

1 H.781

2 Introduced by Committee on Natural Resources and Energy

3 Date:

4 Subject: Renewable energy; public service; natural resources; permitting;

5 stormwater; appeals; net metering systems; military installations;

6 SPEED standard offer; agricultural methane

7 Statement of purpose: This bill proposes to allow renewable energy plants
8 installed by the military department or National Guard to qualify for net
9 metering if the plant capacity is 2.2 MW or less; to provide that agricultural
10 methane or “cow power” electricity generation plants in existence as of
11 September 30, 2009, shall be eligible for a standard offer under the public
12 service board’s SPEED program; to require the public service board to apply
13 existing simplified permit review and interconnection procedures for net
14 metering systems of 150 kilowatts capacity or less to all renewable energy
15 plants that are at or under that capacity; to require the public service board to
16 develop simplified permit review and interconnection procedures for all
17 renewable energy plants that range from 150 kilowatts through 2.2 megawatts
18 in capacity; to extend the business solar tax credit for investments made for
19 solar plants of 2.2 megawatts capacity or less that file complete petitions for
20 certificates of public good on or before July 15, 2010; to provide that
21 hydroelectric energy generation of any capacity is considered renewable
22 energy; to conform the state’s minimum efficiency standard for medium

1 voltage distribution transformers to federal requirements; to provide that the
2 Vermont department of environmental conservation shall finally adopt and put
3 into effect by February 1, 2011, alternative stormwater measures for high
4 elevation renewable energy projects; and to provide that appeals of
5 environmental and municipal permits for a renewable energy plant shall be to
6 the public service board instead of the environmental court, with the option to
7 be consolidated with that board's review of the plant under 30 V.S.A. § 248.

8 An act relating to renewable energy

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

10 * * * Net Metering; Military Installation * * *

11 Sec. 1. 30 V.S.A. § 219a(m) is added to read:

12 (m) A facility for the generation of electricity to be consumed primarily by
13 the military department established under 3 V.S.A. § 212 and 20 V.S.A.
14 § 361(a) or the National Guard as defined in 32 U.S.C. § 101(3), and installed
15 on property of the military department or National Guard located in Vermont,
16 shall be considered a net metering system for purposes of this section if it has a
17 capacity of 2.2 MW (AC) or less and meets the provisions of subdivisions
18 (a)(3)(B) through (E) of this section. Such a facility shall not be subject to and
19 shall not count toward the capacity limits of subdivisions (a)(3)(A) (no more
20 than 250 kW) and (h)(1)(A) (two percent of peak demand) of this section.

1 * * * Existing Farm Methane Plants * * *

2 Sec. 2. FINDINGS

3 The general assembly finds that:

4 (1) Vermont has received and continues to receive significant and
5 unique benefits from the use by electric utilities of agricultural methane
6 electric generation plants, sometimes called “cow power,” to support voluntary
7 renewable energy pricing programs under 30 V.S.A. § 8003.

8 (2) In addition to the production of electric energy through a renewable
9 fuel source, these farm methane projects have served as pioneers and
10 laboratories for the technology of producing electricity through anaerobic
11 digestion of wastes from farm animals and other sources.

12 (3) These existing farm methane projects have hosted studies and pilot
13 projects related to the economics of electric energy production through
14 anaerobic digestion of wastes, the use of lake weeds as digester feedstock, a
15 computerized digester monitoring and control system, and the use of digester
16 effluent to grow algae for use as biofuel, among others.

17 (4) These existing farm methane projects also have generated significant
18 public interest in renewable energy. Three projects in the service area of
19 Central Vermont Public Service Corp. have generated a total of roughly 20,000
20 visitors. In addition, some of these existing farm methane projects have
21 received extensive national and international press coverage.

1 (5) These existing farm methane projects create other benefits to
2 Vermont such as support of its farm economy and working landscape, odor
3 control, and nutrient management to reduce negative impacts on state waters.

4 (6) In part because of the success demonstrated by these projects, in
5 2009, the general assembly enacted amendments to section 30 V.S.A. § 8005
6 to require the public service board to create and implement a “standard offer”
7 program for contracts with new renewable energy plants with a plant capacity
8 of 2.2 MW or less.

9 (7) The 2009 legislation set the default price for an eligible agricultural
10 methane plant at \$0.12 per kilowatt-hour (kWh), which the public service
11 board subsequently increased to \$0.141 per kWh.

12 (8) While these prices are available to new farm methane plants under
13 the standard offer, the existing farm methane projects that helped to pave the
14 way for this initiative are experiencing serious economic losses because the
15 structure of the prices paid to these projects is dependent on the wholesale
16 electric energy market, and the price for power on that market has dropped
17 significantly. The public service board has approved an interim, six-month
18 plan to stem these losses, but a longer term solution is required.

19 Sec. 3. 30 V.S.A. § 8005(b)(2)(F) is added to read:

20 (F) Notwithstanding any other provision of this section, on and after
21 ~~July 1~~ June 8, 2010, a standard offer shall be available for a qualifying existing
22 plant.

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

3 (I) The plant was commissioned on or before September 30,
4 2009.

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

(III) On or before September 30, 2009, the plant owner had a
contract with a Vermont retail electricity provider to supply energy *or*
attributes, including tradeable renewable energy credits from the plant in
connection with a renewable energy pricing program approved under section
8003 of this title.

7 (ii) Plant capacity of a plant accepting a standard offer pursuant to
8 this subdivision (2)(F) shall not be counted toward the 50-MW amount under
9 this subsection (b).

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

1 (iv) The price and term of a standard offer contract under this
2 subdivision (2)(F) shall be the same, as of the date such a contract is executed,
3 as the price and term otherwise in effect under this subsection (b) for a plant
4 that uses methane derived from an agricultural operation. ~~However, the board~~
5 ~~by June 30 7, 2010, may set a different price for a standard offer contract under~~
6 this subdivision (2)(F) if it determines that such a different price will result in
7 an economic benefit to a qualifying existing plant that is equivalent to the
8 benefit otherwise received under this subsection (b) by a standard offer plant
9 that uses methane derived from an agricultural operation. In making such a
10 determination, the board shall consider the qualifying existing plants as one
11 separate category, apply the criteria of subdivisions (2)(B)(i)(I) and (II) of this
12 subsection (b) to the qualifying existing plants, and consider other relevant
13 economic circumstances of those plants, including any existing contract
14 provisions related to tradeable renewable energy credits.

** * * Clarification, Standard Offer Cost Allocation to Utilities * * **

Sec. 4. 30 V.S.A. § 8005(b)(7) is amended to read:

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

(b)(5) (requirement to purchase standard offer power) and (g)(2) (allocation of standard offer electricity and costs) of this section.

1 * * * Permitting of Renewable Energy Projects; Interconnection * * *

2 Sec. ~~4~~5. 30 V.S.A. § 8005(i) is amended to read:

3 (i) With respect to standard offers under this section, the board shall
4 determine whether its existing rules sufficiently address ~~interconnection~~,
5 metering, and the allocation of metering ~~and interconnection~~ costs, and make
6 such rule revisions as needed to implement the standard offer requirements of
7 this section.

8 Sec. ~~5~~6. 30 V.S.A. § 8007 is added to read:

9 § 8007. SMALL RENEWABLE ENERGY PLANTS; SIMPLIFIED

10 PROCEDURES

11 (a) The same application form, rules, and procedures that the board applies
12 to net metering systems of 150 kilowatts (kW) or less under sections 219a and
13 248 of this title shall apply to the review under section 248 of this title of any
14 renewable energy plant with a plant capacity of 150 kW or less and to the
15 interconnection of such a plant with the system of a Vermont retail electricity
16 provider. This requirement includes any waivers of criteria under section 248
17 of this title made pursuant to section 219a of this title.

18 (b) With respect to renewable energy plants that have a plant capacity that
19 is greater than 150 kW and is 2.2 MW or less, the board shall establish by rule
20 or order standards and procedures governing application for, and issuance or
21 revocation of, a certificate of public good for such a plant under the provisions

1 of section 248 of this title, and the interconnection of such a plant with the
2 system of a Vermont retail electricity provider.

3 (1) In developing such rules or orders, the board:

4 (A) Shall waive the requirements of section 248 of this title that are
5 not applicable to such a plant, including, for a plant that is not owned by a
6 Vermont retail electricity provider, criteria that are generally applicable to such
7 a provider.

8 (B) May modify notice and hearing requirements of this title as it
9 deems appropriate.

10 (C) Shall simplify the petition and review process as appropriate.

11 (2) Notwithstanding 1 V.S.A. §§ 213 and 214, a petitioner whose
12 petition under section 248 of this title is pending as of the effective date of a
13 board rule or order under subsection (b) of this section may elect to apply the
14 standards and procedures of such a rule or order to the pending petition if the
15 petition pertains to a renewable energy plant with a plant capacity that is
16 greater than 150 kW and is 2.2 MW or less.

17 Sec. ~~6~~7. RULES; CONFORMANCE; ORDER; INITIAL ADOPTION

18 (a) As of the effective date of this act, 30 V.S.A. § 8007(a) shall supersede
19 any contrary provisions of the rules of the public service board. No later than
20 ~~December 31, 2010~~ *February 15, 2011*, the board shall conform its rules to the
21 requirements of 30 V.S.A. § 8007(a).

1 (b) No later than September 1, 2010, the public service board shall issue an
2 initial order establishing standards and procedures under 30 V.S.A. § 8007(b).
3 Provided that the board meets the September 1 deadline contained in this
4 subsection, the board may combine its consideration of interconnection
5 requirements and procedures under 30 V.S.A. § 8007(b) with consideration of
6 interconnection requirements and procedures applicable to other types of
7 energy plants not described in that subsection.

8 * * * Transfer to Utilities of Standard Offer Contracts * * *

9 Sec. ~~7~~8. 30 V.S.A. § 8005(k) is amended to read:

10 (k) A Vermont retail electricity provider shall not be eligible for a standard
11 offer contract under subdivision (b)(2) of this section. However, under
12 subdivision (g)(1) of this section, a plant owner may transfer to such a provider
13 all rights associated with a standard offer contract that has been offered to the
14 plant without affecting the plant's status under the standard offer program. In
15 the case of such a transfer of rights, the plant shall not be considered a
16 utility-owned and -operated plant under subdivisions (b)(2) and (g)(2) of this
17 section.

1 * * * Extension of Solar Tax Credit, Solar Energy Plants

2 of 2.2 MW or Less * * *

3 Sec. 8. REPEAL

4 Secs. 9b, 9c, 9d, and 16(2) (prospective repeals of the individual and
5 corporate business solar energy tax credits; transition rules) of No. 45 of the
6 Acts of 2009 are repealed.

7 Sec. 9 32 V.S.A. § 5822(d) is amended to read:

8 (d)(1) A taxpayer shall be entitled to a credit against the tax imposed under
9 this section of 24 percent of each of the credits allowed against the taxpayer's
10 federal income tax for the taxable year as follows: elderly and permanently
11 totally disabled credit, investment tax credit attributable to the
12 Vermont-property portion of the investment, and child care and dependent care
13 credits.

14 (2) A taxpayer shall also be entitled to a credit against the tax imposed
15 under this section of 76 percent of the Vermont-property portion of the
16 business solar energy investment tax credit component of the federal
17 investment tax credit allowed against the taxpayer's federal income tax for the
18 taxable year under Section 48 of the Internal Revenue Code; provided,
19 however, that a taxpayer who receives any grants or similar funding from the
20 clean energy development fund created under 10 V.S.A. § 6523 is not eligible
21 to claim the business solar energy tax credit for that project; and provided
22 further, that, for investments made on or after October 1, 2009, the tax credit

1 ~~will only apply to project costs not covered by any grants or similar funding~~
2 ~~from any public or private program that assists in providing capital investment~~
3 ~~for a renewable energy project. The tax credit under this subdivision shall not~~
4 ~~apply to investments made after July 15, 2010, unless the investments meet the~~
5 ~~provisions of either subdivision (A) or (B) of this subdivision.~~

6 ~~(A) The tax credit under this subdivision (2) shall apply to~~
7 ~~investments made after July 15, 2010, if all of the following apply:~~

8 ~~(i) The investments pertain to a solar energy plant that has a plant~~
9 ~~capacity, as defined in 30 V.S.A. § 8002(13), of 2.2 MW or less.~~

10 ~~(ii) On or before July 15, 2010, the solar energy plant owner filed~~
11 ~~a complete petition with the public service board for a certificate of public~~
12 ~~good under 30 V.S.A. § 248.~~

13 ~~(iii) On or before September 1, 2011, construction on the solar~~
14 ~~energy plant is complete and the plant is commissioned or is ready to be~~
15 ~~commissioned within the meaning of 30 V.S.A. § 8002(11).~~

16 ~~(B) The tax credit under this subdivision (2) shall apply to~~
17 ~~investments made after July 15, 2010, if they were made on or before~~
18 ~~December 31, 2010, and pertain to a net metering system as defined in~~
19 ~~30 V.S.A. § 219a(a)(3), provided that the system is of no more than 150~~
20 ~~kilowatts (AC) capacity.~~

1 ~~(3) Any unused business solar energy investment tax credit under this~~
2 section may be carried forward for no more than five years following the first
3 year in which the credit is claimed.

4 Sec. 10. 30 V.S.A. § 5930z(a) is amended to read:

5 (a) A taxpayer of this state shall be eligible for a credit against the tax
6 imposed under section 5832 of this title in an amount equal to 100 percent of
7 the Vermont-property portion of the business solar energy investment tax
8 credit component of the federal investment tax credit allowed against the
9 taxpayer's federal income tax for the taxable year under Section 48 of the
10 Internal Revenue Code; provided, however, that a taxpayer who receives any
11 grants or similar funding from the clean energy development fund created
12 under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax
13 credit for that project; and provided further, that for investments made on or
14 after October 1, 2009, the tax credit will only apply to project costs not
15 covered by any grants or similar funding from any public or private program
16 that assists in providing capital investment for a renewable energy project.

17 The tax credit under this subsection shall not apply to investments made after
18 July 15, 2010, unless the investments meet the provisions of either subdivision
19 (1) or (2) of this subsection.

20 (1) The tax credit under this subsection shall apply to investments made
21 after July 15, 2010, if all of the following apply:

1 (A) The investments pertain to a solar energy plant that has a plant
2 capacity, as defined in 30 V.S.A. § 8002(13), of 2.2 MW or less.

3 (B) On or before July 15, 2010, the solar energy plant owner filed a
4 complete petition with the public service board for a certificate of public good
5 under 30 V.S.A. § 248.

6 (C) On or before September 1, 2011, construction on the solar energy
7 plant is complete and the plant is commissioned or is ready to be
8 commissioned within the meaning of 30 V.S.A. § 8002(11).

9 (2) The tax credit under this subsection shall apply to investments made
10 after July 15, 2010, if they were made on or before December 31, 2010, and
11 pertain to a net metering system as defined in 30 V.S.A. § 219a(a)(3), provided
12 that the system is of no more than 150 kilowatts (AC) capacity.

13 Sec. 11. RENEWABLE ENERGY PROPERTY TAX STUDY COMMITTEE

14 (a) There is created the renewable energy property tax study committee to
15 identify and examine issues regarding the taxation of real property that
16 includes a renewable energy plant.

17 (b) The members of the study committee shall be:

18 (1) The director of property valuation and review, who shall serve as the
19 chair of the committee and shall call the first meeting of the committee on or
20 before August 1, 2010;

21 (3) A representative of the Vermont League of Cities and Towns,
22 appointed by its board of directors;

1 (4) A representative of the Vermont Assessors and Listers Association,
2 appointed by its board of directors;

3 (5) A representative of Renewable Energy Vermont, appointed by its
4 board of directors.

5 (c) No later than January 15, 2011, the committee shall report its findings
6 and analysis to the house committees on ways and means, on commerce and
7 economic development, and on natural resources and energy, and the senate
8 committees on finance, on economic development, housing, and general
9 affairs, and on natural resources and energy. The report shall include specific
10 recommendations with respect to the following:

11 (1) Whether energy plants using different renewable resources should be
12 subject to different rates of tax, and if so, what those rates should be.

13 (2) Whether renewable energy plants that are on leased land should be
14 taxed differently from renewable energy plants that are on land owned by the
15 plant owner.

16 (3) Whether renewable energy plants installed on residential property
17 should be exempt from taxation.

18 (4) Any other criteria that the director and listers should consider when
19 assessing the fair market value of land that includes a renewable energy plant.

20 (d) Members of the committee who are not state employees shall be
21 entitled to compensation as provided under 32 V.S.A. § 1010.

1 ~~(c) For the purpose of this section, the terms “plant” and “renewable~~
2 ~~energy” shall have the same meaning as under 30 V.S.A. § 8002.~~

Sec. ~~8~~9. REPEALS; TRANSITION RULES

(1) Sec. 9c of No. 45 of the Acts of 2009 is amended to read:

Sec. 9c. 32 V.S.A. § 5930z (related to business solar energy investment tax credits for corporations) is repealed for investments made on or after January 1, ~~2011~~ 2012.

(2) Sec. 16(2) of No. 45 of the Acts of 2009 is amended to read:

(2) Sec. 9b (relating to the repeal of the 76-percent portion of the business solar energy tax credit) shall apply to credits related to investments made on or after January 1, ~~2011~~ 2012.

(3) Sec. 9d of No. 45 of the Acts of 2009 (transition rules) is repealed.

Sec. ~~9~~10. 32 V.S.A. § 5822(d) is amended to read:

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer’s federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

(2) A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer’s federal income tax for the taxable year under Section 48 of the Internal Revenue Code; ~~provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided further, that, for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.~~

(3) Any unused business solar energy investment tax credit under this section may be carried forward for no more than five years following the first year in which the credit is claimed.

(4) Solar energy tax credit. The solar energy tax credit provided for in this section shall be taken in accordance with the provisions of § 5930z of this title.

~~Sec. ~~44~~ 11. 32 V.S.A. § 5930z is amended to read:~~

~~§ 5930Z. PASS-THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS SOLAR ENERGY TAX CREDIT~~

~~(a) A taxpayer of this state shall be eligible for ~~a~~ the business solar energy tax credit against the tax imposed under ~~section~~ sections 5822 or 5832 of this title in an amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided further, that for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.~~

~~(b) Any taxpayer who has received a credit under subsection (a) of this section in any prior year shall increase its personal or corporate income tax under this chapter by the amount of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit recapture for the taxable year.~~

~~(c) The clean energy development fund established pursuant to 10 V.S.A. § 6523 shall certify to the department no more than \$9,400,000.00 of eligible solar energy tax credits. Credits shall be certified only if one of the two following criteria is met:~~

~~(1) The investment for which the solar energy tax credit is claimed is made after January 1, 2010, and:~~

~~(A) The investment pertains to a solar energy plant that has a plant capacity, as defined in 30 V.S.A. § 8002(13), of 2.2 MW or less;~~

~~(B) On or before July 15, 2010, the solar energy plant owner filed a complete petition with the public service board for a certificate of public good under 30 V.S.A. § 248;~~

~~(C) On or before September 1, 2011, construction on the solar energy plant is complete and the plant is commissioned or is ready to be commissioned within the meaning of 30 V.S.A. § 8002(11); and~~

~~(D) By July 15, 2010, the taxpayer has provided to the clean energy development fund on a form prescribed by the fund information necessary for the fund to determine the taxpayer's eligibility for the credit; or~~

~~(2)(A) The investment is made after January 1, 2010, and before December 31, 2010, and pertains to a net metering system as defined in 30 V.S.A. § 219a(a)(3), provided that the system is of no more than 150 kilowatts (AC) capacity; and~~

~~(B) By July 15, 2010, the taxpayer has provided to the clean energy development fund on a form prescribed by the fund information necessary for the fund to determine the taxpayer's eligibility for the credit.~~

~~(d) The final award of any solar energy tax credit shall not exceed the amount awarded to the taxpayer under 26 U.S.C. § 48.~~

~~(e) Any unused solar energy tax credit may be carried forward for no more than five succeeding tax years following the first year in which the solar energy tax credit is claimed.~~

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

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

Sec. 11. 32 V.S.A. § 5930z is amended to read:

§ 5930z. ~~PASS THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS~~ SOLAR ENERGY TAX CREDIT

(a) A taxpayer of this state shall be eligible for ~~a~~ the business solar energy tax credit against the tax imposed under section 5822 or 5832 of this title in an amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided further, that for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.

(b) Any taxpayer who has received a credit under subsection (a) of this section in any prior year shall increase its personal or corporate income tax under this chapter by the amount of the Vermont-property portion of the

business solar energy investment tax credit component of the federal investment tax credit recapture for the taxable year.

(c) The clean energy development board (the board) established pursuant to 10 V.S.A. § 6523 shall certify to the department no more than \$9,400,000.00 of eligible solar energy tax credits. The board shall set aside a portion of this amount for the systems described in subdivision (2) of this subsection. Credits shall be certified only if one of the two following criteria is met:

(1) The investment for which the solar energy tax credit is claimed is made after January 1, 2010, and:

(A) The investment pertains to a solar energy plant that has a plant capacity, as defined in 30 V.S.A. § 8002(13), of 2.2 MW or less;

(B) On or before July 15, 2010, the solar energy plant owner filed a complete petition with the public service board for a certificate of public good under 30 V.S.A. § 248;

(C) On or before September 1, 2011, construction on the solar energy plant is complete and the plant is commissioned or is ready to be commissioned within the meaning of 30 V.S.A. § 8002(11); and

(D) By July 15, 2010, the taxpayer has provided to the clean energy development board on a form prescribed by the board information necessary for the fund to determine the taxpayer's eligibility for the credit; or

(2)(A) The investment is made after January 1, 2010, and before December 31, 2010, and pertains to a system that constitutes energy property as defined in 26 U.S.C. § 48(a)(3)(A)(i) and that does not require a certificate of public good under 30 V.S.A. § 248, or pertains to a net metering system as defined in 30 V.S.A. § 219a(a)(3), provided that the system is of no more than 150 kilowatts (AC) capacity; and

(B) By December 15, 2010, the taxpayer has provided to the clean energy development board on a form prescribed by the board information necessary for the fund to determine the taxpayer's eligibility for the credit.

(d) The final amount of any solar energy tax credit certified under this section shall not exceed the amount awarded to the taxpayer under 26 U.S.C. § 48.

(e) Any unused solar energy tax credit may be carried forward for no more than five succeeding tax years following the first year in which the solar energy tax credit is claimed.

(f) On a regular basis, the department shall notify the treasurer and the clean energy development board of solar energy tax credits claimed pursuant to this section, and the board shall cause to be transferred from the clean

energy development fund to the general fund an amount equal to the amount of solar energy tax credits as and when the credits are claimed.

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

~~Sec. 11 12. RENEWABLE ENERGY PROPERTY TAX STUDY COMMITTEE~~

~~(a) There is created the renewable energy property tax study committee to identify and examine issues regarding the taxation of real property that includes a renewable energy plant.~~

~~(b) The members of the study committee shall be:~~

~~(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before August 1, 2010;~~

~~(2) The commissioner of the department of public service or designee;~~

~~(3) A representative of the Vermont League of Cities and Towns, appointed by its board of directors;~~

~~(4) A representative of the Vermont Assessors and Listers Association, appointed by its board of directors;~~

~~(5) A representative of Renewable Energy Vermont, appointed by its board of directors;~~

~~(6) The secretary of the agency of agriculture, food and markets or designee.~~

~~(c) No later than January 15, 2011, the committee shall report its findings and analysis to the house committees on ways and means, on commerce and economic development, and on natural resources and energy, and the senate committees on finance, on economic development, housing, and general affairs, and on natural resources and energy. The report shall include specific recommendations with respect to the following:~~

~~(1) Whether the current method of property taxation of renewable energy plants adequately apportions the tax burden and, if not, whether energy plants using different renewable resources should be subject to different rates of tax and how those rates should be determined.~~

~~(2) Whether renewable energy plants that are on leased land should be taxed differently from renewable energy plants that are on land owned by the plant owner.~~

~~(3) Whether renewable energy plants installed on residential property should be exempt from taxation.~~

~~*(4) If there are adverse impacts on neighboring municipalities that do not directly benefit by virtue of having the renewable energy plant on their grand list, whether those impacts are fairly addressed.*~~

~~*(5) Whether renewable energy plants installed on land enrolled in the use value appraisal program or affixed to exempt farm buildings should be subject to property taxation and, if so, how the rates should be determined.*~~

~~*(6) Any other criteria that the director and listers should consider when assessing the fair market value of land that includes a renewable energy plant.*~~

~~*(d) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010.*~~

~~*(e) For the purpose of this section, the terms “plant” and “renewable energy” shall have the same meaning as under 30 V.S.A. § 8002.*~~

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Sec. 12. [Deleted]

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* * * Definition of Renewable Energy; Hydroelectric * * *

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Sec. ~~12~~ 13. 30 V.S.A. § 8002 is amended to read:

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§ 8002. DEFINITIONS

6

For purposes of this chapter:

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(2) “Renewable energy” means energy produced using a technology that

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relies on a resource that is being consumed at a harvest rate at or below its

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natural regeneration rate.

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(A) For purposes of this subdivision (2), methane gas and other

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flammable gases produced by the decay of sewage treatment plant wastes or

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landfill wastes and anaerobic digestion of agricultural products, byproducts, or

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wastes shall be considered renewable energy resources, but no form of solid

1 waste, other than agricultural or silvicultural waste, shall be considered
2 renewable.

3 (B) For purposes of this subdivision (2), no form of nuclear fuel shall
4 be considered renewable.

5 (C) ~~For purposes of this chapter, the only energy produced by a~~
6 ~~hydroelectric facility to be considered renewable shall be from a hydroelectric~~
7 ~~facility with a generating capacity of 200 megawatts or less. The only portion~~
8 ~~of electricity produced by a system of generating resources that shall be~~
9 ~~considered renewable is that portion generated by a technology that qualifies as~~
10 ~~renewable under this subdivision (2).~~

11 (D) After conducting administrative proceedings, the board may add
12 technologies or technology categories to the definition of “renewable energy,”
13 provided that technologies using the following fuels shall not be considered
14 renewable energy supplies: coal, oil, propane, and natural gas.

15 * * *

** * * Report on Potential Renewable Portfolio Standard, Potential Revision to
SPEED Program * * **

*Sec. 13a. RENEWABLE PORTFOLIO STANDARD; SPEED PROGRAM;
BOARD REPORT*

(a) Findings. The general assembly finds that:

(1) In 2005, Vermont enacted a renewable portfolio standard (RPS).

*(2) The 2005 RPS required that each retail electric utility 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.*

(3) In 2005, the general assembly deferred the effective date of the RPS to allow implementation of the Sustainably Priced Energy Enterprise Development (SPEED) program. The SPEED program was and is designed to promote the development of in-state renewable energy resources.

(4) 30 V.S.A. § 8005(d)(1) provides that the RPS will go into effect only if one of the following SPEED goals is not met:

(A) the amount of qualifying SPEED resources coming into service or having been issued a certificate of public good after January 1, 2005, and before July 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 qualified SPEED resources or would be provided by qualified SPEED resources that have been issued a certificate of public good; or

(B) the amount of qualifying SPEED resources equals or exceeds 10 percent of total statewide electric retail sales for calendar year 2005.

(5) In 2005, the general assembly also adopted a state goal to assure that 20 percent of total statewide electric retail sales before July 1, 2017, shall be generated by SPEED resources. This particular goal is voluntary. It is separate from an RPS. It does not affect whether or not an RPS comes into effect.

(6) Although a purpose of the SPEED program is to encourage in-state renewable energy resources, the SPEED statute allows its 2012 and 2017 goals to be fulfilled by electricity at all facilities owned by or under long-term contract to Vermont utilities, as long as the generating resource came into service after December 31, 2004.

(7) In a February 2010 report to the general assembly, the public service board stated that, based on load growth since 2005 and the activities of the SPEED program, it is likely that the SPEED goal will be met and an RPS will not come into effect. The board stated that:

(A) From January 1, 2005, to December 31, 2008, statewide energy usage decreased by approximately 0.1 percent.

(B) The SPEED goal of providing at least five percent of the January 1, 2005, total statewide electric retail sales from qualified SPEED resources translates into a goal of 287,421 MWh annually.

(C) The total estimated annual output of qualifying SPEED resources that are operating, approved, or pending before the board was 574,141 MWh.

(8) The total estimate annual output of SPEED resources stated in subdivision (5)(C) of this subsection is approximately 10 percent of Vermont's 2008 electric energy demand, which was 5,743,863,352 MWh.

(9) During the five years since Vermont adopted an RPS, other jurisdictions have adopted or amended their own renewable portfolio standards, including:

(A) Connecticut, which in 2007 amended its existing RPS to establish a goal that at least 23 percent of its retail load will be supplied using renewable energy by 2020.

(B) Massachusetts, which in 2008 amended its existing RPS to establish a goal that renewable energy will account for 15 percent of electricity consumption by 2020, increasing by one percent per year thereafter.

(C) New Hampshire, which in 2007 adopted an RPS that requires electricity providers to acquire renewable energy certificates (RECs) equivalent to 23.8 percent of retail electricity sold to customers by 2025.

(10) This act revises the statutory definition of "renewable" to remove a 200-MW limit on the size of hydroelectric facilities that can be considered renewable. The act delays the effective date of this revision so that it does not affect the 2012 SPEED goals described in subdivision (4) of this subsection. However, the revision could affect achievement of the 2017 SPEED goal described in subdivision (5) of this subsection, as well as the achievement of an RPS should one come into effect in Vermont.

(11) The general assembly has already recognized the environmental and economic benefits of encouraging renewable energy in adopting 30 V.S.A. §§ 202a (state energy policy) and 8001 (renewable energy goals). In light of these benefits, the history and structure of the SPEED program, and the adoption and expansion of renewable portfolio standards in other jurisdictions, there should be a reexamination of the potential implementation of an RPS in Vermont and, in lieu of such implementation, the potential revision of the goals and requirements of the SPEED program.

(b) No later than October 1, 2011, the public service board shall file a report concerning the potential development of a renewable portfolio standard (RPS) in Vermont to amend or replace the RPS enacted in 2005 and the potential revision of the goals and requirements of the SPEED program in lieu of such an RPS.

(1) The report shall be filed with the house and senate committees on natural resources and energy, the house committee on commerce and economic development and the senate committee on finance.

(2) The report shall include at least the following:

(A) An evaluation of whether or not Vermont should adopt an RPS to amend or replace the RPS adopted in 2005 or, in lieu of adopting such an RPS, should adopt revised goals and requirements for the SPEED program.

(B) An evaluation of whether the voluntary goals and aspects of the SPEED program should be made mandatory.

(C) An evaluation of the economic and environmental benefits and costs of adopting an RPS at each of the following percentages of Vermont's electricity supply portfolio: 25, 50, 75, and 100 percent. The board shall also perform the same evaluation with respect to the imposition of mandatory SPEED goals at the same portfolio percentages.

(D) An evaluation of the effect on the development of in-state renewable energy resources that may occur if an RPS is adopted and, under such an RPS, out-of-state resources with capacities in excess of 200 MW are considered renewable. The board shall also perform the same evaluation with respect to the imposition of mandatory SPEED goals. Such evaluations shall take into account each of the percentages discussed under subdivision (2)(C) of this subsection.

(E) Analysis of RPS statutes and rules that have been adopted in other jurisdictions and their strengths and weaknesses, and a discussion of how a Vermont RPS and, in lieu of an RPS, revised SPEED goals and requirements might integrate with such statutes and rules.

(F) Consideration of whether or not Vermont should adopt a definition of renewable resources that includes tiers or classes and a recommended proposal for such a definition.

(G) Consideration of the manner in which Vermont would require third party certification that an energy resource is renewable.

(H) Consideration of the manner in which Vermont would require third party certification that a renewable resource has low environmental impact.

(I) Consideration of the extent to which a Vermont RPS and, in lieu of such an RPS, revised SPEED goals and requirements would include the purchase of electric energy efficiency resources and the appropriate means of verification that the associated energy savings are achieved.

(J) Consideration of whether 30 V.S.A. § 8005(d)(3) (resources that count toward SPEED goals) should be revised with respect to the description of those SPEED resources that will count toward the 2017 SPEED goal described in subdivision (a)(5) of this section.

(K)(i) Proposals for each of the following:

(I) An RPS to be considered for adoption in Vermont.

(II) In lieu of such an RPS, revised goals and requirements for the SPEED program to be considered for adoption in Vermont.

(ii) Each of these proposals shall include a summary of the proposal, a discussion of each major component, the reasons for the proposal, and draft statutory language for the proposal.

(3) The report may address any other issues that the board determines to be relevant to the adoption in Vermont of an RPS and revised goals and requirements for the SPEED program.

(4) Prior to drafting and submitting the report, the board shall consult with interested and affected persons and entities such as the department of public service, other state agencies, utilities, environmental advocates, consumer advocates, and business organizations.

(c) In performing its duties under this section, the board shall have authority to retain expert witnesses, counsel, advisors, and stenographic and other research assistance it may require. The board may compensate the same and allocate related costs, as well as the costs of performing or procuring studies, to retail electricity providers in the same manner authorized for personnel in particular proceedings under 30 V.S.A. §§ 20 and 21.

* * * Environmental Attributes; Utility Revenues * * *

Sec. 13b. 30 V.S.A. § 8008 is added to read:

§ 8008. AGREEMENTS; ATTRIBUTE REVENUES; DISPOSITION BY BOARD

(a) For the purpose of this section, “the revenues” means revenues that are from the sale, through tradeable renewable energy certificates or other means, of environmental attributes associated with the generation of renewable energy from a system of generation resources with a total plant capacity greater than 200 MW and that are received by a Vermont retail electricity provider on and after May 1, 2012, pursuant to an agreement, contract, memorandum of understanding, or other transaction in which a person or entity agrees to transfer such revenues or rights associated with such attributes to the provider.

(b) After notice and opportunity for hearing, the board shall determine the disposition, allocation, and use of the revenues in a manner that promotes state energy policy as stated in section 202a of this title and the goals of this chapter and supports achievement of the greenhouse gas reduction and building efficiency goals contained in 10 V.S.A. §§ 578(a) and 581.

(1) The board shall provide notice of the proceeding to each Vermont retail electricity provider, the department of public service, the clean energy development board under 10 V.S.A. § 6523, each fuel efficiency service provider appointed under subsection 203a(b) of this title, each energy efficiency entity appointed under subdivision 209(d)(2) of this title, the institute for energy and the environment at the Vermont Law School, the transportation

1 Not later than June 1, 2007, the commissioner shall adopt rules in
2 accordance with the provisions of ~~3-V.S.A.~~ chapter 25 of Title 3 establishing
3 minimum efficiency standards for the types of new products set forth in section
4 2794 of this title. The rules shall provide for the following minimum
5 efficiency standards for products sold or installed in this state:

6 (1) Medium voltage dry-type distribution transformers shall at a
7 minimum meet ~~minimum~~ the efficiency levels ~~three-tenths of a percentage~~
8 ~~point higher than the Class 1 efficiency levels for medium voltage distribution~~
9 ~~transformers specified in Table 4-2 of the "Guide for Determining Energy~~
10 ~~Efficiency for Distribution Transformers" published by the National Electrical~~
11 ~~Manufacturers Association (NEMA Standard TP-1-2002)~~ requirements set
12 forth for such transformers in 10 C.F.R. § 431.196, as those requirements may
13 be amended from time to time.

14 * * *

15 * * * Stormwater Permitting; Wind Energy Plants * * *

16 Sec. ~~14~~ 15. Sec. 43 of No. 54 of the Acts of 2009 is amended to read:

17 Sec. 43. ALTERNATIVE GUIDANCE FOR STORMWATER
18 PERMITTING; WIND FACILITIES

19 To facilitate responsible development of renewable energy projects in
20 high-elevation settings, the Vermont department of environmental
21 conservation shall consult with project developers and interested stakeholders
22 and, ~~by January 15, 2010 or in the process currently under way to update the~~

1 ~~Vermont stormwater management manual, whichever occurs first, amend its~~
2 ~~rules or the stormwater management manual, pursuant to chapter 25 of Title 3,~~
3 ~~to no later than February 1, 2011, finally adopt and put into effect amended~~
4 ~~rules and revisions to the Vermont stormwater management manual that~~
5 include alternative ~~guidance~~ requirements for operational-phase stormwater
6 permitting of renewable energy projects located in high-elevation settings.
7 Such alternative ~~guidance~~ requirements shall include ~~consideration of~~
8 measures that minimize the extent and footprint of stormwater-treatment
9 practices so as to preserve vegetation and trees and limit disturbances; that
10 ~~reflect~~ reduce the impact of such practices on the fragile ecosystems, shallow
11 soils, and sensitive streams found in high-elevation settings; and that reflect the
12 temporary nature and infrequent use of construction and access roads to such
13 projects.

14 * * * Consolidation of Environmental and Municipal Appeals for
15 Renewable Energy Plants with Public Service Board Review * * *

16 Sec. ~~15~~ 16. 10 V.S.A. § 8501 is amended to read:

17 § 8501. PURPOSE

18 It is the purpose of this chapter to:

19 (1) Consolidate existing appeal routes for municipal zoning and
20 subdivision decisions and acts or decisions of the secretary of natural
21 resources, district environmental coordinators, and district commissions,

1 excluding enforcement actions brought pursuant to chapters 201 and 211 of
2 this title and the adoption of rules under ~~3 V.S.A.~~ chapter 25 of Title 3.

3 (2) Standardize the appeal periods, the parties who may appeal these
4 acts or decisions, and the ability to stay any act or decision upon appeal, taking
5 into account the nature of the different programs affected.

6 (3) Encourage people to get involved in the Act 250 permitting process
7 at the initial stages of review by a district commission by requiring
8 participation as a prerequisite for an appeal of a district commission decision to
9 the environmental court.

10 (4) Assure that clear appeal routes exist for acts and decisions of the
11 secretary of natural resources.

12 (5) Consolidate appeals of decisions related to renewable energy
13 generation plants with review by the public service board under 30 V.S.A.
14 § 248.

15 Sec. ~~16~~ 17. 10 V.S.A. § 8504 is amended to read:

16 § 8504. APPEALS TO THE ENVIRONMENTAL COURT

17 (a) Act 250 and agency appeals. Within 30 days of the date of the act or
18 decision, any person aggrieved by an act or decision of the secretary, a district
19 coordinator, or a district commission under the provisions of law listed in
20 section 8503 of this title, or any party by right, may appeal to the
21 environmental court, except for an act or decision of the secretary governed by
22 section 8506 of this title.

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Sec. ~~17~~ 18. 10 V.S.A. § 8506 is added to read:

§ 8506. RENEWABLE ENERGY PLANT; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the public service board if the act or decision concerns a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248. *This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title.*

(b) For the purpose of this section, “board,” “plant,” and “renewable energy” have the same meaning as under 30 V.S.A. § 8002.

(c) The provisions of subdivisions 8504(c)(2) (notice of appeal) and (f)(1)(A) (automatic stays of certain permits), (j) (appeals to discharge under a general permit), and (n) (intervention) of this title shall apply to appeals under this section.

(d) The public service board may consolidate or coordinate appeals under this section with each other and with proceedings under 30 V.S.A. § 248, where those appeals and proceedings all relate to the same project, unless such consolidation or coordination would be clearly unreasonable. This authority to

1 consolidate or coordinate appeals and proceedings shall not confer authority to
2 alter the substantive standards at issue in an appeal or proceeding.

(e) In an appeal under this section, the public service board, applying the
substantive standards that were applicable before the secretary, shall hold a de
novo hearing on those issues which have been appealed. *In such an appeal, the*
board shall give the same weight and consideration to prior decisions of the
environmental court and of the entities described in section 8504(m)
(precedent) of this title as the board gives to its prior decisions.

3 (f) 30 V.S.A. §§ 9 (court of record), 10 (service of process), 11 (pleadings;
4 rules of practice; findings of fact), and 12 (review by supreme court) shall
5 apply to appeals under this section.

6 ~~Sec. 18 30 V.S.A. § 223 is amended to read:~~

7 ~~§ 223. APPEAL FROM grieved by an order or decision of the municipal~~
8 ~~authorities made under the provisions of any statute, relative to the granting of~~
9 ~~a license or permit for location or to activity associated with a renewable~~
10 ~~energy plant for which a certificate of public good is required under section~~
11 ~~248 of this title, may appeal therefrom to the public service board at any time~~
12 ~~within 30 days from the date of such order or decision. The right of appeal~~
13 ~~established under this section shall be exclusive for orders or decisions to~~
14 ~~which it applies. Included in the right of appeal established under this section~~
15 ~~is an act or decision of a municipal authority under 19 V.S.A. § 1111~~
16 ~~(permitted use of the right-of-way), 23 V.S.A. § 1400a (local highway and~~

1 ~~bridge overweight permits), and ordinances and rules adopted under chapter 59~~
2 ~~of Title 24, if the act or decision pertains to a renewable energy plant for which~~
3 ~~a certificate of public good is required under section 248 of this title. In an~~
4 ~~appeal under this section, the board shall hold a de novo hearing, applying the~~
5 ~~substantive standards that were applicable before the municipal authority from~~
6 ~~which the appeal is taken. After notice and public hearing of all parties~~
7 ~~interested, as provided in section 208 of this title, the decision of the board~~
8 ~~thereon shall be final, subject to a right to transfer such cause to the supreme~~
9 ~~court as provided by section 12 of this title. In the case of a renewable energy~~
10 ~~plant for which a certificate of public good is required under section 248 of this~~
11 ~~title, the board may consolidate or coordinate appeals under this section with~~
12 ~~each other and with proceedings under section 248, where those appeals and~~
13 ~~proceedings all relate to the same project, unless such consolidation or~~
14 ~~coordination would be clearly unreasonable. This authority to consolidate or~~
15 ~~coordinate appeals and proceedings shall not confer authority to alter the~~
16 ~~substantive standards at issue in an appeal or proceeding. For the purpose of~~
17 ~~this section, "plant" and "renewable energy" have the same meaning as under~~
18 ~~section 8002 of this title.~~

** * * Natural Gas Vehicles * * **

Sec. 18a. 10 V.S.A. § 6523 is amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

** * **

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable

electric power and thermal energy or geothermal resources, and emerging energy-efficient technologies, for the long-term benefit of Vermont consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The fund also may be used to support natural gas vehicles in accordance with subdivision (d)(1)(K) of this section. The general assembly expects and intends that the public service board, public service department, and the state's power and efficiency utilities will actively implement the authority granted in Title 30 to acquire all reasonably available cost-effective energy efficiency resources for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

(1) Projects for funding may include, and in the case of subdivision (1)(E)(ii) of this subsection shall include continuous funding for as long as funds are available, the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) small scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the small-scale renewable energy incentive program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program; and

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than commercially available vehicles using

other fossil fuel, and any such infrastructure will deliver gas without interruption of flow.

* * *

* * * Residential Building Energy Standards * * *

Sec. 18b. 21 V.S.A. § 266 is amended to read:

§ 266. RESIDENTIAL BUILDING ENERGY STANDARDS

(a) Definitions. For purposes of this subchapter, the following definitions apply:

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

(2) “Residential buildings” means one family dwellings, two family dwellings, and multi-family housing three stories or less in height. “Residential buildings” shall not include hunting camps.

(3) “Residential construction” means new construction of residential buildings, and the construction of residential additions ~~that create 500 square feet of new floor space, or more. Before July 1, 1998, this definition shall only apply to residential construction that is subject to the jurisdiction of 10 V.S.A. chapter 151. Effective July 1, 1998, this definition shall apply to residential construction, regardless of whether or not it is subject to the jurisdiction of 10 V.S.A. chapter 151, alterations, renovations, or repairs to an existing residential building.~~

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

(b) Adoption of Residential Building Energy Standards (RBES). Residential construction ~~commencing on or after July 1, 1997 shall be in compliance with the standards contained in the 1995 edition of the “Model Energy Code” (MEC) prepared by the Council of American Building Officials, as those standards have been amended by the general assembly in the act that initially adopts the Model Energy Code~~ adopted by the commissioner of public service in accordance with subsection (c) of this section.

(c) Revision and interpretation of energy standards. The commissioner of public service shall amend and update the RBES, by means of administrative rules adopted in accordance with ~~3 V.S.A. chapter 25 of Title 3.~~ No later than January 1, 2011, the commissioner shall complete rulemaking to amend the energy standards to ensure that, to comply with the standards, residential construction must be designed and constructed in a manner that complies with the 2009 edition of the IECC. These amendments shall be effective on final adoption. After January 1, 2011, the commissioner shall ensure that

appropriate revisions are made promptly after the issuance of updated standards for residential construction under the IECC. The department of public service shall provide technical assistance and expert advice to the commissioner in the interpretation of the RBES and in the formulation of specific proposals for amending the RBES. Prior to final adoption of each required revision of the RBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders, builders, building designers, utility representatives, and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner with additional recommendations for revision of the RBES.

* * *

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

* * *

*Sec. 18c. FEDERAL RESIDENTIAL RETROFIT ENERGY LEGISLATION;
ROLE OF EFFICIENCY UTILITY*

The 111th Congress of the United States currently is considering H.R. 5019, the Home Energy Retrofit Act of 2010. With respect to any federal legislation pertaining to residential energy retrofits that is enacted during the 111th Congress, the governor, the public service board, the department of public service, any state agency that is authorized or eligible for authorization by the federal government to receive benefits or funding under such legislation, and any entity that is appointed pursuant to 30 V.S.A. § 209 promptly shall take those actions necessary to obtain the greatest possible benefit for the state from such legislation. To deliver services in the state pursuant to any such legislation, including implementation of quality assurance programs and coordination of financial service delivery, Vermont shall use the entities that are appointed under 30 V.S.A. § 209 and that deliver energy efficiency services to electric, heating, or process-fuel customers, to the extent such use is not prohibited by such federal legislation.

Sec. 18d. 26 V.S.A. § 910(7) is added to read:

(7) Installation of solar electric modules and racking on complex structures to the point of connection to field-fabricated wiring and erection of net metered wind turbines.

1 Sec. 19. EFFECTIVE DATE

2 This act shall take effect on passage, except that ~~Sec. 12~~ Sec. 13 shall take
3 effect on July 1, 2012.