

No. 56. An act relating to establishing a renewable energy standard.

(H.40)

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

* * * Renewable Energy Standard * * *

Sec. 1. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

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(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.

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(6) “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.

(7) “Existing renewable energy” means renewable energy produced by a plant that came into service prior to or on ~~December 31, 2004~~ June 30, 2015.

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(13) “New renewable energy” means renewable energy produced by a specific and identifiable plant coming into service after ~~December 31, 2004~~ 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 ~~December 31, 2004~~ 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 ~~December 31, 2004~~ 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.

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(17) “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 (17), 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 ~~agricultural or silvicultural~~ waste, shall be considered renewable.

(B) For purposes of this subdivision (17), 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 by a technology that qualifies as renewable under this subdivision (17).

(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.”

* * *

(19) “Retail electricity provider” or “provider” means a company engaged in the distribution or sale of electricity directly to the public.

(20) “~~SPEED~~ Standard Offer Facilitator” means an entity appointed by the Board pursuant to ~~subdivision 8005(b)(1)~~ subsection 8005a(a) of this title.

(21) ~~“SPEED resources” means contracts for resources in the SPEED program established under section 8005 of this title that meet the definition of renewable energy under this section, whether or not environmental attributes are attached. [Repealed.]~~

(22) “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.

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(24) “Customer” means a retail electric consumer.

(25) “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.

(26) "RES" means the Renewable Energy Standard established under sections 8004 and 8005 of this title.

Sec. 2. 30 V.S.A. § 8004 is amended to read:

§ 8004. ~~RENEWABLE PORTFOLIO STANDARDS FOR SALES OF~~
ELECTRIC ENERGY; RENEWABLE ENERGY STANDARD
(RES)

(a) ~~Except as otherwise provided in section 8005 of this title, in order for Vermont retail electricity providers to achieve the goals established in section 8001 of this title, no~~ 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 resources as described in this chapter, 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 as provided for in subsection (b) of

~~this set forth in section 8005 of this title or without support of energy transformation projects in accordance with that section. In the case of members of the Vermont Public Power Supply Authority, the requirements of this chapter may be met in the aggregate.~~

~~(b) Each retail electricity provider in Vermont shall provide a certain amount of new renewable resources in its portfolio. Subject to subdivision 8005(d)(1) of this title each retail electricity provider in Vermont shall supply an amount of energy equal to its total incremental energy growth between January 1, 2005 and January 1, 2012 through the use of electricity generated by new renewable resources. The A retail electricity provider may meet this requirement the required amounts of renewable energy through eligible ~~new~~ tradeable renewable energy credits that it owns and retires, ~~new~~ eligible renewable energy resources with ~~renewable energy credits~~ environmental attributes still attached, or a combination of those credits and resources. ~~No~~ retail electricity provider shall be required to provide in excess of a total of 10 percent of its calendar year 2005 retail electric sales with electricity generated by new renewable resources.~~

~~(c) The requirements of subsection (b) of this section shall apply to all retail electricity providers in this State, unless the retail electricity provider demonstrates and the Board determines that compliance with the standard would impair the provider's ability to meet 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.~~

~~(d)~~(b) Rules. The Board shall ~~provide, by order or rule,~~ adopt the ~~regulations and procedures~~ rules that are necessary to allow the Board and the Department to implement and supervise further the implementation and maintenance of ~~a renewable portfolio standard~~ 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.

~~(e)~~(d) Alternative compliance payment. In lieu of, ~~or in addition to~~ purchasing renewable energy or tradeable renewable energy credits or supporting energy transformation projects to satisfy the ~~portfolio~~ 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 amount per kWh as established by the Board~~ an alternative compliance payment at the applicable rate set forth in section 8005. ~~As an alternative, the Board may require any proportion of this amount to be paid to the Energy Conservation Fund established under subsection 209(d) of this title.~~

(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.

~~(f) Before December 30, 2007 and biennially thereafter through December 30, 2013, the Board shall file a report with the Senate Committees on Finance and on Natural Resources and Energy and the House Committees on Commerce and on Natural Resources and Energy. The report shall include the following:~~

~~(1) the total cumulative growth in electric energy usage in Vermont from 2005 through the end of the year that precedes the date on which the report is due;~~

~~(2) a report on the market for tradeable renewable energy credits, including the prices at which credits are being sold;~~

~~(3) a report on the SPEED program, and any projects using the program;~~

~~(4) a summary of other contracts held or projects developed by Vermont retail electricity providers that are likely to be eligible under the provisions of subsection 8005(d) of this title;~~

~~(5) an estimate of potential effects on rates, economic development, and jobs, if the target established in subsection 8005(d) of this section is met, and if it is not met;~~

~~(6) an assessment of the supply portfolios of Vermont retail electricity providers, and the resources available to meet new supply requirements likely to be triggered by the expiration of major power supply contracts;~~

~~(7) an assessment of the energy efficiency and renewable energy markets and recommendations to the legislature regarding strategies that may be necessary to encourage the use of these resources to help meet upcoming supply requirements;~~

~~(8) any recommendations for statutory change related to this section, including recommendations for rewarding utilities that make substantial investments in SPEED resources; and~~

~~(9) the Board's recommendations on how the State might best continue to meet the goals established in section 8001 of this title, including whether the State should meet its growth in energy usage over the succeeding 10 years by a continuation of the SPEED program.~~

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

§ 8005. ~~SUSTAINABLY PRICED ENERGY ENTERPRISE~~

~~DEVELOPMENT (SPEED) PROGRAM; RES CATEGORIES~~

~~(a) Creation. To achieve the goals of section 8001 of this title, there is created the Sustainably Priced Energy Enterprise Development (SPEED) program.~~

~~(b) Board; powers and duties. The SPEED program shall be established, by rule, order, or contract, by the Board. As part of the SPEED program, the~~

~~Board may, and in the case of subdivisions (1), (2), and (5) of this subsection, shall:~~

~~(1) Name one or more entities to become engaged in the purchase and resale of electricity generated within the State by means of SPEED resources.~~

~~An entity appointed under this subdivision shall be known as a SPEED Facilitator.~~

~~(2) Issue standard offers for SPEED resources in accordance with section 8005a of this title.~~

~~(3) Maximize the benefit to rate payers from the sale of tradeable renewable energy credits or other credits that may be developed in the future, especially with regard to those plants that accept the standard offer issued under subdivision (2) of this subsection.~~

~~(4) Encourage retail electricity provider and third party developer sponsorship and partnerships in the development of renewable energy projects.~~

~~(5) In accordance with section 8005a of this section, require all Vermont retail electricity providers to purchase from the SPEED Facilitator the power generated by the plants that accept the standard offer required to be issued under section 8005a. For the purpose of this subdivision (5), the Board and the SPEED Facilitator constitute instrumentalities of the State.~~

~~(6) Establish a method for Vermont retail electrical providers to obtain beneficial ownership of the renewable energy credits associated with any SPEED projects, in the event that a renewable portfolio standard comes into~~

~~effect under the provisions of section 8004 of this title. It shall be a condition of a standard offer required to be issued under subdivision (2) of this subsection that tradeable renewable energy credits associated with a plant that accepts the standard offer are owned by the retail electric providers purchasing power from the plant, except that in the case of a plant using methane from agricultural operations, the plant owner shall retain such credits to be sold separately at the owner's discretion.~~

~~(7) [Repealed.]~~

~~(8) Provide that in any proceeding under subdivision 248(a)(2)(A) of this title for the construction of a renewable energy plant, a demonstration of compliance with subdivision 248(b)(2) of this title, relating to establishing need for the plant, shall not be required if the plant is a SPEED resource and if no part of the plant is financed directly or indirectly through investments, other than power contracts, backed by Vermont electricity ratepayers.~~

~~(9) Take such other measures as the Board finds necessary or appropriate to implement SPEED.~~

~~(e) VEDA; eligible facilities. Developers of in-state SPEED resources shall be entitled to classification as an eligible facility under 10 V.S.A. chapter 12, relating to the Vermont Economic Development Authority.~~

~~(d) Goals and targets. To advance the goals stated in section 8001 of this title, the following goals and targets are established.~~

~~(1) 2012 SPEED goal. The Board shall meet on or before January 1, 2012 and open a proceeding to determine the total amount of SPEED resources that have been supplied to Vermont retail electricity providers or have been issued a certificate of public good. If the Board finds that the amount of SPEED resources coming into service or having been issued a certificate of public good after January 1, 2005 and before July 1, 2012 equals or exceeds total statewide growth in electric retail sales during that time, and in addition, at least five percent of the 2005 total statewide electric retail sales is provided by SPEED resources or would be provided by SPEED resources that have been issued a certificate of public good, or if it finds that the amount of SPEED resources equals or exceeds 10 percent of total statewide electric retail sales for calendar year 2005, the portfolio standards established under this chapter shall not be in force. The Board shall make its determination by January 1, 2013. If the Board finds that the goal established has not been met, one year after the Board's determination the portfolio standards established under subsection 8004(b) of this title shall take effect.~~

~~(2) 2017 SPEED goal. A State goal is to assure that 20 percent of total statewide electric retail sales during the year commencing January 1, 2017 shall be generated by SPEED resources that constitute new renewable energy. On or before January 31, 2018, the Board shall meet and open a proceeding to determine, for the calendar year 2017, the total amount of SPEED resources~~

~~that were supplied to Vermont retail electricity providers and the total amount of statewide retail electric sales.~~

~~(3) Determinations. For the purposes of the determinations to be made under subdivisions (1) and (2) of this subsection (d), the total amount of SPEED resources shall be the amount of electricity produced at SPEED resources owned by or under long term contract to Vermont retail electricity providers that is new renewable energy.~~

(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.

~~(4)(1) Total renewables targets renewable energy. This~~

(A) Purpose; establishment. To encourage the economic and environmental benefits of renewable energy, this subdivision establishes, as percentages of annual electric sales, target for the RES, minimum total amounts of total 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.

(A)(B) Required amounts. The target amounts of total renewable energy established 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.

~~(B) Each retail electricity provider shall manage its supply portfolio to be reasonably consistent with the target amounts established by this subdivision (4). The Board shall consider such consistency during the course of reviewing a retail electricity provider's charges and rates under this title, integrated resource plans under section 218c of this title, and petitions under section 248 (new gas and electric purchases, investments, and facilities) of this title.~~ (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.

(2) Distributed renewable generation.

(A) Purpose; establishment. This subsection 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 subsection 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 (a)(2) of this section 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.

~~(e) Regulations and procedures. The Board shall provide, by order or rule, the regulations and procedures that are necessary to allow the Board and the Department to implement, and to supervise further the implementation and maintenance of the SPEED program. These rules shall assure that decisions with respect to certificate of public good applications for construction of SPEED resources shall be made in a timely manner.~~

~~(f) Preapproval. In order to encourage joint efforts on the part of regulated companies to purchase power that meets or exceeds the SPEED standards and to secure stable, long-term contracts beneficial to Vermonters, the Board may establish standards for pre-approving the recovery of costs incurred on a SPEED project that is the subject of that joint effort.~~

~~(g) 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 SPEED, including costs associated with a standard offer contract under this~~

~~section or section 8005a of this title or any damages arising from breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid.~~

~~(h)-(n) [Repealed.]~~

Sec. 4. 30 V.S.A. § 8005a is amended to read:

§ 8005a. ~~SPEED~~; STANDARD OFFER PROGRAM

(a) Establishment. A standard offer program is established ~~within the SPEED program~~. 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 ~~through the SPEED facilitator~~ 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.

* * *

(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 ~~SPEED~~ Standard Offer Facilitator of the contract transfer within 30 days of transfer.

(2) The ~~SPEED~~ 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 ~~SPEED~~ 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 ~~and subdivision 8005(b)(5)~~ (~~requirement to purchase standard offer power~~) of this title 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 ~~SPEED~~ 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 ~~SPEED~~ 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~~ Board.

(1) ~~SPEED~~ Standard Offer Facilitator; expenses; payments. With respect to standard offers under this section, the Board shall ~~by rule or order~~:

(1) ~~Determine~~ determine a ~~SPEED~~ 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~~ determine the manner and timing of payments by a ~~SPEED~~ Standard Offer Facilitator to plant owners for energy purchased under an executed contract for a standard offer;

(3) ~~Determine~~ determine the manner and timing of payments to the ~~SPEED~~ Standard Offer Facilitator by the Vermont retail electricity providers for energy distributed to them under executed contracts for standard offers;

(4) ~~Establish~~ establish reporting requirements of a ~~SPEED~~ Standard Offer Facilitator, a plant owner, and a Vermont retail electricity provider.

* * *

(n) Wood biomass. ~~Wood~~ In addition to the other requirements of this section, wood biomass resources ~~that would otherwise constitute qualifying SPEED 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.

* * *

(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 ~~SPEED~~ Standard Offer Facilitator's costs under subdivision (1)(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.

See Revision note at end of Act

Sec. 5. INTENT; AMENDMENT OF 30 V.S.A. § 8005a

The General Assembly's intent in the amendments to 30 V.S.A. § 8005a set forth in Sec. 4 of this act is to clarify the text because of the repeal of the Sustainably Priced Energy Enterprise Development Program in Sec. 3 of this act and to move provisions relating to the standard offer program from

30 V.S.A. § 8005 into section 8005a. The General Assembly does not intend any provision of this act to be interpreted as a substantive change to the standard offer program. The Standard Offer Facilitator described in Sec. 4 of this act shall be the successor to the SPEED Facilitator under 30 V.S.A. §§ 8005 and 8005a as they existed prior to this act.

Sec. 6. 30 V.S.A. § 8005b is amended to read:

§ 8005b. RENEWABLE ENERGY PROGRAMS; ~~BIENNIAL REPORT~~
REPORTS

(a) ~~On or before January 15, 2013 and no later than every second January 15 thereafter through January 15, 2033, the Board~~ The Department shall file a report reports with the General Assembly in accordance with this section. The Board shall prepare the report in consultation with the Department.

(1) The House Committee on Commerce and Economic Development, the Senate Committees on Economic Development, Housing and General Affairs and on Finance, and the House and Senate Committees on Natural Resources and Energy each shall receive a copy of these reports.

(2) The Department shall file the report under subsection (b) of this section annually each January 15 commencing in 2018 through 2033.

(3) The Department shall file the report under subsection (c) of this section biennially each March 1 commencing in 2017 through 2033.

(4) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the reports to be made under this section.

(b) The annual report under this section shall include at least each of the following:

(1) An assessment of the costs and benefits of the RES based on the most current available data, including rate and economic impacts, customer savings, technology deployment, greenhouse gas emission reductions actually achieved, fuel price stability, and effect on transmission and distribution upgrade costs, and any recommended changes based on this assessment.

(2) Projections, looking at least 10 years ahead, of the impacts of the RES.

(A) The Department shall employ an economic model to make these projections, to be known as the Consolidated RES Model, and shall consider at least three scenarios based on high, mid-range, and low energy price forecasts.

(B) The Department shall make the model and associated documents available on the Department's website.

(C) In preparing these projections, the Department shall:

(i) characterize each of the model's assumptions according to level of certainty, with the levels being high, medium, and low; and

(ii) provide an opportunity for public comment.

(D) The Department shall project, for the State, the impact of the RES in each of the following areas: electric utility rates; total energy

consumption; electric energy consumption; fossil fuel consumption; and greenhouse gas emissions. The report shall compare the amount or level in each of these areas with and without the Program.

(3) An assessment of whether the requirements of the RES have been met to date, and any recommended changes needed to achieve those requirements.

(c) The biennial report under this section shall include at least each of the following:

(1) The retail sales, in kWh, of electricity in Vermont during the two preceding calendar ~~year~~ years. The report shall include the statewide total and the total sold by each retail electricity provider.

(2) ~~The amount of SPEED resources~~ Commencing with the report to be filed in 2019, each retail electricity provider's required amount of renewable energy during the two preceding calendar years for each category of the RES as set forth in section 8005 of this title.

(3) For the two preceding calendar years, the amounts of renewable energy and tradeable renewable energy credits eligible to satisfy the requirements of sections 8004 and 8005 of this title actually owned by the Vermont retail electricity providers, expressed as a percentage of retail kWh sales. The report shall include the statewide total and the total owned by each retail electricity provider for each of these amounts and shall discuss the progress of each provider toward achieving ~~the goals and targets of subsection~~

~~8005(d)(SPEED)~~ each of the categories set forth in section 8005 of this title.

~~The report to be filed under this subsection on or before January 15, 2019 shall discuss and attach the Board's determination under subdivision~~
~~8005(d)(2)(2017 SPEED goal) of this title.~~ The report shall summarize the energy transformation projects undertaken pursuant to section 8005 of this title, their costs and benefits, their claimed avoided fossil fuel consumption and greenhouse gas emissions, and, if applicable, claimed energy savings.

~~(3) A summary of the activities of the SPEED program under section 8005 of this title, including the name, location, plant capacity, and average annual energy generation, of each SPEED resource within the program.~~

(4) A summary of the activities of the standard offer program under section 8005a of this title, including the number of plants participating in the program, the prices paid by the program, and the plant capacity and average annual energy generation of the participating plants. The report shall present this information as totals for all participating plants and by category of renewable energy technology. The report also shall identify the number of applications received, the number of participating plants under contract, and the number of participating plants actually in service.

(5) An assessment of the energy efficiency and renewable energy markets and recommendations to the General Assembly regarding strategies that may be necessary to encourage the use of these resources to help meet upcoming supply requirements.

(6) An assessment of whether Vermont retail electric rates are rising faster than inflation as measured by the CPI, and a comparison of Vermont's electric rates with electric rates in other New England states and in New York. If statewide average rates have risen ~~more than 0.2 percentage points per year~~ faster than inflation over the preceding two or more years, the report shall include an assessment of the contributions to rate increases from various sources, such as the costs of energy and capacity, costs due to construction of transmission and distribution infrastructure, and costs due to compliance with the requirements of sections 8004 and 8005 (RES) and section 8005a (SPEED program; standard offer) of this title. Specific consideration shall be given to the price of renewable energy and the diversity, reliability, availability, dispatch flexibility, and full life cycle cost, including environmental benefits and greenhouse gas reductions, on a net present value basis of renewable energy resources available from suppliers. The report shall include any recommendations for statutory change that arise from this assessment. If electric rates have increased primarily due to cost increases attributable to nonrenewable sources of electricity or to the electric transmission or distribution systems, the report shall include a recommendation regarding whether to increase the size of the annual increase described in subdivision 8005a(c)(1)(standard offer; cumulative capacity; pace) of this title.

(7)(A) ~~An~~ Commencing with the report to be filed in 2019, an assessment of whether strict compliance with the requirements of sections

8004 and 8005 (RES) and section 8005a (SPEED program; standard offer) of this title:

(i) has caused one or more providers to raise its retail rates faster over the preceding two or more years than statewide average retail rates have risen over the same time period;

(ii) will cause retail rate increases particular to one or more providers; or

(iii) will impair the ability of one or more providers to meet the public's need for energy services in the manner set forth under subdivision 218c(a)(1) of this title (least-cost integrated planning).

(B) Based on this assessment, consideration of whether statutory changes should be made to grant providers additional flexibility in meeting requirements of sections 8004 and 8005 or section 8005a of this title.

(8) Any recommendations for statutory change related to sections 8004, 8005, and 8005a of this title.

(d) During the preparation of reports under this section, the Department shall provide an opportunity for the public to submit relevant information and recommendations.

Sec. 7. 30 V.S.A. § 8006 is amended to read:

§ 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 ~~renewables portfolio standard~~ RES. The system shall ~~be designed to~~ 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 whether the energy is Vermont-based~~, and shall clearly distinguish between energy or tradeable energy credits provided from renewable and nonrenewable energy sources and existing and new ~~sources~~ renewable energy.

Sec. 8. PUBLIC SERVICE BOARD IMPLEMENTATION

(a) Commencement. On or before August 31, 2015, the Public Service Board (the Board) shall commence a proceeding to implement Secs. 2 (sales of electric energy; RES), 3 (RES categories), and 7 (tradeable renewable energy credits) of this act.

(b) Notice; comment; workshop. The proceeding shall include one or more workshops to solicit the input of potentially affected parties and the public. The Board shall provide notice of the workshops on its website and directly to the Department, Vermont's retail electricity providers, Renewable Energy Vermont, business organizations such as Associated Industries of Vermont, environmental and consumer advocacy organizations such as the Vermont Natural Resources Council and the Vermont Public Interest Research Group, and to any other person that requests direct notice or to whom the Board may consider direct notice appropriate. The Board also shall provide an opportunity for submission of written comments, which the notice shall include.

(c) Order. On or before July 1, 2016, the Board shall issue an order to take effect on January 1, 2017 that initially implements Secs. 2, 3, and 7 of this act.

(d) On or before July 1, 2018, the Board shall commence rulemaking to implement Secs. 2, 3, and 7 of this act. The Board shall finally adopt these rules within eight months of commencing rulemaking, unless this period is

extended by the Legislative Committee on Administrative Rules under
3 V.S.A. § 843.

(e) Assistance. The Board and the Department of Public Service may
retain experts and other personnel to assist them with the proceedings and
rulemaking under this section and allocate the costs of these personnel to the
electric distribution utilities in accordance with the process under 30 V.S.A.
§ 21.

* * * Harvesting and Procurement * * *

Sec. 9. 10 V.S.A. § 2751 is added to read:

§ 2751. BIOMASS RENEWABILITY STANDARDS; RES

(a) Definitions. As used in this section:

(1) “Commissioner” means the Commissioner of Forests, Parks and
Recreation.

(2) “Distributed renewable generation” shall have the same meaning as
in 30 V.S.A. § 8005.

(3) “Energy transformation project” shall have the same meaning as in
30 V.S.A. § 8002.

(4) “Renewability” means capable of being replaced by natural
ecological processes or sound management practices.

(5) “RES” shall have the same meaning as in 30 V.S.A. § 8002.

(b) Rules. The Commissioner shall adopt rules that set renewability
standards for forest products used to generate energy by distributed renewable

generation and energy transformation projects within the RES. The Commissioner shall design the standards to ensure long-term forest health and sustainability. These standards may include minimum efficiency requirements for wood boilers and requirements for harvesting and procurement. In developing these rules, the Commissioner shall consider differentiating the standards by type of forest product and scale of forest product consumption.

Sec. 10. FOREST, PARKS AND RECREATION RULEMAKING

On or before July 1, 2016, the Commissioner of Forests, Parks and Recreation shall adopt initial rules under 10 V.S.A. § 2751.

* * * Environmental Attributes, Net Metering Systems * * *

Sec. 11. 30 V.S.A. § 219a(h) is amended to read:

(h)(1) An electric company:

* * *

(I) ~~At the option of a net metering customer of the company, may~~
Shall receive ownership of the environmental attributes of electricity generated by the customer's net metering system, including ownership of any associated tradeable renewable energy credits, unless at the time of application for the system the customer elects not to transfer ownership of those attributes to the company. ~~If a customer elects this option, the~~ The company shall retain ownership of and shall retire the attributes and credits received from ~~the customer~~ its net metering customers, which shall apply toward compliance with any ~~statutes enacted or rules adopted by the State requiring the company~~

~~to own the environmental attributes of renewable energy~~ sections 8004 and 8005 of this title.

* * *

Sec. 12. 30 V.S.A. § 8010(c) is amended to read:

(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:

* * *

(F) balances, over time, the pace of deployment and cost of the program with the program's impact on rates; ~~and~~

(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:

* * *

(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; ~~and~~

~~(G) the ownership and transfer of the environmental attributes of energy generated by net metering systems and of any associated tradeable renewable energy credits.~~ 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.

* * *

* * * Clean Energy Development Fund * * *

Sec. 13. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(d) Expenditures authorized.

* * *

~~(3) A grant in lieu of a solar energy tax credit in accordance with 32 V.S.A. § 5930z(f). Of any Fund monies unencumbered by such grants, the first \$2.3 million shall fund the Small-scale Renewable Energy Incentive Program described in subdivision (1)(E)(ii) of this subsection.~~

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

* * *

* * * Other Provisions * * *

Sec. 14. 10 V.S.A. § 212(6)(M) is amended to read:

(M) ~~Sustainably Priced Energy Enterprise Development (SPEED)~~
~~resources~~ a renewable energy plant, as defined in 30 V.S.A. § 8002, if the construction of the plant requires a certificate of public good under 30 V.S.A. § 248 and all or part of the electricity generated by the plant will be under contract to a Vermont electric distribution utility;

Sec. 14a. [Deleted.]

Sec. 14b. JOINT ENERGY COMMITTEE; RECOMMENDATION

(a) On or before February 15, 2016, the Joint Energy Committee under 2 V.S.A. chapter 17 shall submit a recommendation to the House Committee on Commerce and Economic Development, Senate Committee on Finance, House Committee on Ways and Means, and House and Senate Committees on Natural Resources and Energy on:

(1) what revisions, if any, the Committee recommends that the General Assembly enact with respect to the statutes applicable to energy efficiency entities appointed and charges imposed under 30 V.S.A. § 209(d); and

(2) what legislation, if any, the Committee recommends that the General Assembly enact to clarify or alter the relationship of energy efficiency entities and charges under 30 V.S.A. § 209(d) with the energy transformation category adopted under Sec. 3 of this act, 30 V.S.A. § 8005(a).

(b) Prior to submitting its recommendation under this section, the Joint Energy Committee shall offer an opportunity for comment by affected State agencies; utilities; appointed energy efficiency entities; advocates for business, consumer, and environmental interests; and members of the public.

(c) For the purpose of this section, the Joint Energy Committee:

(1) may meet no more than four times during adjournment without prior approval of the Speaker of the House and the President Pro Tempore of the Senate; and

(2) shall have the administrative, technical, and professional assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) A bill or amendment during the 2016 session to adopt legislation regarding the issues to be addressed by the Joint Energy Committee under this section this act shall be in order.

Sec. 15. 30 V.S.A. § 209(j) is amended to read:

(j) Self-managed energy efficiency programs.

* * *

(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.

* * *

Sec. 15a. 30 V.S.A. § 209(j)(5) is added to read:

(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.

Sec. 16. 30 V.S.A. § 218(f) is amended to read:

(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.

(4) ~~For the purpose of~~ In this subsection, “plant,” “renewable energy,” and “new renewable energy” shall be as defined in section 8002 of this title.

Sec. 17. 30 V.S.A. § 218c(b) is amended to read:

(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 ~~is reasonably consistent with achieving the goals and targets of subsection 8005(d)(2017 SPEED goal; total renewables targets)~~ of sections 8004 and 8005 of this title.

Sec. 18. 30 V.S.A. § 219a(m) and (n) are amended to read:

(m)(1) A facility for the generation of electricity to be consumed primarily by the Military Department established under 3 V.S.A. § 212 and 20 V.S.A. § 361(a) or the National Guard as defined in 32 U.S.C. § 101(3), and installed on property of the Military Department or National Guard located in Vermont, shall be considered a net metering system for purposes of this section if it has a capacity of 2.2 MW or less and meets the provisions of subdivisions (a)(6)(B)-(D) of this section.

(2) If the interconnecting electric company agrees, a solar facility or group of solar facilities for the generation of electricity, to be installed by or on behalf of one or more municipalities on a closed landfill, shall be considered a

net metering system for purposes of this section if the facility or group of facilities has a total capacity of 5 MW or less and meets the provisions of subdivisions (a)(6)(B)-(D) of this section. The facilities or group of facilities may serve as a group net metering system that includes and is limited to each participating municipality. In this subdivision (2), “municipality” shall have the same meaning as under 24 V.S.A. § 4551.

* * *

(n) ~~As a pilot project, an~~ An electric cooperative under chapter 81 of this title may ~~construct~~ engage in a pilot project involving a solar generation facility or group of solar generation facilities to produce power to be consumed by the company or its customers ~~and to be installed on land owned or leased by the company.~~

* * *

(3) ~~Under this pilot project, the electric cooperative may seek siting approval for the~~ A facility or group of facilities participating in this pilot project may seek siting approval pursuant to the Board’s order issued under subsection 8007(b) of this title, notwithstanding that subsection’s limitation to plants with a plant capacity greater than 150 kW and 2.2 MW or less.

* * *

Sec. 19. 30 V.S.A. § 248(b) is amended to read:

(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:

* * *

(9) with respect to a waste to energy facility:

(A) is included in a solid waste management plan adopted pursuant to 24 V.S.A. § 2202a, which is consistent with the State Solid Waste Management Plan; and

(B) is included in a solid waste management plan adopted pursuant to 24 V.S.A. § 2202a for the municipality and solid waste district from which 1,000 tons or more per year of the waste is to originate, if that municipality or district owns an operating facility that already beneficially uses a portion of the waste;

* * *

Sec. 20. 30 V.S.A. § 248(r) is added to read:

(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.

Sec. 21. 30 V.S.A. § 8001(b) is amended to read:

(b) The Board shall ~~provide, by order or rule,~~ adopt the regulations rules and procedures that are necessary to allow the Board and the Department to implement and supervise programs pursuant to subchapter 1 of this chapter.

Sec. 21a. HEAT PUMPS; REPORT

On or before December 15, 2015, the Commissioner of Public Service shall submit a report on heat pumps to the House and Senate Committees on Natural Resources and Energy, the House Committee on Commerce and Economic Development, and the Senate Committee on Finance. The Commissioner shall recommend whether the State of Vermont should establish minimum standards for heat pumps sold in the State, including standards related to heat pump efficiency and cold climate use. The report shall include the standards, if any, recommended by the Commissioner. The report shall describe the research and analysis undertaken to prepare the report and the results of the research and analysis, and state the rationale for each recommendation.

Sec. 21b. REPORT; RATEPAYER ADVOCATE OFFICES

(a) Report. The Commissioner of Public Service shall evaluate the pros and cons of various forms of ratepayer advocate offices and report on or before December 15, 2015, to the House Committee on Commerce and Economic

Development and the Senate Committee on Finance with any recommendations on how to improve the structure and effectiveness of the Division for Public Advocacy within the Department of Public Service.

(b) Process. In order to receive information relevant to this evaluation, and prior to submit the report, the Commissioner shall:

(1) solicit input from consumer advocates, utilities, and utility regulation experts; and

(2) conduct at least two public hearings dedicated to the subject of this section.

(c) Scope. The Commissioner shall study various forms of ratepayer advocacy offices and assess them in terms of:

(1) their structure and reporting requirements;

(2) whether and how their independence is ensured through structure and budget;

(3) their effectiveness in representing residential ratepayers in regulatory proceedings; and

(4) how ratepayer benefits, specifically rate savings, vary with differing ratepayer advocate structures.

Sec. 21c. RENEWABLE GENERATION; IMPACTS; REPORT

On or before December 15, 2015, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture and the Commissioner of Public Service, shall report to the House and Senate Committees on Natural

Resources and Energy on the environmental and land use impacts of renewable electric generation in Vermont, methods for mitigating those impacts, and recommendations for appropriate siting and design of renewable electric generation facilities. The report shall include examination of the effects of renewable generation with respect to water quality, wildlife habitat, fragmentation of forest land, agricultural soils, aesthetics, and any other environmental or land use issue the Secretary considers relevant.

* * * Technical Amendments * * *

Sec. 22. 30 V.S.A. § 2(g) is amended to read:

(g) In all forums affecting policy and decision making for the New England region's electric system, including matters before the Federal Energy Regulatory Commission and the Independent System Operator of New England, the Department of Public Service shall advance positions that are consistent with the statutory policies and goals set forth in 10 V.S.A. §§ 578, 580, and 581 and sections 202a, 8001, 8004, and 8005 of this title. In those forums, the Department also shall advance positions that avoid or minimize adverse consequences to Vermont and its ratepayers from regional and inter-regional cost allocation for transmission projects. This subsection shall not compel the Department to initiate or participate in litigation and shall not preclude the Department from entering into agreements that represent a reasonable advance to these statutory policies and goals.

Sec. 23. 30 V.S.A. § 219a(e)(3)(C) is amended to read:

(C) Any accumulated credits shall be used within 12 months, or shall revert to the electric company, without any compensation to the customer.

~~Power reverting to the electric company under this subdivision (3) shall be considered SPEED resources under section 8005 of this title.~~

Sec. 24. REPEAL

30 V.S.A. § 219b(a)(5) (net metering systems; SPEED resources) is repealed.

Sec. 25. CONFORMING AMENDMENTS; RENEWABLE ENERGY

DEFINITIONS

(a) In 2014 Acts and Resolves No. 99, Sec. 3, in 30 V.S.A. § 8002(8) (existing renewable energy) and (17) (new renewable energy), each occurrence of “December 31, 2004” is amended to “June 30, 2015.” The Office of Legislative Council shall implement these amendments during statutory revision.

(b) 2014 Acts and Resolves No. 99, Sec. 3 is amended to read:

Sec. 3. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

* * *

(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 ~~agricultural or silvicultural~~ waste, shall be considered renewable.

* * *

(24) ~~“SPEED Standard Offer Facilitator”~~ means an entity appointed by the Board pursuant to ~~subdivision 8005(b)(1)~~ subsection 8005a(a) of this title.

(25) ~~“SPEED resources” means contracts for resources in the SPEED program established under section 8005 of this title that meet the definition of renewable energy under this section, whether or not environmental attributes are attached.~~ [Repealed.]

* * *

(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.

Sec. 25a. REVISION AUTHORITY

In preparing this act for publication in the Acts and Resolves and for codification, the Office of Legislative Council is authorized to make appropriate revisions to reflect the amendment of the bill as introduced to change the name of the Renewable Energy Standard and Energy Transformation Program to the Renewable Energy Standard and the associated acronym from RESET to RES.

Sec. 26. 30 V.S.A. § 8009 is amended to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO
REQUIREMENT

* * *

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

(1) The ~~SPEED~~ Standard Offer Facilitator shall purchase the baseload renewable power, and shall allocate the electricity purchased and any associated costs ~~shall be allocated by the SPEED Facilitator~~ to the Vermont retail electricity providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay those costs.

* * *

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

* * * Solar Plants; Setback and Screening Requirements * * *

Sec. 26a. 30 V.S.A. § 248(a)(4)(F) is added to read:

(F) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection.

Sec. 26b. 30 V.S.A. § 248(s) is added to read:

(s) This subsection sets minimum setback requirements that shall apply to in-state ground-mounted solar electric generation facilities approved under this section.

(1) The minimum setbacks shall be:

(A) from a State or municipal highway, measured from the edge of the traveled way:

(i) 100 feet for a facility with a plant capacity exceeding 150 kW; and

(ii) 40 feet for a facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(B) From each property boundary that is not a State or municipal highway:

(i) 50 feet for a facility with a plant capacity exceeding 150 kW; and

(ii) 25 feet for a facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(2) This subsection does not require a setback for a facility with a plant capacity equal to or less than 15 kW.

(3) On review of an application, the Board may:

(A) require a larger setback than this subsection requires; or

(B) approve an agreement to a smaller setback among the applicant, the municipal legislative body, and each owner of property adjoining the smaller setback.

(4) In this subsection:

(A) “kW” and “plant capacity” shall have the same meaning as in section 8002 of this title.

(B) “Setback” means the shortest distance between the nearest portion of a solar panel or support structure for a solar panel, at its point of attachment to the ground, and a property boundary or the edge of a highway’s traveled way.

Sec. 26c. 30 V.S.A. § 248(b) is amended to read:

(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; and

(B) with respect to a ground-mounted solar electric generation 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.

* * *

Sec. 26d. 24 V.S.A. § 4414(15) is added to read:

(15) Solar plants; screening. Notwithstanding any contrary provision of sections 2291a and 4413 of this title or 30 V.S.A. chapter 5 or 89, a municipality may adopt a freestanding bylaw to establish screening requirements that shall apply to a ground-mounted plant that generates electricity from solar energy. In a proceeding under 30 V.S.A. § 248, the municipality may make recommendations to the Public Service Board applying

the bylaw to such a plant. The bylaw may designate the municipal body to make this recommendation. Screening requirements and recommendations adopted under this subdivision shall be a condition of a certificate of public good issued for the plant under 30 V.S.A. § 248, provided that they do not prohibit or have the effect of prohibiting the installation of such a plant and do not have the effect of interfering with its intended functional use.

(A) Screening requirements under this subdivision shall not be more restrictive than screening requirements applied to commercial development in the municipality under this chapter or, if the municipality does not have other bylaws except flood hazard, 10 V.S.A. chapter 151.

(B) In this section, “plant” shall have the same meaning as in 30 V.S.A. § 8002 and “screening” means reasonable aesthetic mitigation measures to harmonize a facility with its surroundings and includes landscaping, vegetation, fencing, and topographic features.

(C) This subdivision (15) shall not authorize requiring a municipal land use permit for a solar electric generation plant and a municipal action under this subdivision shall not be subject to the provisions of subchapter 11 (appeals) of this chapter. Notwithstanding any contrary provision of this title, enforcement of a bylaw adopted under this subdivision shall be pursuant to the provisions of 30 V.S.A. § 30 applicable to violations of 30 V.S.A. § 248.

Sec. 26e. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(28) Notwithstanding any contrary provision of sections 2291a and 4413 of this title or 30 V.S.A. chapter 5 or 89, a municipality may adopt an ordinance to establish screening requirements that shall apply to a ground-mounted plant that generates electricity from solar energy. In a proceeding under 30 V.S.A. § 248, the municipality may make recommendations to the Public Service Board applying the ordinance to such a plant. The ordinance may designate the municipal body to make this recommendation. Screening requirements and recommendations adopted under this subdivision shall be a condition of a certificate of public good issued for the plant under 30 V.S.A. § 248, provided that they do not prohibit or have the effect of prohibiting the installation of such a plant and do not have the effect of interfering with its intended functional use.

(A) Screening requirements under this subdivision shall not be more restrictive than screening requirements applied to commercial development in the municipality under chapter 117 of this title or, if the municipality does not have other bylaws except flood hazard, 10 V.S.A. chapter 151.

(B) In this section, “plant” shall have the same meaning as in 30 V.S.A. § 8002 and “screening” means reasonable aesthetic mitigation measures to harmonize a facility with its surroundings and includes landscaping, vegetation, fencing, and topographic features.

(C) This subdivision (28) shall not authorize requiring a municipal permit for a solar electric generation plant. Notwithstanding any contrary provision of this title, enforcement of an ordinance adopted under this subdivision shall be pursuant to the provisions of 30 V.S.A. § 30 applicable to violations of 30 V.S.A. § 248.

Sec. 26f. REPORT; TOWN ADOPTION OF SOLAR SCREENING

(a) On or before January 15, 2017, the Commissioners of Housing and Community Development and of Public Service (the Commissioners) jointly shall submit a report to the House and Senate Committees on Natural Resources and Energy that:

(1) identifies the municipalities that have adopted screening requirements pursuant to Sec. 26d of this act, 24 V.S.A. § 4414(15), or Sec. 26e of this act, 24 V.S.A. § 2291(28);

(2) summarizes these adopted screening requirements; and

(3) provides the number of proceedings before the Public Service Board in which these screening requirements were applied and itemizes the disposition and status of those proceedings.

(b) Each municipality adopting an ordinance or bylaw under 24 V.S.A. § 2291(28) or 4414(15) shall provide the Commissioners, on request, with information needed to complete the report required by this section.

Sec. 26g. SOLAR SITING TASK FORCE; REPORT

(a) Creation. There is created a Solar Siting Task Force to study issues pertaining to the siting, design, and regulatory review of solar electric generation facilities.

(b) Membership. The Task Force shall be composed of the following members:

(1) the Commissioner of Public Service or designee;

(2) the Commissioner of Housing and Community Development or designee;

(3) the Secretary of Natural Resources or designee;

(4) a representative of the Vermont League of Cities and Towns, appointed by the League;

(5) a representative of the Vermont Planners Association, appointed by that Association;

(6) a representative of the Vermont Association of Planning and Development Agencies, appointed by that Association;

(7) a representative of Renewable Energy Vermont (REV), appointed by REV;

(8) a representative of an electric distribution utility appointed by the Vermont System Planning Committee;

(9) a landscape architect appointed by the Vermont chapter of the American Society of Landscape Architects; and

(10) a Vermont resident with public policy and environmental and energy expertise who is not affiliated with a public utility or developer of energy facilities, by joint appointment of the Vermont Natural Resources Council and the Vermont Public Interest Research Group.

(c) Duties. The Task Force shall study the design, siting, and regulatory review of solar electric generation facilities and shall provide a report in the form of proposed legislation with the rationale for each proposal. In studying these issues, the Task Force shall consider the report of the Secretary of Natural Resources to be submitted under Sec. 21c of this act.

(d) Assistance. The Task Force shall be entitled to administrative, technical, and professional assistance from the Agencies of Natural Resources and of Commerce and Community Development and the Department of Public Service and, on request, to the technical and professional assistance of the Natural Resources Board and the Public Service Board.

(e) Proposed legislation. On or before January 15, 2016, the Task Force shall submit its proposed legislation to the House and Senate Committees on Natural Resources and Energy, the House Committee on Commerce and Economic Development, and the Senate Committee on Finance.

(f) Meetings.

(1) The Commissioner of Public Service shall call the first meeting of the Task Force to occur on or before August 1, 2015.

(2) The Task Force shall select a chair and vice chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Task Force shall cease to exist on March 15, 2016.

* * * Severability and Effective Dates * * *

Sec. 27. SEVERABILITY

The provisions of this act are severable. If any provision of this act is invalid, or if any application of this act to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

Sec. 28. EFFECTIVE DATES

(a) This section and Secs. 8 (Public Service Board rulemaking), 10 (Forests, Parks and Recreation rulemaking), 14b (joint energy committee; recommendation), 18 (net metering pilot project), and 27 (severability) shall take effect on passage. Notwithstanding 1 V.S.A. § 214, Sec. 18 shall apply to facilities for which an application for a certificate of public good is pending as of its effective date.

(b) Secs. 1 through 7, 9, 11, 13, 14, 15 through 17, 19, 20, and 21 through 26 shall take effect on July 1, 2015. Sec. 11 (net metering systems;

environmental attributes) shall not apply to complete applications filed prior to its effective date.

(c) Secs. 26a (municipal party status), 26b (setbacks), 26c (certificate of public good), 26d (solar screening bylaw), 26e (solar screening ordinance), and 26f (report) shall take effect on passage.

(d) Sec. 12 (net metering systems; environmental attributes) shall amend 30 V.S.A. § 8010 as added effective January 1, 2017 by 2014 Acts and Resolves No. 99, Sec. 4. Sec. 12 shall take effect on January 2, 2017, except that, notwithstanding 1 V.S.A. § 214, the section shall apply to the Public Service Board process under 2014 Acts and Resolves No. 99, Sec. 5. Sec. 12 shall not affect a net metering system for which a complete application was filed before January 1, 2017.

(e) Sec. 26g (solar siting task force) shall take effect on passage.

Date Governor signed bill: June 11, 2015

Revision note: *In Sec. 4, 30 V.S.A. § 8005a, in subdivision (k)(2)(B), following “and subdivision 8005(b)(5) (requirement to purchase standard offer power)” the Office of Legislative Council struck the words “of this title,” which were inadvertently retained in the bill as passed by the House and Senate.*