneficiary status of recipients of Home Heating Fuel Assistance benefits, the names of recipients, or other information pertaining to recipients to anyone, except for purposes directly connected with administration of the Home Heating Fuel Assistance Program or when required by law.

(d) Certified fuel suppliers shall also agree to enter into budget agreements with beneficiaries for annualized monthly payments for fuel supplies provided the beneficiary meets accepted industry credit standards, and shall grant Program beneficiaries such cash discounts, preseason delivery savings, automatic fuel delivery agreements, and any other discounts granted to any other heating fuel customer or as the Secretary of Human Services or designee may negotiate with certified fuel suppliers.

(e) The Secretary of Human Services or designee shall provide each certified fuel supplier with a list of the households who are its customers and have been found eligible for annual Home Heating Fuel Assistance for the current year, the total amount of annual Home Heating Fuel Assistance that has been authorized for each household, and how the total amount has been allocated over the heating season. Each authorized amount shall function as a line of credit for each eligible household. The Secretary or designee shall disburse authorized Home Heating Fuel Assistance benefits to certified fuel suppliers on behalf of eligible households. Authorized benefits for oil, propane, kerosene, dyed diesel, and coal shall be paid after fuel is delivered and invoiced to the Secretary or designee. Authorized benefits for electricity and natural gas shall be paid in full and credited to the eligible household's account at the same time benefit notices are issued to the eligible household.

(f) The Secretary of Human Services or designee shall negotiate with one or more certified fuel suppliers to obtain the most advantageous pricing, payment terms, and delivery methods possible for eligible households.

(g)(1) The Public Service Board shall require natural gas suppliers subject to regulation under 30 V.S.A § 203 to provide a discount program to customers with incomes no greater than 200 percent of the federal poverty level or who meet the Department for Children and Families' means test of eligibility for LIHEAP crisis fuel assistance. Eligibility for the discount shall be verified by the Department for Children and Families.

(2) In implementing the discount program, the Board shall consider:

(A) low-income discount programs, rates, and cost structures of other Vermont regulated utilities;

(B) low-income discount programs, rates, and cost structures for gas customers in other states; and

(C) options for allocating the costs of the discount program that avoid or reduce the cost impact of the program on ineligible ratepayers, including consideration of each of the following:

(i) use of any revenues collected from ratepayers that are in excess of the revenue requirement most recently determined by the Board; and

(ii) use of revenues collected from ratepayers to fund system expansions that have not been placed in service.

(3) On or before January 15, 2013, the Board shall:

(A) implement this subsection by order to each natural gas company subject to its jurisdiction; and

(B) report to the House Committees on Commerce and Economic Development and on Human Services and to the Senate Committees on Health and Welfare and on Economic Development, Housing and General Affairs on its implementation of this subsection, including its consideration of the matters described in subdivision (2) of this subsection and the results of that consideration.

33 V.S.A. § 2608. WEATHERIZATION PROGRAM AGREEMENTS

The Director of the Home Energy Assistance Program shall inform the Administrator of the Home Weatherization Assistance Program, established under chapter 25 of this title, of all participants in the Home Heating Fuel Assistance Program and of the information required by subsection 2602(d) of this title. The Agency of Human Services shall provide all participants in the Home Heating Fuel Assistance Program with information regarding the efficiency utility established under 30 V.S.A. § 209. All participants in the Home Heating Fuel Assistance Program shall be deemed to comply with any income requirements of the Home Weatherization Program, but to receive weatherization services, recipients shall be required to meet any other eligibility requirements of the Home Weatherization Program. As a condition of receipt of benefits under the Home Heating Fuel Assistance Program, a recipient shall consent to receive services of the Home Weatherization Assistance Program. The Home Weatherization Assistance Program shall use the information required by subsection 2602(d) of this title to determine the number of British thermal units (Btus) needed to heat a square foot of space for each participant in the Home Energy Assistance Program. The Home Weatherization Assistance Program shall give the highest priority to providing services to participants within the Home Heating Fuel Assistance Program and, among those participants, to those who require the most Btus to heat a square foot of space.

33 V.S.A. § 2609. CRISIS RESERVES; ELIGIBILITY AND ASSISTANCE

(a) Annually, the Secretary of Human Services or designee shall determine an appropriate amount of funds in the Home Heating Fuel Assistance fund to be set aside for expenditure for the crisis fuel assistance component of the Home Heating Fuel Program. The Secretary or designee shall also adopt rules to define crisis situations for the expenditure of the home heating fuel crisis funds, and to establish the income and asset eligibility requirements of households for receipt of crisis Home Heating Fuel Assistance, provided that no household shall be eligible whose gross household income is greater than 200 percent of the federal poverty level or is in excess of income maximums established by LIHEAP based on the income of all persons residing in the household. To the extent allowed by federal law, the Secretary or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the

Secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

(b) Crisis fuel grants shall be limited per winter heating season to one grant for households that are income-eligible and have received a seasonal fuel assistance grant and meet all eligibility requirements for crisis fuel assistance, or to two grants for households that are not income-eligible for seasonal fuel assistance and meet all eligibility requirements for crisis fuel assistance.

XI. MISCELLANEOUS

A. Wind Energy; State Lands: 3 V.S.A. § 2840

3 V.S.A. § 2840. WIND ENERGY GENERATION; STATE LANDS

(a) Wind energy generation facilities can provide an important combination of environmental, energy, and economic benefits to the State. Given these benefits, and the fact that the State has allowed other types of facilities to be sited on State lands, it is reasonable to site wind energy generation facilities on State lands, including wind energy generation facilities that are of commercial scale, if such siting does not directly conflict with a specific restriction in federal or State law or with a specific restriction or covenant contained in a conveyance of an interest in the property to the State or one of its agencies or departments, and if sites for wind energy on State lands are chosen and developed in a manner that maximizes energy production and minimizes environmental and aesthetic impacts.

(b) The existing policy of the Agency, entitled "Wind Energy and Other Renewable Energy Development on ANR Lands" (Dec. 2004) (the existing policy) shall not bar the Agency from considering any proposal to construct a meteorological station or wind energy generation facility, including a wind energy generation facility of commercial scale, on lands that the Agency owns or controls. If the Agency receives such a proposal, the Agency shall review the proposal within a reasonably prompt period and provide the entity making the proposal with information regarding the feasibility of and potential constraints that may apply to the proposal. The Agency also shall consider the potential costs and benefits of the proposal to the State of Vermont, including any benefits or impacts that would be derived from leasing State lands to the entity making the proposal.

(c) On receipt of significant new information on the existing policy or on wind energy generation on State lands, the Agency shall undertake a review of that policy and determine if a change in the policy is warranted. During that review, the Agency shall solicit the comments and recommendations of wind energy developers, renewable energy organizations, and other potentially affected entities.

(d) No later than February 15, 2010, the Agency shall report to the House and Senate Natural Resources and Energy Committees on at least each of the following:

(1) The Agency shall identify whether significant new information on the existing policy or on wind energy generation on State lands was received by the Agency after April 2, 2009.

(2) The Agency shall state whether, after April 2, 2009, it undertook a review of the existing policy.

(3) If the Agency undertook a review of the existing policy after April 2, 2009, the Agency shall summarize each conclusion reached by the Agency as a result of that review and the reasons for each such conclusion.

(4) The Agency shall state whether, after April 2, 2009, it made any changes in the existing policy and summarize each such change.

(5) The Agency shall state whether it has received any proposals for construction and operation of meteorological stations or wind energy generation facilities on State lands.

(6) If the Agency received any proposals for construction and operation of meteorological stations or wind energy generation facilities on State lands, the Agency shall provide a summary of each such proposal and the Agency's response to each such proposal.

B. Local Energy Coordinator: 24 V.S.A. § 1131

24 V.S.A. § 1131. ENERGY COORDINATOR; DUTIES

(a) The legislative body of a municipality may appoint, and determine the length of term for, an energy coordinator.

(b) An energy coordinator shall coordinate existing energy resources in the town and cooperate with the municipal planning commission and with those federal, State, and regional agencies of government which are responsible for energy matters.

(c) An energy coordinator may study and evaluate sources of energy which are alternatives to those presently available with a view toward the more efficient and economical utilization of existing and potential energy resources.

(d) An energy coordinator shall make periodic reports of his or her activities to the legislative body as it may require and may perform such other duties, studies, or examinations as may be required by the legislative body.

C. Local Ordinances and Renewable Energy Devices: 24 V.S.A. § 2291a

24 V.S.A. § 2291a. RENEWABLE ENERGY DEVICES

Notwithstanding any provision of law to the contrary, no municipality, by ordinance, resolution, or other enactment, shall prohibit or have the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources. This section shall not apply to patio railings in condominiums, cooperatives, or apartments.

D. Local Codes Authorized (usable for energy efficiency): 24 V.S.A. § 3101

24 V.S.A. § 3101. BYLAWS AND ORDINANCES; PENALTIES

(a) The mayor and board of aldermen of a city, the selectboard of a town, or the trustees of an incorporated village, may, in accordance with this chapter, establish codes and regulations for the construction, maintenance, repair, and alteration of buildings and other structures within the municipality. Such codes and regulations may include provisions relating to building materials, structural design, passageways, stairways and exits, heating systems, fire protection procedures, and such other matters as may be reasonably necessary for the health, safety, and welfare of the public, but excluding electrical installations subject to regulation under 26 V.S.A. chapter 15.

(b) Any code or regulation under subsection (a) of this section shall be adopted, amended, or repealed and enforced pursuant to the provisions of chapter 59 of this title.

(c) When any municipality adopts or amends a building code, it shall impose requirements consistent with the current rules and standards adopted by the Commissioner of Public Safety under 20 V.S.A. chapter 173, subchapter 2.

(d) Upon the adoption or amendment of any code or regulation, at least one copy shall be filed in the office of the building inspector, and the office of the municipal clerk.

(e) The General Assembly may incorporate amendments to the code into the ordinance of all municipalities which have adopted the code, or designate allowable exceptions to the code.

(f) On or before January 1, 1984, each municipality which has in effect a building code which is not consistent with the rules and standards adopted by the Commissioner of Labor, shall substitute for such code a code which is consistent.

E. Deeds and Renewable Energy Devices: 27 V.S.A. § 544

27 V.S.A. § 544. ENERGY DEVICES BASED ON RENEWABLE RESOURCES

(a) No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restrictions, covenants, or binding agreements. A property owner may not be denied permission to install solar collectors or other energy devices based on renewable resources by any entity granted the power or right in any deed restriction, covenant, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings. For purposes of this subsection, that entity may determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45 east or west of due south, provided that this determination does not impair the effective operation of the solar collectors.

(b) In any litigation arising under the provisions of this section, the prevailing party shall be entitled to costs and reasonable attorney's fees.

(c) The legislative intent in enacting this section is to protect the public health, safety, and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings, and resources by preventing measures which will have the ultimate effect, whether or not intended, of driving the costs of owning and operating commercial or residential property beyond the capacity of private owners to maintain. This section shall not apply to patio railings in condominiums, cooperatives, or apartments.

F. Natural Gas and Oil Conservation: 29 V.S.A. §§ 502, 505

29 V.S.A. § 502. PURPOSES

(a) The prevention of waste of oil and gas, the promotion of conservation, and the protection of correlative rights of owners are declared to be in the public interest.

(b) The purposes of this chapter are to:

(1) encourage oil and gas exploration and production;

(2) protect property rights and interests of all citizens;

(3) prevent long-term harm to the environment and other resources that might occur through oil and gas activities;

(4) protect correlative rights;

(5) prevent undue waste of oil and gas;

(6) promote greatest ultimate recovery of oil and gas, consistent with technology and economic conditions.

(c) This purpose requires the creation of a Vermont natural gas and oil resources board to administer and enforce the provisions of this chapter.

(d) Whenever the board exercises discretion and authority under this act, it shall do so only under the standards and purposes described in subsection (b) of this section.

29 V.S.A. § 505. AUTHORITY OF THE BOARD

(a) For the purposes of this chapter the board shall have authority over all lands and over all oil and gas resources. The board shall prevent the waste of oil and gas, promote conservation, protect correlative rights, and otherwise administer and enforce this chapter. In the event of a conflict, the duty to prevent waste is paramount.

(b) Without limiting its general authority, the board may:

(1) require identification of ownership of oil and gas wells, producing leases, tanks, processing plants, structures, and facilities for the transportation or refining of oil and gas;

(2) require the making and filing of well logs, directional surveys, and reports on well location, drilling and production; provided that all such records marked "confidential" shall be kept confidential for two years after their filing, unless the owner gives written permission to release them at an earlier date; provided, however, that the state geologist is authorized access to this information. The board may provide by rule for extension of the period of confidentiality for an additional period of one year upon written request of the owner and a showing of special circumstances requiring an extension;

(3) require the drilling, casing, installation of proper equipment and facilities, operating, and plugging of wells in such manner as to prevent:

(A) the escape of oil or gas out of one reservoir into another,

(B) the detrimental intrusion of water into an oil or gas reservoir where that is avoidable by efficient operations,

(C) the pollution of fresh water supplies by oil, gas or salt water, or other substances,

(D) blowouts, cave-ins, seepages, and fires;

(4) require the testing of wells used in connection with the production of oil and gas including, but not limited to, production, injection, and disposal wells;

(5) require the licensing of oil and gas well drillers and the furnishing of a reasonable performance bond or other good and sufficient surety, conditioned for the performance of the duty to plug and restore the drilling site of each dry or abandoned well, and to repair each well causing waste or pollution if repair will prevent the waste or pollution;

(6) require that production from wells be separated into gaseous and liquid hydrocarbons, and that each be measured by means and upon standards that may be prescribed by the board;

(7) require that wells be operated at efficient gas-oil or water-oil ratios or that production be limited from wells with inefficient gas-oil or water-oil ratios;

(8) require certificates of clearance in connection with the transportation or delivery of oil, gas, or product;

(9) require the metering or other measuring of oil, gas, or product;

(10) require that every person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas in this state keep complete and accurate records of their quantities, which records shall be available for examination by the board or its agents at all reasonable times;

(11) require the filing of reports, plats, and other data related to matters within the board's jurisdiction;

(12) regulate the drilling, testing, equipping, completing, operating, producing, and plugging of wells, and all other operations for the production of oil or gas;

(13) regulate the stimulation and treatment of wells;

(14) regulate the spacing or locating of wells;

(15) regulate operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, and the introduction of gas, water or other substances into a reservoir;

(16) regulate the disposal of salt water and oil field wastes;

(17) determine the amount of oil or gas that may be produced without waste from any unit, reservoir, or field, and allocate the allowed production to and among the wells in such fields or reservoirs;

(18) permit by rule or order the flaring of gas produced from an oil well, pending the time when, with reasonable diligence, the gas can be sold or otherwise utilized on terms that are just and reasonable, if such flaring is in the public interest;

(19) identify reservoirs and classify or reclassify them as oil or gas reservoirs, and classify or reclassify wells as oil or gas wells;

(20) adopt rules and make and enforce orders reasonably necessary to prevent waste, to protect correlative rights, to govern the practice and procedure before the board and otherwise administer this chapter;

(21) implement state responsibility under the National Gas Policy Act of 1978 for determining the statutory maximum lawful price for sales of natural gas;

(22) the board shall have no authority over sales of gasoline and related products covered by Title 9, chapter 109, nor any authority over petroleum inventory reporting covered by Title 9, chapter 110.

G. Hydraulic Fracturing: 29 V.S.A. § 571

29 V.S.A. § 571. HYDRAULIC FRACTURING; PROHIBITION

(a) No person may engage in hydraulic fracturing in the State.

(b) No person within the State may collect, store, or treat wastewater from hydraulic fracturing.

H. Affinity Card Program: 32 V.S.A. § 584

32 V.S.A. § 584. VERMONT STATE-SPONSORED AFFINITY CARD PROGRAM

(a) The State Treasurer is hereby authorized to sponsor and participate in an Affinity Card Program for the benefit of the residents of this State upon his or her determination that such a Program is feasible and may be procured at rates and terms in the best interest of the cardholders. In selecting an affinity card issuer, the Treasurer shall consider the issuer's record of investments in the State and shall take into consideration program features which will enhance the promotion of the State-sponsored affinity card, including consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card.

(b) The Treasurer shall consult with other State agencies about potential public purpose projects to be designated for the Program and shall allow cardholders to designate that funds be

used either to support sustainable agricultural programs, *renewable energy programs*, State parks and forestland programs, or any combination of these. The net proceeds of the State fees or royalties generated by this program shall be transmitted to the State and shall be deposited in a State-sponsored Affinity Card Fund and subsequently transferred to the designated State programs and purposes as selected by the cardholders. The funds received shall be held by the Treasurer until transferred for the purposes directed by participating State-sponsored affinity cardholders in accordance with the trust fund provisions of section 462 of this title.

(c) All program balances 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 program.

(d) The State shall not assume any liability for lost or stolen credit cards nor any other legal debt owed to the financial institutions.

(e) The State Treasurer is authorized to adopt such rules as may be necessary to implement the Vermont State-sponsored Affinity Card Program.