No. 54. The Vermont Recovery and Reinvestment Act of 2009.

(H.313)

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

Sec. 1. FINDINGS

The general assembly finds that:

(1) Vermont has lost nearly 15,000 jobs since the cyclical peak in November of 2007, reaching an unemployment rate of 7.2 percent as of April 2009. Broader measures of underemployment, which include workers forced from full time to part time work and marginally attached workers, now exceed nine percent in Vermont. Revised macro-economic projections anticipate that the Vermont rate of unemployment will reach nine percent for the first time in more than 30 years.

(2) Initial claims for unemployment insurance have continued to rise, spiking in Vermont in recent months at record levels, with the weekly average of claims in January of 2009 reaching approximately 1,550.

(3) At the national level, the unemployment rate has reached 8.5 percent and consumer spending, which accounts for more than two-thirds of all economic activity, has experienced its steepest reversal since the Great Depression, with inflation-adjusted spending dropping by more than 10 percent in four of the last five months. Consumption taxes in Vermont are expected to recede accordingly, with sales and use revenues expected to be down five

percent in fiscal year 2009 and meals and rooms receipts down three percent, with further declines expected in fiscal year 2010, which would comprise the first ever consecutive annual declines for these important revenue sources.

(4) Residential construction in Vermont has come to a virtual halt in Vermont, declining by nearly 70 percent. With weakness in Vermont second home markets mounting in the face of regional job losses, housing price declines are likely in the next four-to-seven quarters, with very low property price appreciation for an extended period of at least four-to-five years. This stagnation in property prices will ultimately have a significant impact on grand list growth and the tax base for the largest component of the education fund.

(5) Federal tax changes resulting from the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, while stimulating to the national economy, will result in reduced state tax revenues in approximately $9.1 million in fiscal year 2010.

(6) Despite the many difficulties in the national and Vermont economies at this time, there are several factors leaning against the prevailing winds that offer hope for an emergent recovery. For one, United States and global fiscal and monetary policies are as stimulative as they have ever been, with even additional capacity and willingness if further measures are required to right the economy.

(7) For the first time in 55 years, the Consumer Price Index is expected to post an annual decline in 2009, while inflation and related energy prices have been subdued, lowering consumer gas and heating bills, providing additional disposable income.

(8) Business inventories have been dramatically reduced, setting the stage for rapid gains in output and hiring, once demand resumes.

(9) With the passage of ARRA, Vermont is positioned to receive nearly one billion dollars in resources, which will be allocated to state and local government, to Vermont businesses, and to individuals. In addition, federal tax cuts will result in approximately $500 million in savings to Vermont businesses and individuals.

(10) Although state government is limited in its ability in the near-term to initiate new programs and expenditures due to revenue constraints, it can provide targeted support to programs best suited to capitalize on state and federal funding to leverage growth. The state can also improve existing programs, permitting processes, funding mechanisms, and other areas that affect economic development, in order to provide a more efficient and effective role for government to aid Vermont's businesses and individuals and lead the state in its economic recovery.

(11) In the long-term, once the current economic crisis inevitably subsides, Vermont will be prepared to move forward with a focused economic

development strategy based on four principal, interrelated goals generated by the commission on the future of economic development:

(A) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(B) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(C) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(D) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(12) The four principal goals emerged from two and one-half years of the commission's study of Vermont's economy and the public policies that advance and impede economic development. The goals are interdependent and interconnected, and they must all be addressed if Vermont is to reach its economic development promise.

(13) The implementation of the goals is the joint task of the legislature, the administration, our local, regional, and state agencies, our

nongovernmental organizations, and our citizens. State economists have concluded that the goals cannot be adequately evaluated with a small set of simplistic benchmarks, but rather, must be evaluated through a wide range of indicators using statistical benchmarks accompanied by a narrative that is a contextual interpretation of the data by professionals. Ultimately, consistent monitoring of credible benchmarks will provide information on both the efficacy and cost-effectiveness of our public policies and strategies so that necessary adjustments can be made to continually improve Vermont's economic prosperity.

(14) Despite its small scale and accessible government, Vermont lacks a shared statewide vision of its economic future. Economic vitality in Vermont is hampered by the lack of coordination among and between state agencies, between regional economic development corporations and regional planning commissions, and between these regional entities and state agencies. As a result of these disconnects, Vermont lacks a single, holistic, integrated state plan for economic development. Additionally, coordinated regional input is imperative for an effective, nimble, and integrated statewide economic development plan. Strong regional development organizations and regional planning commissions are critical partners and resources. Our citizens and business and civic leaders consistently recognize Vermont's small scale and

easy access to our government as a potential strength, but observe that we have often failed to take advantage of the opportunities that our smallness offers us.

(15) Vermonters are struggling to secure basic needs such as health care, child care, affordable housing, and quality education. These basic needs are prerequisites to, rather than the product of, economic development. Employers recognize that the health and well-being of our workforce are critical to business success. Worker recruitment, retention, and productivity depend on worker quality of life as measured by wages, health care, child care, housing, connected communities, and a healthy environment.

(16) In addition to providing for these basic needs, an essential role of government is investing in our digital, physical, and human infrastructure as the foundation for all successful economic development. Funding, building, and maintaining our state's infrastructure is one of the highest priorities for the investment of state resources.

(17) The lack of adequate and reliable broadband and cellular infrastructure and access across the state not only impedes the growth of existing and new business in Vermont, but may induce existing businesses to relocate to other states that have better access to broadband and cellular service. Digital infrastructure benefits include government cost savings, increased productivity, and improved quality of life for Vermonters.

(18) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(19) The Vermont telecommunications authority has made significant progress toward, and should continue going forward as the primary vehicle for, achieving the goal of realizing universal availability of adequate mobile telecommunications and broadband services, with a focus on unserved and underserved areas in the state.

(20) Vermonters' ingenuity, work ethic, and entrepreneurship have long been viewed as competitive assets. Our rapidly evolving economy requires a collaborative partnership of business people, educators, representatives from nongovernmental organizations, and government leaders to provide a skilled workforce to traditional and emerging Vermont businesses, and to enhance career opportunities to all Vermonters.

(21) The strength of our state economy is dependent upon a diversity of business sectors. Despite difficult economic conditions, the state should exercise leadership and creativity in continuing its support of traditional economic drivers such as tourism, agriculture, forestry, construction, and manufacturing, among others.

(22) Tourism has a stabilizing effect on Vermont's economy by insulating the state's residents from the inevitable ups and downs of national and global business cycles, while providing individuals and their families with a diverse set of earning possibilities and challenging occupations that fit into their lifestyle and family situation. Vermont should continue to support this critical component of its economy.

(23) State government should lead by example in supporting local- and state-based economic strategies that are not protectionist, but rather, build on the proud Vermont tradition of self-reliance. Initiatives such as Local First, the department of agriculture, food and markets' Buy Local program, and state and local government procurement policies for food, goods, and services that give priority to Vermont businesses when possible, each enhance the Vermont economy through the demonstrated multiplier effects of buying local.

(24) Vermont is home to a vibrant manufacturing sector, which consists of many businesses producing specialized and innovative products. Nationwide, manufacturing accounts for the majority of product and service innovation, and businesses whose competitive advantage flows from innovative and unique products and services, rather than low-cost or high volume, enjoy significantly increased profitability and generate more job opportunities and tax revenue. State government's role should be to support

this dynamic manufacturing base, and to provide the necessary training, education, and resources to cultivate a culture of innovation.

(25) In addition to traditional economic drivers, there are new, unique, and innovative Vermont businesses that are successfully competing in the global marketplace that need to be nurtured. There is broad consensus that Vermont can further leverage its brand, including its green reputation, into economic gain. Our entrepreneurial people, healthy environment, and connected communities – our quality of life – are genuine economic assets.

(26) Vermont's reputation for environmental stewardship can be turned to our advantage. Vermont businesses, government, and environmental organizations must be partners and leaders in supporting and creating a green economic sector and the use of green business practices throughout our diverse economy.

(27) Microenterprise also plays an important role in our state's economy and within the working lives of low to moderate income families. Microenterprises develop new industries, increase community assets, are important providers of goods and services in local communities, find unique solutions to local problems, and keep profits circulating locally. Microenterprise provides economic opportunity for low income households and is a proven wealth creation strategy for struggling communities.

(28) Microenterprises often require access to training, services, financing, and support that are different from what small businesses require in order to grow and prosper. Microenterprise financing options and business training and technical assistance are equally important and work together to support microenterprise development.

(29) The legislature, administration, and myriad economic and community partners must now work together with unerring discipline to focus policies, regulations, programs, and incentives on the critical interconnection between Vermont's assets, our collective values, our capabilities, and the opportunities which will increase state revenues and the prosperity of all Vermonters.

Sec. 2. PURPOSE; POLICY STATEMENTS FOR FEDERAL STIMULUS COLLABORATION AND FUTURE UTILIZATION OF ECONOMIC DEVELOPMENT RESOURCES

(a) The purpose of this act is to promote the economic development of the state and the prosperity of its businesses and citizens. In the near-term, this act is intended to address the immediate economic crisis facing Vermont. The purposes of this act include the following:

(1) To preserve and create jobs and promote economic recovery.

(2) To assist those most impacted by the recession.

(3) To provide opportunities for investments needed to increase economic efficiency, entrepreneurship, and business growth in traditional and emerging sectors.

(4) To provide oversight and guidance for the expenditure of ARRA funds to ensure that the benefits of the federal stimulus extend to the broadest geographic and demographic range of Vermont businesses and individuals.

(b) The American Reinvestment and Recovery Act of 2009 ("ARRA") provides economic development resources that are available to the state, its subdivisions, and the private sector. In order to realize the full potential of these funds, and in order to most effectively increase the opportunities for Vermonters to benefit from the ARRA, the director of Vermont's office of economic stimulus and recovery ("VOESR") shall, to the extent possible: coordinate efforts to obtain funds under the ARRA; oversee the use of those funds received by or through the state; and collect information on the use of funds awarded to Vermont recipients.

(c) State agencies that are recipients of ARRA formula fund allocations and applicants for ARRA competitive grants shall collaborate to the extent possible to present unified proposals for funding. The VOESR shall provide support to applicants and recipients of ARRA funds to develop unified proposals, and priority shall be given to those programs that achieve multiple economic development goals simultaneously and demonstrate broad geographic benefits.

Where applicable, potential beneficiaries shall use best efforts to structure programs so as to maximize eligibility for ARRA funds, and the VOESR shall give priority to those programs that are structured to maximize ARRA eligibility.

(d) The ARRA offers competitive grants to stimulate economic development in the areas of agriculture and rural development, broadband and telecommunications, energy efficiency and renewable energy, employment and training, educational technical assistance, redevelopment of abandoned and foreclosed homes, homelessness prevention and housing, and energy-saving and green retrofit investments in elderly, low income, and disability housing. In order to help Vermonters secure competitive grant funding, the VOESR, in coordination with the appropriate agencies of the state, shall be responsible for identifying competitive grant programs relating to the department's or agency's jurisdiction. Each agency shall provide technical and logistical information and support to the VOESR as necessary, and shall connect grant applicants with grant-writing and additional resources and services available from both the VOESR and related public and private resources as appropriate.

(e) In the long term, this act seeks to build a foundation for economic development through targeted investments, modifications, and improved efficiencies in economic development initiatives, environmental and energy permitting, and other state investment and regulatory programs that will

provide long-term economic benefits. It is the intent of the general assembly to ultimately channel these economic development efforts through the principal goals and benchmarks identified by the commission on the future of economic development, using both new and existing resources from the state and federal levels to increase prosperity for all Vermonters.

Sec. 3. ARRA FUNDS; ECONOMIC SECURITY FOR WOMEN

(a) While all Vermonters are suffering from the current economic downturn, research indicates that women and female-headed households are likely to bear a disproportionate share of the hardship. As a result of longstanding discrimination and economic disadvantage, they often have fewer personal assets to sustain them through periods of unemployment, and they tend to feel cutbacks in traditional, public safety-net programs more acutely than men do, particularly in times of economic crisis. The general assembly, therefore, encourages that the recession's disparate impact on women and children be taken into consideration in the awarding of federal funds under the ARRA to the extent allowable by law.

(b) The VOESR shall report the number of jobs created and retained by industry as required by federal law for the purpose of determining the number of jobs that are likely to benefit women.

* * * Commission on the Future of Economic Development * * *

Sec. 4. 10 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ~~VERMONT DEVELOPMENT BOARD~~ THE FUTURE OF ECONOMIC DEVELOPMENT

* * *

§ 3. ECONOMIC DEVELOPMENT; LONG-TERM GOALS; REVIEW AND ASSESSMENT

(a) For purposes of the Vermont Statutes Annotated and state economic development programs and assistance, "economic development" means the process of generating economic wealth and vitality, security, and opportunity for all Vermonters.

(b) There are established the following four principal, interrelated goals for future economic development in Vermont:

(1) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(2) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(3) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(4) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(c) The four principal goals shall be used to guide the design and implementation of each economic development program, policy, or initiative that is sponsored or financially supported by the state, its subdivisions, agencies, authorities, or private partners.

(d)(1) The commission on the future of economic development, or a working group thereof designated by the general assembly, shall work with the state economists and the joint fiscal office to adopt benchmarks for the four principal goals.

(2) The commission or workgroup thereof shall on or before January 15, 2010 report to the house committee on commerce and economic development, the senate committee on finance, and the senate committee on economic development, housing and general affairs concerning its review of the goals, benchmarks, and agency progress pursuant to this subsection.

(3) On or before January 15, 2010, the commission shall recommend to the senate committee on economic development, housing and general affairs,

the senate committee on finance, the house committee on commerce and economic development, the house committee on ways and means, and the governor on whether it would promote the best interests of Vermont for the commission to continue its review of the goals and benchmarks, or if a successor to that responsibility should be designated. Notwithstanding any recommendation, the commission shall continue to perform the review unless and until a successor is designated by legislation approved by the legislature and the governor.

Sec. 5. Commission on the Future of Economic Development WORKGROUP

(a) Pursuant to 10 V.S.A. § 3(d), for FY 2010, the chair of CFED shall convene and chair a workgroup composed of the current CFED chair, the commissioner of economic development, the current legislative members, and such other current members of CFED that the chair shall appoint at his or her discretion.

(b) The workgroup shall receive reasonable administrative, fiscal, and legal support from the joint fiscal office and the legislative council.

(c) Legislative members of the committee shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 2 V.S.A. § 406; other members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 32 V.S.A. § 1010.

(d) The FY 2010 workgroup shall:

(1) Collaborate with the state economists to finalize the statistical benchmarking system proposed in FY 2009.

(2) Establish baseline values for each benchmark and subsequently perform an economic development analysis against the baseline values at a suitable interval.

(3) Determine the best model for an entity responsible for developing and overseeing economic planning in Vermont. The entity's responsibilities would include: establishing a statewide, comprehensive economic development plan; making policy recommendations to the general assembly and governor; analyzing existing programs and policies in terms of the benchmarks and the four principal goals established by CFED; amending and updating the plan, benchmarks, and goals as necessary; and reporting annually to the general assembly and governor on the status of economic development in Vermont.

(4) Study models of economic development used in other states, such as the private-public-nonprofit coordinating board used in Arizona (Arizona Economic Resource Organization) and the North Carolina economic development board.

(5) Propose ways of improving the value and usefulness of the unified economic development budget required under 10 V.S.A. § 2.

(e) The workgroup shall report its findings and recommendations to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor not later than January 15, 2010.

(f) This shall supersede any conflicting provision adopted by act of the general assembly in the 2009 legislative session.

* * * Workforce Development * * *

Sec. 6. FINDINGS AND ARRA WORKFORCE DEVELOPMENT PRIORITIES

(a) The general assembly recognizes numerous hurdles that inhibit workforce opportunities for working families in need of adequate child care, for low income persons, for the disabled, and for the elderly. The department of labor, and other agencies where applicable, shall use ARRA funds allocated to workforce development, including funds for child care services, to expand employment opportunities to the unemployed, to dislocated workers, to working families, and to low income, disabled, and elderly Vermonters.

(b) The general assembly recognizes the opportunities available to the next generation of Vermonters to secure well-paying and secure jobs in emerging sectors such as energy efficiency and health care, including health care information technology. The department of education, the department of labor, and other agencies where applicable, shall use ARRA funds allocated to

education and workforce development to promote education and job opportunities in these emerging sectors.

(c) Current economic conditions may present an opportunity for unemployed or dislocated workers to innovate and develop new businesses or products. Where appropriate, the departments of labor and of education should use ARRA funds for training and education to aid unemployed or dislocated workers in pursuing product innovations and new business pursuits.

(d) Prior to expending ARRA funds for workforce development or for expenditures that will require additional workforce capacity, the government authority seeking funding shall collaborate with the department of labor to determine that the workforce capacity currently exists, or alternatively, how much capacity will be necessary to implement a program or project. To the extent allowable under the ARRA, the relevant agency shall prioritize expenditures first for training that is necessary to maintain current employment, second for hiring or training unemployed and dislocated workers, and third for promoting new hiring. Priority for workforce training funds shall be given to programs or training that will result in increased worker remuneration or job promotion to the extent allowable.

(e) When pursuing competitive grant funds for workforce development under Title VIII of the ARRA, the VOESR shall coordinate with appropriate government agencies, nonprofit organizations, private businesses, and

individuals to secure the maximum amount of resources available to promote workforce development and opportunity for Vermonters.

Sec. 7. Sec. 7(a)(3) of No. 46 of the Acts of 2007 (career and alternative workforce education) is amended to read:

(3) Career And Alternative Workforce Education. The amount of $900,000 is appropriated to the department of labor. Of this appropriation, $450,000 is from the fiscal year 2007 monies transferred to the next generation initiative fund, and $450,000 is from the fiscal year 2008 monies transferred to the next generation initiative fund. This appropriation shall be to support out-of-school youth, youth at risk, and youth at risk of remaining unemployed with outcomes that lead to employment or continued education ~~as follows:~~

~~(A) Forty-five percent (45%)~~. At least 25 percent of this appropriation shall be for grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades 7 through 12~~.~~, and at least 25 percent

~~(B) Fifty-five percent (55%)~~ shall be for grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and non-profit organizations, designated by the workforce development council, for alternative and intensive vocational/academic programs for secondary students in order to earn necessary credits toward graduation.

Sec. 8. Sec. 6 of No. 46 of the Acts of 2007 is amended to read:

Sec. 6. WORKFORCE DEVELOPMENT LEADER~~; LEADERSHIP COMMITTEE; CREATED~~

(a) The commissioner of labor shall be the leader of workforce development strategy and accountability. The commissioner of labor shall consult with ~~and chair a subcommittee of the workforce development council consisting of the secretary of human services, the commissioner of economic development, the commissioner of education, four business members appointed by the governor, and a higher education member appointed by the governor. Membership on the subcommittee shall be coincident with the members' terms on the workforce development council~~ the workforce development council executive committee in developing the strategy, goals, and accountability measures. The workforce development council shall provide administrative support. The ~~subcommittee~~ executive committee shall assist the leader. The duties of the leader include all the following:

(1) developing a limited number of overarching goals and challenging measurable criteria for the workforce development system that supports the creation of good jobs to build and retain a strong, appropriate, and sustainable economic environment in Vermont;

(2) reviewing reports submitted by each entity that receives funding from the Next Generation fund. The reports shall be submitted on a schedule

determined by the executive committee and shall include all the following information:

(A) a description of the mission and programs relating to preparing individuals for employment and meeting the needs of employers for skilled workers;

(B) the measurable accomplishments that have contributed to achieving the overarching goals;

(C) identification of any innovations made to improve delivery of services;

(D) future plans that will contribute to the achievement of the goals;

(E) the successes of programs to establish working partnerships and collaborations with other organizations that reduce duplication or enhance the delivery of services, or both; and

(F) any other information that the committee may deem necessary and relevant.

(3) reviewing information pursuant to subdivision (2) of this section that is voluntarily provided by education and training organizations that are not required to report this information but want recognition for their contributions;

(4) issuing an annual report to the governor and the general assembly on or before December 1, which shall include a systematic evaluation of the

accomplishments of the system and the participating agencies and institutions and all the following:

(A) a compilation of the systemwide accomplishments made toward achieving the overarching goals, specific notable accomplishments, innovations, collaborations, grants received, or new funding sources developed by participating agencies, institutions, and other education and training organizations;

(B) ~~an evaluation~~ identification of each provider's contributions toward achieving the overarching goals;

(C) identification of areas needing improvement, including time frames, expected annual participation, and contributions, and the overarching goals; and

(D) recommendations for the allocating of next generation funds and other public resources.

(5) developing an integrated workforce strategy that incorporates economic development, workforce development, and education to provide all Vermonters with the best education and training available in order to create a strong, appropriate, and sustainable economic environment that supports a healthy state economy; and

(6) developing strategies for both the following:

(A) coordination of public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact; and

(B) more effective communications between the business community and educational institutions, both public and private.

(b) Entities receiving grants through the workforce education and training fund (WETF) and the Vermont training program (VTP) shall provide the Social Security number of each individual who has successfully completed a training program funded through the WETF and the VTP within 30 days. This requirement shall not apply to training seminars lasting no more than two days. On or before July 1 of each year, the department of labor and the department of economic development shall process the information received within the most recent 12 months and prepare the report required in subdivision (a)(4) of this section. The report shall include a table that sets forth quarterly wage information received pursuant to 21 V.S.A. § 1314a at least 18 months following the date on which the individuals completed the program of study. The table shall include the number of individuals completing the program, the number of those individuals who are employed in Vermont, and the median quarterly income of those individuals.

(c) Other entities, including public and private institutions of higher education, postsecondary and secondary programs, and other training providers who wish to receive grants under the WETF and the VTP may do so by making a request in writing to the commissioner of labor and the commissioner of economic development who shall make a decision regarding inclusion of such programs and the process for the collection of the necessary data.

(d) Confidentiality. Notwithstanding any other provision of law, the departments of labor and of economic development shall collect the Social Security numbers of students for the purposes of this section. The departments shall retain Social Security numbers collected from the entities listed in subsection (b) of this section for no more than five years from the date of receipt by the departments. Access to the Social Security numbers provided to the department of labor and department of economic development shall be limited to those department individuals creating the table required in subsection (b) of this section and shall be confidential. The departments shall prepare the tables in a way that ensures the confidentiality of all trainee and employer information. A department employee who intentionally communicates or otherwise makes available to the general public a Social Security number collected pursuant to this section or who otherwise disseminates the number for purposes other than those specified in this section

shall be subject to the penalties of the Social Security Number Protection Act, subchapter 3 of chapter 62 of Title 9.

Sec. 9. REPEAL

The following are repealed:

(1) Sec. 7(d) of No. 46 of the Acts of 2007 (reporting);

(2) 10 V.S.A. § 543(g) (reporting); and

(3) Section 5.801.1 of No. 192 of the Acts of the 2007 Adj. Sess. (2008).

Sec. 10. WORK-BASED LEARNING REPORT

(a) On or before January 1, 2010, the career and technical education coordinator within the department of education, the commissioner of economic development or his or her designee, and the commissioner of labor or his or her designee, shall submit a report to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor regarding work-based learning programs in Vermont.

(b) The report shall include an inventory of existing career and technical education (CTE) work-based learning programs and other non-CTE work-based learning opportunities, such as registered apprenticeships, high school internships, and postsecondary internships, as well as community-based learning programs. The report also shall include the amount and source of funding for each program; the number of personnel hired to administer each

program; participation in each program; categorization of learning opportunities offered; and other relevant standards and outcomes. Finally, the report shall include recommendations relative to statewide and regional coordination; creation of timely skill standards based on emerging or growing industry sectors; credentials that articulate postsecondary training and education; and the expansion, restructuring, or elimination of existing programs.

Sec. 11. GREEN WORKFORCE COLLABORATIVE; STIMULUS MONIES

(a) The workforce development council and the commissioner of labor shall convene a green workforce collaborative as a committee of the council. The purpose of the collaborative is to develop and promote a vocational curriculum, career training, and employment opportunities for Vermonters in green industry sectors; maximize the state's use of federal funds under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5; enhance the economic and environmental vitality of the state; and give priority to programs that provide education, training, and other services to target populations of eligible individuals.

(b) Members of the collaborative shall include the career and technical education coordinator within the department of education, as well as representatives of the various workforce training programs within the

departments of economic development and of labor, as appropriate, the Vermont Energy Investment Corporation, representatives from Vermont Technical College and other Vermont educational institutions, and representatives of any other programs or entities pursuing green workforce development in Vermont, as deemed appropriate by the commissioner of labor.

(c) For purposes of this section:

(1) "Green industry sectors" shall include:

(A) The energy-efficient building, construction, and retrofit industries.

(B) The renewable electric power industry.

(C) The energy-efficient and advanced drive train vehicle industry, including performance and low-emission vehicle technology, automotive computer systems, mass transit fleet conversion, and the servicing and maintenance of those technologies.

(D) The biofuels industry.

(E) The deconstruction and materials use and re-use industries.

(F) The energy-efficiency assessment industry serving the residential, commercial, or industrial sectors.

(G) Manufacturers that produce sustainable products using environmentally sustainable processes and materials.

(H) Pollution prevention and hazardous and solid waste reduction.

(I) Soil or water conservation, or forestation strategies to mitigate climate change impacts.

(J) Any other sector deemed appropriate by the green workforce collaborative.

(2) "Target populations" shall include:

(A) Workers impacted by national energy and environmental policy.

(B) Individuals in need of updated training related to the energy efficiency and renewable energy industries.

(C) Veterans, or past and present members of reserve components of the Armed Forces.

(D) Unemployed individuals.

(E) Individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency.

(F) Formerly incarcerated, adjudicated, nonviolent offenders.

(G) Any other populations specifically referenced in Title VIII of ARRA as enacted or as amended subsequent to passage of this act.

(d) In promoting education and training in green industry sectors, the collaborative shall seek to capitalize on existing infrastructure wherever appropriate, including the Center for Sustainable Practices at Vermont Technical College, the Vermont State Colleges, the University of Vermont, the

regional technical centers, and the comprehensive high schools, including adult technical education programs.

(e) Funding of programs designed to promote a green workforce in Vermont is a legislative priority with respect to appropriations of unencumbered federal monies available through the state fiscal stabilization fund under § 14002(a) of Title XIV of Division A of ARRA.

(f) The commissioner of labor shall collaborate with the director of the office of economic stimulus and recovery to secure competitive grants available under Titles IV and VIII of ARRA, and shall further pursue other state or federal workforce training funds available through the Vermont departments of education and of labor, and through the Vermont Energy Investment Corporation.

(g) On or before January 15, 2010, the commissioner of labor shall provide the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the senate and house committees on natural resources and energy a report detailing a status and needs assessment of green workforce development in Vermont pursuant to this section.

* * * Misc. Technical VEGI Amendments * * *

Sec. 12. 32 V.S.A. § 5930b(b)(2) is amended to read:

(2) The council shall review each application in accordance with section 5930a of this title, except that the council may provide for ~~a preliminary~~ an initial approval pursuant to the conditions set forth in subsection 5930a(c), followed by a final approval at a later date, before December 31 of the calendar year in which the economic activity commences.

Sec. 13. RETROACTIVE APPLICATION

Sec. 12 of this act shall apply retroactively to all applications received on or after January 1, 2007.

Sec. 14. 32 V.S.A. § 5930a is amended to read:

§ 5930a. VERMONT ECONOMIC PROGRESS COUNCIL

* * *

(b)(1) The Vermont economic progress council, within 60 days of receipt of a complete application, shall approve or deny the following economic incentives:

~~(1)~~(A) tax stabilization agreements and exemptions under subdivision 5404a(a)(2) of this title;

~~(2) applications for allocation to municipalities of a portion of education grand list value and municipal liability from new economic development under subsection 5404a(e) of this title;~~ and

~~(3)~~(B) Vermont employment growth incentives (VEGI) under section 5930b of this title.

(2) All incentives are subject to application of the incentive ratio as determined under subdivision 5930b(b)(3) of this title and no tax stabilization agreement~~,~~ or exemption ~~or allocation~~ shall be approved except in conjunction with the approval of an incentive under subdivision ~~(3)~~(1)(B) of this subsection.

* * *

(d) The council shall apply the cost-benefit model in reviewing applications under subdivisions (b)(1)~~, (2), and (3)~~ (A) and (B) of this section to determine the net fiscal benefit to the state. The cost-benefit model shall be a uniform and comprehensive methodology for assessing and measuring the projected net fiscal benefit or cost to the state of proposed economic development activities. Any modification of the cost-benefit model shall be subject to the approval of the joint fiscal committee. The cost-benefit analysis shall include consideration of the effect of the passage of time and inflation on the value of multi-year fiscal benefits and costs.

(1) In determining the projected net fiscal benefit or cost of the incentives considered under ~~subdivisions~~ subdivision (b)(1) ~~and (2)~~(A) of this section, the council shall calculate the net present value of the enhanced or forgone statewide education tax revenues, reflecting both direct and indirect

economic activity. If the council approves an incentive pursuant to this section, the net fiscal costs, if any, to the state shall be counted as if all those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the annual authorization for such approvals established by the legislature for the applicable calendar year.

(2) In determining the projected net fiscal benefit or cost of the incentives considered under subdivision ~~(b)(3)~~ (b)(1)(B) of this section, the council shall calculate the net present value of the enhanced or forgone state tax revenues attributable to the incentives, reflecting both direct and indirect economic activity over the five-year award period. If the council approves an incentive, the net fiscal costs, if any, to the state shall be counted as if all of those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the council's annual authorization for approval of economic incentives as established by the legislature for the applicable calendar year.

(e) Only a business may apply for approval under subdivision ~~(b)(3)~~ (b)(1)(B) of this section. A municipality and a business must apply jointly for approval of a tax stabilization agreement pursuant to ~~subdivisions~~ subdivision (b)(1) ~~and (2)~~(A) of this section.

* * *

Sec. 15. 32 V.S.A. § 5930b(f) is amended to read:

(f) The property of a business whose authority to earn, apply or retain incentives under this section has been revoked is ineligible for property tax stabilization under subdivision 5404a(a)(2) of this title ~~or allocation of property tax value under subsection 5404a(e) of this title for any education property tax grand list~~ after the date of revocation.

* * * Capitalization on Federal Stimulus Funding for Smart Grid, Additional State Energy Grants, and Rural Electrification Grants * * *

Sec. 16. FEDERAL FUNDING FOR SMART GRID AND ENERGY GRANTS; STATE COLLABORATION

It is the intent of the legislature that the department of public service, Vermont utilities, and other interested parties work collaboratively to ensure that Vermont capitalizes on all available funding allocated for research, workforce development, and projects relating to energy efficiency and electric generation, transmission, and distribution under Titles I and IV of Division A of the American Recovery and Reinvestment Act of 2009. Accordingly, to ensure that Vermont accesses and utilizes federal resources under the ARRA to the fullest extent possible:

(1) The department of public service shall investigate and pursue the opportunities for funding of electricity delivery and energy reliability research

and projects to implement smart grid technologies, activities, and workforce training made available under Title IV of the ARRA.

(2) The department of public service shall generate a list of projects that are eligible for federal loan and grant funding available from the United States Departments of Agriculture and of Energy under the ARRA, identify the source of the grant funding, and identify the necessary steps for securing grant funds. The department shall work collaboratively with private utilities, additional government entities as necessary and appropriate, and other interested persons to design and submit grant applications that best position the state to capitalize on available funds.

(3) The governor, the department of public service, the public service board, and relevant state and local governmental entities shall take any and all steps necessary to implement the measures required under section 410 of the American Recovery and Reinvestment Act of 2009 to ensure that Vermont will receive the maximum amount of additional state energy grants available from the United States Department of Energy under part D of Title III of the Energy Policy and Conservation Act.

* * * Legislative Priorities: ARRA Funds * * *

Sec. 17. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

(a) With respect to federal monies potentially available to the state of Vermont as competitive funds under the ARRA, the general assembly establishes the following priorities as outlined in this section.

(b) Burlington International Airport (BTV). The general assembly recognizes the importance of maintaining and upgrading the programs and facilities at BTV, Vermont's primary commercial airport. BTV has an estimated economic impact of over one-half billion dollars annually. The general assembly finds that the development of the following list of planned airport projects is a legislative priority:

(1) A new aviation technical center facility.

(2) A new customs border protection office.

(3) The following three south-end taxiway projects:

(A) Completion of taxiway K connection from the new general aviation apron to the end of runway 33;

(B) Rehabilitation of portions of taxiways C and G and construction of a new intersection; and

(C) Completion of a parallel taxiway G from existing taxiway C to runway 1-19.

(4) The building of a green roof on the parking structure.

(c) Agriculture. Agriculture is one of the major drivers of the state's economy. For that reason, the general assembly recognizes the crucial role of agriculture in the state of Vermont and expresses the following priorities for federal funding that may become available through ARRA:

(1) The agency of agriculture, food and markets, Vermont agricultural credit corporation, and the Vermont housing and conservation board's farm viability program shall cooperate in seeking ARRA funding from the USDA Farm Service Agency, the USDA Rural Development Program, and other appropriate federal programs and shall prioritize applications for federal stimulus funding based on the goals established in this act. The agency shall further work to educate relevant entities about funding opportunities, provide technical application assistance to priority applicants, and develop a single, common application to be used by applicants for agency funding.

(2) The following are specific agriculture priorities and include the state entities to which funding for these priorities should be directed:

(A) Stabilization of spring planting with loans through the Vermont agricultural credit corporation and the Vermont economic development authority.

(B) Support for in-state slaughter and processing facilities through grants and technical assistance from the agency of agriculture, food and markets.

(C) Funding for regional food hubs and dairy transition through the Vermont housing and conservation board farm viability program and support for the Vermont farm-to-plate investment program, established by Sec. 35 of this act, through the Vermont sustainable jobs fund.

(D) Environmental protection and energy conservation, including power modernization and methane digesters through grants and technical assistance from the agency of agriculture, food and markets.

(d) Municipal communications services. Since passage of an act relating to establishing the Vermont telecommunications authority and to advancing broadband and wireless communications infrastructure throughout the state of Vermont, No. 79 of the Acts of 2007, many Vermont towns and cities have affiliated themselves to promote, sponsor, develop, and provide a range of communications services to their respective inhabitants, governments, schools, and businesses. Through local volunteer initiatives, resources have been collected and directed toward the design, construction, operation, and management of publicly owned communications plants, with minimal dependency on the resources, finances, and credit of the state of Vermont. Access to various forms of public and private credit enhancement will assist towns and cities in further developing and constructing communications plant improvements through lower capital interest and financing costs. Under the ARRA, financial resources may be made available to the state that are suitable

for application in assisting unserved municipalities in their communications goals. With respect to these local efforts and the federal stimulus monies, the general assembly establishes the following priorities:

(1)(A) The North-link project launched by Northern Enterprises, Inc. in 2007.

(B) The broadband initiative of East Central Vermont Community Fiber.

(C) Replacement of the Burke Mountain power line owned and operated by Vermont Public Television.

(2) To the extent possible, allocation of ARRA initiatives available to Vermont shall include direct and indirect credit enhancement assistance to unserved municipalities seeking capital to fund communications plant improvements.

(3) The development, promotion, construction, and operation of public communications plants in unserved areas is declared to be in the best interest of Vermont and an infrastructure priority among capital improvements eligible to receive benefits under the ARRA.

Sec. 18. SBA LOAN PROGRAMS; STIMULUS PROGRAMS

(a) Significant changes have been made to the Small Business Association (SBA) loan programs pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5. These changes create an opportune

time for Vermont entrepreneurs seeking to start, expand, or acquire a small business. Time is of the essence, however, because the new opportunities created by ARRA will sunset at the end of 2009.

(b) The commissioner of economic development, in cooperation with the director of the Vermont district office of the United States SBA, shall work with small business lending companies such as the Vermont economic development authority, the Vermont small business development center, the Vermont bankers association, and the association of Vermont credit unions, to promote favorable SBA-loan program changes among potential borrowers.

(c) Some of the SBA-loan program changes under ARRA include a one-time opportunity at very low risk to lenders (90 percent guaranty) and very low cost for small businesses (no guarantee fee, prime at a low of 3.25 percent) to access lines of credit, contract financing (such as government contracts with the agency of transportation), export financing, and long-term fixed-asset financing of real estate and equipment.

Sec. 19. VIRTUALIZED INFORMATION TECHNOLOGY INFRASTRUCTURE; STUDY

(a) The legislative director of information technology and the commissioner of the department of information and innovation shall issue a request for proposals no later than July 1, 2009 to evaluate the viability of cloud computing and other virtualized infrastructure options for the state's

information technology infrastructure as it pertains to the use of e-mail, spreadsheets, word processing, and calendars in the legislative, executive, and judicial branches of government. Evaluations shall consider the following:

(1) Current service level and scalability to future service needs;

(2) Physical and virtual data security and recovery;

(3) Potential for savings in software licensing and hardware investment in both the near and long term;

(4) Opportunities for improved systems performance and capacity;

(5) Specific vendors and relevant vendor policies; and

(6) Potential for legal and regulatory obstacles.

(b) The legislative director of information technology and the commissioner of the department of information and innovation shall submit the proposals to the legislative information technology committee established under chapter 22 of Title 2 on or before January 15, 2010. The director and the commissioner are respectively authorized to implement virtualized information technology.

(c) This section supersedes any similar cloud-computing proposal in H.441 (2009).

Sec. 20. INITIATIVE TO BUILD A MEDIA AND FILM INDUSTRY IN VERMONT

(a)(1) Given its unique blend of creative, cultural, and educational resources, Vermont currently has an opportunity to become a destination for a new media and film industry.

(2) Vermont is home to authors, filmmakers, producers, and young people concentrating their educational and professional development in the emerging fields of communications, multi-media and film production, graphic and digital design, and performing arts.

(3) Vermont's natural and seasonal beauty and the charm and character of its towns and regions equals or surpasses other potential destinations for the media and film industry, and these strengths position Vermont as an ideal location for filming and producing movies, television, commercials, and other media.

(4) Vermont is home to at least seven institutions of higher education that provide one or more degrees or certificate programs in media or film sectors, including Burlington College's cinema studies and film production program; Champlain College's communications and creative media division; the University of Vermont's film and television studies program; Marlboro College's undergraduate programs in media, visual, and performing arts; Bennington College's Visual Arts program; Johnson State's Fine and

Performing Arts programs; and Castleton State College's concentrations in communications, mass media, and digital media.

(b) Considering these substantial resources, it is the intent of the general assembly to encourage and promote the development of a strong and dynamic media and film sector within Vermont's creative economy.

(c) The Vermont film corporation, in collaboration with the Vermont film and media coalition and, to the extent possible, the faculty and students of Burlington College, Champlain College, the University of Vermont, Marlboro College, Bennington College, Johnson State, and Castleton State College, shall propose a program to develop a media and film sector within Vermont's economy. The corporation should consider the most beneficial role the state can play in supporting the media and film sector, and should consider grants, public-private partnerships, and other appropriate financing mechanisms in order to promote this sector of the creative economy and to retain young Vermonters currently supported by the communications, film, and media programs at Vermont colleges and universities.

(d) On or before January 30, 2010, the corporation is invited to deliver a presentation of its program proposal to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

* * * ARRA: Schools: Tax Credit Bond Financing * * *

Sec. 21. 16 V.S.A. chapter 125, subchapter 5 is added to read:

Subchapter 5. Tax-Credit Bond Financing

§ 3597. TAX-CREDIT BOND FINANCING; QUALIFIED SCHOOL ACADEMY ZONES; QUALIFIED SCHOOL CONSTRUCTION BONDS

The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, expanded existing and created new tax-credit bond programs available to public schools. Accordingly, school districts are authorized to issue bonds to finance public school building construction and rehabilitation, the purchase of equipment, the development of course materials, and teacher and personnel training, consistent with sections 1397E and 54F of the Internal Revenue Code, pertaining to qualified school academy zones and qualified school construction bonds.

* * * School Construction: ARRA Funds * * *

Sec. 22. Sec. 45(b) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(b)(1) Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, if a school district declares its intent to pay for the cost of a school construction project without state aid provided pursuant to chapter 123 of Title 16 and has received voter approval for the project on or after

March 7, 2007, then the commissioner of education shall review the project as a preliminary application upon the district's request. In this case, the commissioner shall use the standards and processes of chapter 123 for determining preliminary approval, and shall deduct the portion of education spending that is approved from the calculation of excess spending under 32 V.S.A. § 5401(12). Preliminary approval received pursuant to this subsection is to be used solely for purposes of:

(A) calculating whether the district has exceeded the excess spending threshold ~~and neither~~; or

(B) enabling the district to proceed with a project using funds other than those provided under chapter 123 of Title 16, or both.

(2) Neither preliminary approval nor the provision of technical assistance indicates that the district will receive state aid for school construction or preliminary approval for that aid when school construction aid is again available. Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, upon the request of the district, the department shall provide technical assistance regarding the planning and implementation of school renovation and construction.

* * * Microbusiness and Entrepreneurship * * *

Sec. 23. MICROBUSINESS; ARRA FUNDS

It is the intent of the general assembly to enhance the individual development account program and the microbusiness development program currently administered by the office of economic opportunity using funds available through federal allocations and competitive grants available under Title VIII of the ARRA.

Sec. 24. ECONOMIC OPPORTUNITY STUDIES AND COLLABORATION

The office of economic opportunity and a designee of the community action agency directors' association shall conduct a joint study of possible tools to promote the success of individual development accounts and the microbusiness development program. The study shall evaluate:

(1) Innovative microenterprise development funding models to identify ways to fill existing gaps in start-up capital.

(2) A guarantee program or interest buy-down program that encourages private banks to make longer-term, lower-interest fixed rate loans to Community Development Financial Institutions (CDFIs).

(3) A tax credit to businesses and individuals that donate funds to microenterprise development programs or IDA matched savings and financial education programs, under which the department of economic development would administer tax credits totaling 75 percent of the value of each donation

to recognized qualified organizations with an annual statewide maximum for tax credits of $500,000.00 for contributions.

(4) A policy for collaboration with the Vermont treasurer's office to utilize financial education funding for credit counseling and education.

(5) The feasibility of a first-year tax credit to microenterprises, and a credit or grant to self-employed persons for first-time employee hiring to ease the workers' compensation burden.

(6) The most effective strategy to link the department of education with other public and private efforts to develop and support microbusiness.

(7) The most effective means for reporting to the house committee on commerce and economic development, the house committee on human services, and other committees as appropriate, to ensure sufficient oversight by the legislature over whether funding is serving low income Vermonters and meeting stated economic development and human service goals.

* * * Entrepreneurs' Seed Capital Fund * * *

Sec. 25. 10 V.S.A. chapter 14A is amended to read:

CHAPTER 14A. THE ~~VERMONT~~ ENTREPRENEURS'

SEED CAPITAL FUND

§ 290. DEFINITIONS

For purposes of this chapter:

(1) "Follow-on investment" means any investment in a Vermont firm following the initial investment.

(2) "Fund manager" means the investment management firm responsible for creating the fund, securing capital commitments, and implementing the fund's investment strategy, consistent with the requirements of this section. The fund manager shall be paid a fee which reflects a percentage of the fund's capital under management and a performance-fee share based on the fund's economic performance, as determined by the authority.

(3) "Seed capital" means first, nonfamily, nonfounder investment in the form of equity or convertible securities issued by a firm which had, in the 12 months preceding the date of the funding commitment, annual gross sales of less than $3,000,000.00.

§ 291. ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND; AUTHORIZATION; LIMITATIONS

(a) The Vermont economic development authority shall cause to be formed a private investment equity fund to be named "the ~~Vermont~~ entrepreneurs' seed capital fund" or "the fund" ~~is authorized~~ for the purpose of increasing the amount of investment capital provided to new Vermont firms or to existing Vermont firms for the purpose of expansion. The authority may contract with one or more persons for the operation of the fund as fund manager. Such contract shall contain the terms and conditions pursuant to which the fund shall

be managed to meet the fund's objective of providing seed capital to Vermont firms. The terms of the contract shall require that, if the fund manager does not meet the investment criteria specified in the contract, the fund manager may not be awarded the performance fee.

(b) The ~~Vermont seed capital~~ fund shall be formed as ~~either a business corporation or~~ a limited partnership pursuant to Title 11 and shall be subject to all the following:

(1) The ~~Vermont seed capital~~ fund shall not invest in any firm in which ~~a total of more than a 25 percent~~ any interest in that firm is held by an investor of the ~~Vermont seed capital~~ fund ~~combined with any interest held in the firm~~ or by the spouse ~~or dependent,~~ children, or other relative of the investor.

(2) The fund shall invest at least 40 percent of its total capital in initial investment in firms which had in the 12 months preceding the date of the funding commitment annual gross sales of less than $1,000,000.00 and may reserve the remainder of its capital for follow-on investments in these businesses, as appropriate.

(3) Before the fund makes any investments, the fund shall~~:~~

~~(A) If organized as a corporation, have and thereafter maintain a board of nine directors to be elected by the shareholders.~~

~~(B) If organized as a partnership,~~ have and maintain a board of ~~three~~ five advisors who shall be appointed ~~by the authority~~ as follows: two shall be appointed by the authority, two shall be appointed by the fund manager, and one shall be appointed jointly by the authority and the fund manager. The board of advisors shall represent solely the economic interest of the state with respect to the management of the fund and shall have no civil liability for the financial performance of the fund. The board of advisors shall be advised of investments made by the fund and shall have access to all information held by the fund with respect to investments made by the fund.

~~(3)~~(4) The ~~Vermont seed capital~~ fund, within 120 days after the close of each fiscal year of its operations, shall issue a report that includes an audited financial statement certified by an independent certified public accountant. The report also shall include a compilation of the firm data required by subsection (d) of this section. These data shall be reported in a manner that does not disclose competitive or proprietary information, as determined by the authority. This report shall be distributed to the governor and the ~~legislative council~~ senate committee on economic development, housing and general affairs and the house committee on commerce and economic development and made available to the public. The report shall include a discussion of the fund's impact on the Vermont economy and employment.

~~(4)~~(5) The ~~Vermont seed capital~~ fund shall not make distributions of more than 75 percent of its net profit to its investors during its first five years of operation.

~~(5)~~(6) No person shall be allocated more than ~~10~~ 20 percent of the available tax credits. For the purposes of determining allocation, the attribution rules of Section 318 of the Internal Revenue Code in effect as of the effective date of this chapter shall apply.

~~(6)~~(7) The capitalization of the fund is not limited under this section; however, only the first ~~$5~~ $7,150,000.00 ~~of capitalization of the Vermont seed capital fund~~ raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020, shall be eligible for partial tax credits as specified in 32 V.S.A. § 5830b.

~~(7)~~(8) All investments and related business dealings using funds that qualify for partial tax credits under 32 V.S.A. § 5830b shall be subject to the following restrictions:

(A) The investments shall be restricted to Vermont firms, which for the purposes of this chapter means that their Vermont apportionment equals or exceeds 50 percent, using the apportionment rules under 32 V.S.A. § 5833, and they maintain headquarters and a principal facility in Vermont. Any funds invested in Vermont firms shall be used for the purpose of enhancing their Vermont ~~investments~~ operations. Investment shall be restricted to firms that export the majority of their products and services outside the state or add

substantial value to products and materials within the state. In its investments, the fund shall give priority to new firms and existing firms that are developing new products, and shall take into consideration any impact on in-state competition and also whether the investment will encourage economic activity that would not occur but for the fund investment.

(B) Each ~~Vermont seed capital~~ fund investment in any one firm, in any 12-month period shall be limited to a maximum of ten percent of the ~~Vermont seed capital~~ fund's capitalization and, for the life of the fund, to a maximum of 20 percent of the fund's total capitalization.

(C) At least two-thirds of the monies invested by the ~~Vermont seed capital~~ fund and qualifying for a tax credit under 32 V.S.A. § 5830b shall at all times be invested in the form of equity or convertible securities~~. This provision shall not prohibit~~ unless the fund manager determines it is reasonable and necessary to pursue temporarily the generally accepted business practice of earning interest on working funds deposited in relatively secure accounts such as savings and money market funds.

(c) Any firm receiving monies from the fund must report to the fund manager the following information regarding its activities in the state over the calendar year in which the investment occurred:

(1) The total amount of private investment received.

(2) The total number of persons employed as of December 31.

(3) The total number of jobs created and retained, which also shall indicate for each job the corresponding job classification, hourly wage and benefits, and whether it is part-time or full-time.

(4) Total annual payroll.

(5) Total sales revenue.

(d) The authority, in consultation with the fund manager, shall establish reasonable standards and procedures for evaluating potential recipients of fund monies. The authority shall make available to the general public a report of all firms that receive fund investments and also indicate the date of the investment, the amount of the investment, and a description of the firm's intended use of the investment. This report shall be updated at least quarterly.

(e) Information and materials submitted by a business receiving monies from the fund shall be available to the auditor of accounts in connection with the performance of duties under 32 V.S.A. § 163; provided, however, that the auditor of accounts shall not disclose, directly or indirectly, to any person any proprietary business information.

Sec. 26. REPEAL

10 V.S.A. § 292 (providing for the initial organization of the Vermont seed capital fund) is repealed.

Sec. 27. 32 V.S.A. § 5830b is amended to read:

§ 5830b. TAX CREDITS; ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND

(a) The initial capitalization of the ~~Vermont~~ entrepreneurs' seed capital fund ~~comprising a maximum $5 million~~, as established in 10 V.S.A. § 291, up to $7,150,000.00 raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020, shall entitle those taxpayers to a credit against the tax imposed by sections 5822, 5832, 5836, or 8551 of this title and by 8 V.S.A. § 6014. The credit may be claimed for the taxable year in which a contribution is made and each of the four succeeding taxable years. The amount of the credit for each year shall be the lesser of four percent of the taxpayer's contribution or 50 percent of the taxpayer's tax liability for that taxable year prior to the allowance of this credit; provided, however, that in no event shall the aggregate credit allowable under this section for all taxable years exceed 20 percent of the taxpayer's contribution to the initial ~~$5 million~~ $7,150,000.00 capitalization of the ~~Vermont seed capital~~ fund. The credit shall be nontransferable except as provided in subsection (b) of this section.

(b) If the taxpayer disposes of an interest in the ~~Vermont seed capital~~ fund within four years after the date on which the taxpayer acquired that interest, any unused credit attributable to the disposed-of interest is disallowed. This disallowance does not apply in the event of an involuntary transfer of the

interest, including a transfer at death to any heir, devisee, legatee, or trustee, or in the event of a transfer without consideration to or in trust for the benefit of the taxpayer or one or more persons related to the taxpayer as spouse, descendant, parent, grandparent, or child.

* * * Technology Loan Program * * *

Sec. 28. 10 V.S.A. chapter 12, subchapter 12 is added to read:

Subchapter 12. Technology Loan Program

§ 280aa. FINDINGS AND PURPOSE

(a) Technology-based companies are a vital source of innovation, employment, and economic growth in Vermont. The continued development and success of this increasingly important sector of Vermont's economy is dependent upon the availability of flexible, risk-based capital. Because the primary assets of technology-based companies sometimes consist almost entirely of intellectual property, such companies frequently do not have access to conventional means of raising capital, such as asset-based bank financing.

(b) To support the growth of technology-based companies and the resultant creation of high-wage employment in Vermont, a technology loan program is established under this subchapter.

§ 280bb. TECHNOLOGY LOAN PROGRAM

There is created a technology (TECH) loan program to be administered by the Vermont economic development authority. The program shall seek to meet

the working capital and capital-asset financing needs of technology-based companies. The Vermont economic development authority shall establish such policies and procedures for the program as are necessary to carry out the purposes of this subchapter. The authority's lending criteria shall include consideration of in-state competition and whether a company has made reasonable efforts to secure capital in the private sector.

* * * Downtown and Village Center Tax Credits * * *

Sec. 29. 32 V.S.A. § 5930ee is amended as follows:

§ 5930ee. LIMITATIONS

Beginning in fiscal year ~~2008~~ 2010 and thereafter, the state board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) The total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~$1,600,000.00~~ $1,700,000.00.

* * *

* * * Licensed Lender Study * * *

Sec. 30. STUDY ON THE APPLICATION OF VERMONT'S LICENSED-LENDER REQUIREMENTS TO CERTAIN COMMERCIAL LENDING PRACTICES

(a) The commissioner of banking, insurance, securities, and health care administration shall convene a work group to recommend amendments to Vermont's licensed-lender laws, chapter 73 of Title 8, for the purpose of facilitating limited instances of high-risk, secured commercial lending by specialized persons such as venture capital firms, individuals, and partnerships. The work group shall consider proposals such as a limited exemption or an expedited registration process that permits capital investments in and secure commercial loans to technology firms, in a responsible manner.

(b) Members of the work group shall include representatives from the Vermont Bankers Association, the Vermont Bar Association, the department of economic development, the Vermont economic development authority, and the entrepreneurial industry sector of Vermont.

(c) The commissioner shall report the work group's recommendations to the senate committees on economic development, housing and general affairs and on finance and the house committee on commerce and economic development no later than January 1, 2010.

* * * Minimum Wage * * *

Sec. 31. 21 V.S.A. § 384 is amended to read:

§ 384. ~~PROHIBITION OF~~ EMPLOYMENT; WAGES

(a) An employer shall not employ an employee at a rate of less than $7.25, and, beginning January 1, 2007, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest $0.01. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than $3.65 an hour, and beginning January 1, 2008, and on each January 1 thereafter, this basic tip wage rate shall be increased at the same percentage rate as the minimum wage rate. For the purposes of this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than $120.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the United States government is greater than the rate established for Vermont

for any year, the minimum wage rate for that year shall be the rate established by the United States government.

(b) Notwithstanding subsection (a) of this section, an employer shall not pay an employee less than one and one-half times the regular wage rate for any work done by the employee in excess of 40 hours during a workweek. However, this subsection shall not apply to:

(1) Employees of any retail or service establishment. A "retail or service establishment" means an establishment 75 percent of whose annual volume of sales of goods or services, or of both, is not for resale and is recognized as retail sales or services in the particular industry.

(2) Employees of an establishment which is an amusement or recreational establishment, if:

(A) it does not operate for more than seven months in any calendar year, or

(B) during the preceding calendar year its average receipts for any six months of that year were not more than one-third of its average receipts for the other six months of the year.

(3) Employees of an establishment which is a hotel, motel, or restaurant.

(4) Employees of hospitals, public health centers, nursing homes, maternity homes, therapeutic community residences, and residential care homes as those terms are defined in Title 18, provided:

(A) the employer pays the employee on a biweekly basis; and

(B) the employer files an election to be governed by this section with the commissioner; and

(C) the employee receives not less than one and one-half times the regular wage rate for any work done by the employee:

(i) in excess of eight hours for any workday; or

(ii) in excess of 80 hours for any biweekly period.

(5) Those employees of a business engaged in the transportation of persons or property to whom the overtime provisions of the Federal Fair Labor Standards Act do not apply, but shall apply to all other employees of such businesses.

(6) Those employees of a political subdivision of this state.

(7) State employees~~,~~ who ~~shall be~~ are covered by the U.S. Federal Fair Labor Standards Act.

(c) However, an employer may deduct from the rates required in subsections (a) and (b) of this section the amounts for board, lodging, apparel, rent, or utilities paid or furnished or other items or services or such other conditions or circumstances as may be usual in a particular employer-employee relationship, including gratuities as determined by the wage order made under this subchapter.

* * * State Contracts: Compliance with State and Federal Laws * * *

Sec. 32. WORKERS' COMPENSATION; STATE CONTRACTS; COMPLIANCE WITH DAVIS-BACON

(a) The agencies of administration and transportation shall establish procedures to assure that state contracting procedures and contracts are designed to minimize the incidents of miscoding of employees in NCCI job codes and misclassification of the status of workers as independent contractors rather than employees by state contractors on projects with a total project cost of more than $250,000.00 by requiring those contractors to provide, at a minimum, all the following:

(1) Detailed information including information relating to past violations, convictions, suspensions, and any other information related to past performance and likely compliance with proper coding and classification of employees requested by the applicable agency. This information shall be included with the project bid.

(2) A list of subcontractors on the job along with lists of the subcontractor's subcontractors and by whom those subcontractors are insured for workers' compensation purposes. For purposes of this subsection and subdivision (3) of this subsection, subcontractors do not include entities that provide supplies only and no labor to the overall contract or project.

(3) For construction and transportation projects over $250,000.00, a payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information and similar information for the subcontractors regarding their subcontractors shall also be provided to the department of labor and to the department of banking, insurance, securities, and health care administration, upon request.

(4) For all other state contracts not otherwise covered under subdivision (3) of this subsection, the information required under subdivision (3) shall only be required upon request of the agencies or departments.

(5) Any contract provisions or procedures designed to minimize instances of misclassification through enhanced reporting and greater transparency may be flexibly designed to account for the size of the contract, contractor, and subcontractor.

(b) The agencies shall require by rule or by procedure that any contractor that violates classification requirements shall be prohibited or restricted from bidding on future state contracts for a period of time that corresponds to the seriousness of the classification violation. The rules or procedures shall also provide for an appeal process from any such prohibition or restriction consistent with existing law.

(c) The agencies shall assure that any state contract funded in whole or in part with American Recovery and Reinvestment Act of 2009 (ARRA) monies shall comply with the payment of Davis-Bacon wages when required by ARRA. However, in the event the applicable Davis-Bacon wages in any county have not been updated in the previous three years, the minimum state required wage for a state contract subject to Davis-Bacon wages under ARRA shall be that of the Vermont county that has most recently updated its applicable Davis-Bacon wages, provided this provision does not result in the loss of ARRA funds and is not otherwise contrary to federal law.

Sec. 33. ARRA AND UNEMPLOYMENT INSURANCE

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, authorizes the federal government to transfer up to $13,918,000.00 into Vermont's unemployment insurance (UI) trust fund for UI modernization incentive payments.

(b) Vermont already qualifies for one-third of its allotted incentive payments because the state allows for the use of an alternative base period in determining UI eligibility. In order to qualify for the remaining two-thirds of its allotted incentive payments, Vermont's UI program must meet two of four expanded-coverage requirements.

(c) The state already meets one expanded-coverage requirement: namely, coverage of part-time workers. It is the intent of the general assembly to adopt

one additional expanded-coverage requirement, namely the training program specified in Sec. 34 of this act, and to apply to the secretary of the United States Department of Labor for certification of UI modernization so that the state may receive its remaining allotment of incentive payments.

Sec. 34. 21 V.S.A. § 1423b is added to read:

§ 1423b. EXTENDED BENEFITS; APPROVED TRAINING PROGRAMS

(a) An individual who is otherwise eligible for benefits under this chapter, but who has exhausted his or her maximum benefit amount under section 1340 of this chapter shall be entitled to an additional 26 weeks of benefits in the same amount as the weekly benefit amount established in the individual's most recent benefit year if the individual is enrolled in and making satisfactory progress in a state-approved training program as defined in subsection (b) of this section.

(b) A state-approved training program is any training program or job training program that meets all of the following criteria:

(1) It is authorized by the Workforce Investment Act of 1998, Pub. L. No. 105-220.

(2) It is designed to assist individuals who have been separated from a declining occupation or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment.

(3) It is designed to train the individual for entry into a high-demand occupation.

Sec. 35. 10 V.S.A. § 330 is added to read:

§ 330. THE FARM-TO-PLATE INVESTMENT PROGRAM; CREATION; GOALS; TASKS; METHODS

(a) Creation.

(1) The sustainable jobs fund program in consultation with the Vermont sustainable agriculture council shall establish the Vermont farm-to-plate investment program to fulfill the goals and carry out the tasks described in this section.

(2) If at least $100,000.00 in funding is not made available for the purpose of this section, the sustainable jobs fund program is encouraged but no longer required to fulfill the provisions of this section.

(b) Goals. The goals of the farm-to-plate investment program are to:

(1) Increase economic development in Vermont's food and farm sector.

(2) Create jobs in the food and farm economy.

(3) Improve access to healthy local foods.

(c) Tasks.

(1) By June 30, 2010, the Vermont farm-to-plate investment program shall create a strategic plan for agricultural economic development, which may be periodically reviewed and updated, based upon the following:

(A) Inventory Vermont's food system infrastructure by gathering existing data, studies, and analysis about the components of Vermont's food system, including:

(i) The types of foods produced in Vermont, the number of producers of each type of food, the amount of each type of food produced, and the financial viability of each food-producing sector.

(ii) The types of food processors in Vermont, how much food produced in Vermont is purchased by Vermont processors, and the financial viability of the food processing sector in Vermont.

(iii) The current and potential markets in which Vermont food producers and processors can sell their products.

(iv) The extent of existing agricultural lands that could be expanded and the resources available to expand Vermont's food production.

(v) The potential for new farmers and food processors to enter the local food economy, the methods for new farmers to acquire land and other farm infrastructure, and the availability and barriers to farm and processing labor.

(vi) The potential for entirely new local products and the barriers to farmers and processors entering new markets.

(B) Identify gaps in the infrastructure and distribution systems and identify ways to address these gaps.

(2) The Vermont farm-to-plate investment program shall seek grant funding to support farm-to-table direct marketing, including farmers' markets and community-supported agriculture operations and to support regional community food hubs.

(3) As an ongoing task, the farm-to-plate investment program shall use the information gathered for the strategic plan to identify methods and the funding necessary to strengthen the links among producers, processors, and markets, including:

(A) Support of the work of existing farm-to-school programs to increase the purchase of local foods by Vermont schools, with a particular emphasis on procurement of nutrient-dense animal foods.

(B) Collaborating with the agency of agriculture, food and markets and the department of buildings and general services to increase procurement of local foods in accordance with 6 V.S.A. § 4601.

(C) Collaborating with the agency of agriculture, food and markets and the sustainable agriculture council to increase procurement of local foods by businesses and institutions.

(D) Supporting initiatives that improve direct marketing of foods from the farm to the consumer.

(E) Informing agricultural lenders of the information collected under subdivision (c)(1) of this subsection in order to facilitate availability of agricultural financing.

(d) Methods. To accomplish the goals and carry out the ongoing tasks stated in this section, the Vermont farm-to-plate investment program may:

(1) Create an advisory panel with representatives from the agricultural and business communities.

(2) Hire or assign staff.

(3) Seek and accept funds from private and public entities.

(4) Utilize technical assistance, loans, grants, or other means approved by the board.

(e) In fiscal year 2010, the amount of $100,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to be used solely for the farm-to-plate investment program established under this section.

Sec. 36. 10 V.S.A. § 329 is amended to read:

§ 329. ANNUAL REPORT

Prior to January 31 of each year, the corporation formed under section 328 of this title shall submit a report concerning its activities to the governor and the legislative committees on commerce, general affairs, natural resources,

ways and means, finance, institutions, and appropriations. The report shall include the following information:

* * *

(5) A summary of work completed in the farm-to-plate investment program, including progress toward meeting the program goals, information regarding any advisory panel meetings, an accounting of all revenues and expenses related to the program, and recommendations regarding future program activity. The report shall also include information regarding the status of state government procurement of local foods.

* * * Municipal Full Faith and Credit for Bonds * * *

Sec. 37. 24 V.S.A. § 1898(b) is amended to read:

(b) A municipality shall have power to issue from time to time general obligation ~~and~~ bonds, revenue bonds ~~from time to time~~, or revenue bonds also backed by the municipality's full faith and credit in its discretion to finance the undertaking of any improvements wholly or partly within such district. If revenue bonds are issued, such bonds shall be made payable, as to both principal and interest, solely from the income proceeds, revenues, tax increments and funds of the municipality derived from, or held in connection with its undertaking and carrying out of improvements under this chapter. So long as any such bonds of a municipality are outstanding the local governing body may deduct, in any one or more years from any net increase in the

aggregate taxable valuation of land and improvements in all areas covered by their district the amount necessary to produce tax revenues equal to the current debt service on such bonds, assuming the previous year's total tax rate and full collection. Only the balance, if any, of such net increase shall be taken into account in computing the sums which may be appropriated for other purposes under applicable tax rate limits. But all the taxable property in all areas covered by the district, including the whole of such net increase, shall be subject to the same total tax rate as other taxable property, except as may be otherwise provided by law. Such net increase shall be computed each year by subtracting, from the current aggregate valuation of the land and improvements in all areas covered by the district, the sum of the aggregate valuations of land and improvements in each such area on the date the district was approved under this section. An area shall be deemed to be covered as a district until the date all the indebtedness incurred by the municipality to finance the applicable improvements have been paid. Notwithstanding any provisions in this chapter to the contrary, any provision of a municipal charter of any municipality which specifies a different debt limit, or which requires a greater vote to authorize bonds, or which prescribes a different computation of appropriations under tax rate limits, or which is otherwise inconsistent with this subsection, shall apply.

Sec. 38. SMALL-SCALE HYDROLECTRIC; FINDINGS

The general assembly finds and declares that:

(1) The generation of renewable power within Vermont is critical to the economic development, energy independence, and financial security of the state.

(2) Section 401 of the federal Clean Water Act, 33 U.S.C. § 1341, requires any applicant for a federal permit that may involve a discharge to navigable waters to obtain certification from the state that the permitted activity does not violate the state's water quality standards.

(3) As set forth in 10 V.S.A. § 1004, the secretary of natural resources is the agent that the U.S. Environmental Protection Agency delegated to conduct Clean Water Act § 401 certifications in the state of Vermont.

(4) The secretary of natural resources should be required to adopt procedures establishing an application process for certification of hydroelectric projects in a timely manner that allows for the predictable and affordable development of small-scale hydroelectric power projects.

Sec. 39. 10 V.S.A. § 1006 is added to read:

§ 1006. CERTIFICATION OF HYDROELECTRIC PROJECTS; APPLICATION PROCESS

(a) As used in this section:

(1) "Bypass reach" means that area in a waterway between the initial

point where water has been diverted through turbines or other mechanical means for the purpose of water-powered generation of electricity and the point at which water is released into the waterway below the turbines or other mechanical means of electricity generation.

(2) "Conduit" means any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar constructed water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(3) "Hydroelectric project" means a facility, site, or conduit planned or operated for the generation of water-powered electricity that has a generation capacity of no more than 1 megawatt and does not create a new impoundment.

(4) "Impoundment" means "riverine impoundment" as defined in the Vermont water quality standards adopted pursuant to chapter 47 and section 6025(d)(3) of this title.

(b) On or before December 15, 2009, the agency of natural resources, after opportunity for public review and comment, shall adopt by procedure an application process for the certification of hydroelectric projects in Vermont under Section 401 of the federal Clean Water Act.

(c) The application process adopted by the agency of natural resources under subsection (b) of this section may include an application form for a federal Clean Water Act Section 401 certification for a hydroelectric project

that meets the requirements of the Vermont water pollution control permit rules. The application form may require information addressing:

(1) a description of the proposed hydroelectric project and the impact of the project on the watershed;

(2) the preliminary terms and conditions that an applicant shall be subject to if a federal Clean Water Act Section 401 certification is issued for a proposed hydroelectric project; and

(3) time frames for the agency of natural resources review of and response to an application for a federal Clean Water Act Section 401 certification of a hydroelectric project.

(d) In adopting the Clean Water Act Section 401 certification application process required by subsection (b) of this section, the agency may, consistent with its authority to waive certifications under 33 U.S.C. § 1341(a)(1), adopt an expedited certification process for:

(1) hydroelectric projects when data provided by an applicant provide reasonable assurance that the project will comply with the state water quality standards;

(2) hydroelectric projects utilizing conduits; hydroelectric projects without a bypass reach; and hydroelectric projects with a de minimis bypass reach, as defined by the agency of natural resources; and

(3) previously certified hydroelectric projects operating in compliance

with the terms of a Clean Water Act Section 401 certification as demonstrated by existing administrative, monitoring, reporting, or enforcement data.

Sec. 40. AGENCY OF NATURAL RESOURCES REPORT ON APPLICATION PROCESS FOR CERTIFICATIONS OF HYDROELECTRIC PROJECTS

On or before January 15, 2010, the agency of natural resources shall submit to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, the house committee on fish, wildlife and water resources, and the house and senate committees on natural resources and energy a copy of the application process required under 10 V.S.A. § 1006 for the certification of hydroelectric projects.

Sec. 41. STORMWATER; IMPAIRED WATERS; EXTENSION OF SUNSET

Sec. 10 of No. 140 of the Acts of the 2003 Adj. Sess. (2004), as amended by Sec. 8 of No. 154 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 3 of No. 43 of the Acts of 2007, is further amended to read:

Sec. 10. SUNSET

(a) Sec. 2 of this act (interim permitting authority for regulated stormwater runoff), except for subsection 1264a(e) of Title 10, shall be repealed on January 15, ~~2010~~ 2012.

(b) Sec. 4 of this act (local communities implementation fund) shall be repealed on September 30, 2012.

(c) Sec. 6 of this act (stormwater discharge permits during transition period) shall be repealed on January 15, ~~2010~~ 2012.

Sec. 42. [Omitted]

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

To facilitate responsible development of renewable energy projects in high-elevation settings, the Vermont department of environmental conservation shall consult with project developers and interested stakeholders and, by January 15, 2010 or in the process currently under way to update the Vermont stormwater management manual, whichever occurs first, amend its rules or the stormwater management manual, pursuant to chapter 25 of Title 3, to include alternative guidance for operational-phase stormwater permitting of renewable energy projects located in high-elevation settings. Such alternative guidance shall include consideration of measures that minimize the extent and footprint of stormwater-treatment practices so as to preserve vegetation and trees and limit disturbances; that reflect the fragile ecosystems, shallow soils, and sensitive streams found in high-elevation settings; and that reflect the temporary nature and infrequent use of construction and access roads to such projects.

* * * Telecommunications Permitting * * *

Sec. 44. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR ~~MULTIPLE~~ COMMUNICATIONS FACILITIES

(a) Notwithstanding any other provision of law, if the applicant ~~in a single application~~ seeks approval for the construction or installation ~~within three years~~ of ~~three or more~~ telecommunications facilities ~~as part of an interconnected network~~ that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

(b) For the purposes of this section:

(1) "Telecommunications facility" means ~~any~~ a communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes and any associated support structure ~~extending more than 50 feet above the ground~~ that is proposed for construction or installation which is primarily for

communications purposes ~~and which supports facilities that transmit and receive communications signals for commercial, industrial, municipal, county, or state purposes~~, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure.

(2) ~~Telecommunications facilities are "part of an interconnected network" if those facilities would allow one or more communications services to be provided throughout a contiguous area of coverage created by means of the proposed facilities or by means of the proposed facilities in combination with other facilities already in existence~~ An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(c) Before the public service board issues a certificate of public good under this section, it shall find that~~, in the aggregate~~:

(1) ~~the~~ The proposed ~~facilities~~ facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, with due consideration having been given to the relevant criteria specified in subsection 1424a(d) and subdivisions 6086(a)(1) through (8) and (9)(K) of Title 10~~; and~~.

(2) ~~unless~~ Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the

affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located.

(d) When issuing a certificate of public good under this section, the board shall give due consideration to all conditions in an existing state or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.

(e) No less than 45 days prior to filing a petition for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the secretary of the agency of natural resources; the commissioner of the department of public service and its director for public advocacy; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. Upon motion or otherwise, the public service board shall direct

that further public or personal notice be provided if the board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(f) Unless the public service board identifies that an application raises a ~~substantial~~ significant issue, the board shall issue a final determination on an application filed pursuant to this section within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If the board rules that an application raises a ~~substantial~~ significant issue, it shall issue a final determination on an application filed pursuant to this section within 180 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 180 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(g) Nothing in this section shall be construed to prohibit an applicant from executing a letter of intent or entering into a contract before the issuance of a certificate of public good under this section, provided that the obligations under that letter of intent or contract are made subject to compliance with the requirements of this section.

(h) An applicant using the procedures provided in this section shall not be required to obtain a ~~local zoning~~ permit or ~~a~~ permit amendment or other

approval under the provisions of chapter 117 of Title 24 or chapter 151 of Title 10 for the facilities subject to the application or to a certificate of public good issued pursuant to this section. Ordinances adopted pursuant to subdivision 2291(19) of Title 24 or a municipal charter that would otherwise apply to the construction or installation of facilities subject to this section are preempted. Disputes over jurisdiction under this section shall be resolved by the public service board, subject to appeal as provided by section 12 of this title. An applicant that has obtained or been denied a permit or permit amendment under the provisions of Title 24 or chapter 151 of Title 10 for the construction of a telecommunications facility may not apply for approval from the board for the same or substantially the same facility, except that an applicant may seek approval for a modification to such a facility.

(i) Effective July 1, ~~2010~~ 2011, no new applications for certificates of public good under this section may be considered by the board.

(j)(1) Minor applications. The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings required by any provision other than subdivision (2) of this subsection if the board finds that such facilities will be of limited size and scope, and the petition does not raise a significant issue with respect to the substantive criteria of this section. If an applicant requests approval of multiple

telecommunications facilities in a single application under this section, the board may issue a certificate of public good in accordance with the provisions of this subsection for all or some of the telecommunications facilities described in the petition.

(2)(A) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition, and provide notice and a copy of the petition, proposed certificate of public good, and proposed findings of fact to the commissioner of the department of public service and its director for public advocacy, the secretary of the agency of natural resources, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. The applicant shall give written notice of the proposed certificate to the landowners of record of property adjoining the project site or sites unless the board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the board within 21 days of the notice on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the board finds that a petition raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

(B) Any waiver or modification of notice to adjoining landowners under this subsection shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such landowners would constitute a significant administrative burden without corresponding public benefit.

(C) If the board accepts a request to consider an application under the procedures of this subsection, then unless the public service board subsequently determines that an application raises a significant issue, the board shall issue a final determination on an application filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 45 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(D) If the board denies a request to consider an application under the procedures of this subsection, a filing made under this subsection that the

board has found to be complete shall be deemed to satisfy notice requirements of subsection (e) of this section, and the periods stated under subsection (f) of this section shall run from the date of the board's denial of such request.

(k) The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall seek to simplify the application and review process as appropriate and may by rule or order waive the requirements of this section that the board determines are not applicable to telecommunications facilities of limited size or scope. Determination by the board that a petition raises a substantial issue with regard to one or more substantive criteria of this section shall not prevent the board from waiving other substantive criteria that it has determined are not applicable to such a telecommunications facility.

Sec. 45. 24 V.S.A. § 4412(8)(C) is amended to read:

(C) The regulation ~~of antennae that are part~~ of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal ~~bylaw review~~ approval under this chapter when and to the extent jurisdiction is assumed by the public service board according to the provisions of that section.

Sec. 46. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

* * *

(l) A district commission may reject an application under this chapter that

misrepresents any material fact and may after notice and opportunity for hearing award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 47. 24 V.S.A. § 4455 is added to read:

§ 4455. REVOCATION

On petition by the municipality and after notice and opportunity for hearing, the environmental court may revoke a municipal land use permit issued under this chapter, including a permit for a telecommunications facility, on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

Sec. 48. 24 V.S.A. § 4470a is added to read:

§ 4470a. MISREPRESENTATION; MATERIAL FACT

An administrative officer or appropriate municipal panel may reject an application under this chapter, including an application for a telecommunications facility, that misrepresents any material fact. After notice and opportunity for hearing in compliance with section 809 of Title 3, an appropriate municipal panel may award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 49. 30 V.S.A. § 202c is amended to read:

§ 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

(a) The general assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the state improved communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d of this title to:

(1) Strengthen the state's role in telecommunications planning.

(2) Support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data.

(3) Support the availability of modern mobile wireless telecommunications services along the state's travel corridors and in the state's communities.

(4) Provide for high-quality, reliable telecommunications services for Vermont businesses and residents.

(5) Provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses.

(6) Support competitive choice for consumers among telecommunications service providers.

(7) Support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the state.

(8) Support, to the extent practical and cost-effective, deployment of broadband infrastructure that:

(A) Uses the best commercially available technology.

(B) Does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

Sec. 50. 30 V.S.A. § 8060 is amended to read:

§ 8060. LEGISLATIVE FINDINGS AND PURPOSE

(a) The general assembly finds that:

(1) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(2) Private entities have brought mobile telecommunications and

broadband services to many households, businesses and locations in the state, but significant gaps remain.

(3) A new level of creative and innovative strategies (including partnerships and collaborations among and between state entities, nonprofit organizations, municipalities, the federal government, and the private sector) is necessary to extend and complete broadband coverage in the state, and to ensure that Vermont maintains a telecommunications infrastructure that allows residents and businesses to compete fairly in the national and global economy.

(4) When such partnerships and collaborations fail to achieve the goal of providing high-quality broadband access and service to all areas and households, or when some areas of the state fall behind significantly in the variety and quality of services readily available in the state, it is necessary for an authority of the state to support and facilitate the construction of infrastructure and access to broadband service through financial and other incentives.

(5) Small broadband enterprises now offering broadband service in Vermont have limited access to financial capital necessary for expansion of broadband service to unserved areas of the state. The general assembly recognizes these locally based broadband providers for their contributions to date in providing broadband service to unserved areas despite the limitations on their financial resources.

(6) The universal availability of adequate mobile telecommunications and broadband services promotes the general good of the state.

(7) Vermonters should be served by broadband infrastructure that, to the extent practical and cost-effective, uses the best commercially available technology and does not involve widespread installation of technology that becomes outmoded within a short period after installation.

(b) Therefore, it is the goal of the general assembly to ensure:

(1) that all residences and business in all regions of the state have access to affordable broadband services not later than the end of the year 2010~~;~~, and that this goal be achieved in a manner that, to the extent practical and cost-effective, does not negatively affect the future installation of the best commercially available broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

(2) the ubiquitous availability of mobile telecommunication services including voice and high-speed data throughout the state by the end of the year 2010.

(3) the investment in telecommunications infrastructure in the state which will support the best available and economically feasible service capabilities.

(4) that telecommunications and broadband infrastructure in all areas of

the state is continuously upgraded to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband services needed by persons, businesses, and institutions in the state.

(5) the most efficient use of both public and private resources through state policies by encouraging the development of open access telecommunications infrastructure that can be shared by multiple service providers.

Sec. 51. 30 V.S.A. § 8077 is amended to read:

§ 8077. ESTABLISHMENT OF MINIMUM TECHNICAL SERVICE CHARACTERISTIC OBJECTIVES

(a) The department of public service~~,~~ shall, as part of the state telecommunications plan prepared pursuant to section 202d of this title, identify minimum technical service characteristics which ought to be available as part of broadband services commonly sold to residential and small business users throughout the state. For the purposes of this chapter, "broadband" means high speed Internet access. The department shall consider the performance characteristics of broadband services needed to support current and emerging applications of broadband services. The department shall review and update the minimum characteristics established under this section no less than every three years starting in 2009. In the event such review is conducted

separately from an update of the state telecommunications plan pursuant to subsection 202d(f) of this title, the department shall issue revised minimum characteristics as an amendment to the plan.

(b) The authority shall give priority in its activities toward projects which expand the availability of broadband services that meet the minimum technical services characteristics established by the state telecommunications plan.

(c) Until the department of public service adopts ~~a revision to the state telecommunications plan~~ minimum service characteristics under subsection (a) of this section, the authority shall give priority to the expansion of broadband services which deploy equipment capable of a data transmission rate of not less than three megabits per second and offer a service plan with a data transmission rate of not less than 1.5 megabits per second in at least one direction to unserved areas.

* * * Act 250 * * *

Sec. 52. 10 V.S.A. § 6001(3)(D) is amended to read:

(D) The word "development" does not include:

(i) The construction of improvements for farming, logging or forestry purposes below the elevation of 2,500 feet.

(ii) The construction of improvements for an electric generation or transmission facility that requires a certificate of public good under ~~section~~ 30 V.S.A. § 248 ~~or~~, a natural gas facility as defined in ~~subdivision~~ 30 V.S.A.

§ 248(a)(3), or a telecommunications facility issued a certificate of public good under 30 V.S.A. § 248a.

(iii) [Repealed.]

(iv) The construction of improvements for agricultural fairs that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

(v) The construction of improvements for the exhibition or showing of equines at events that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

(vi) The construction of improvements for any one of the actions or abatements authorized in subdivision (I) of this subdivision (vi):

(I)(aa) A remedial or removal action for which the secretary of natural resources has authorized disbursement under section 1283 of this title.

(bb) Abating a release or threatened release, as directed by the secretary of natural resources under section 6615 of this title.

(cc) A remedial or removal action directed by the secretary of natural resources under section 6615 of this title.

(dd) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under section 6615b of this

title.

(ee) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under subchapter 3 of chapter 159 of this title.

(II) The exemption provided by this subdivision shall not apply to subsequent development.

Sec. 53. 10 V.S.A. § 6081(d) is amended to read:

(d) For purposes of this section, the following construction of improvements to preexisting municipal, county, or state projects shall not be considered to be substantial changes~~, regardless of the acreage involved,~~ and shall not require a permit as provided under subsection (a) of this section:

(1) ~~essential~~ municipal, county, or state wastewater treatment facility enhancements that do not expand the capacity of the facility by more than ~~10~~ 25 percent, excluding the extension of a wastewater collection system or an expansion of the service-area boundaries of a wastewater treatment facility.

(2) ~~essential~~ municipal ~~waterworks~~, county, or state water supply enhancements that do not expand the capacity of the facility by more than ~~10~~ 25 percent.

(3) ~~essential~~ public school reconstruction or expansion that does not expand the student capacity of the school by more than ~~10~~ 25 percent.

(4) ~~essential~~ municipal, county, or state building renovations or

reconstruction ~~or expansion~~ that does not expand the floor space of the building by more than ~~10~~ 25 percent.

(5) construction of improvements to preexisting municipal, county, or state roads and bridges, provided such construction receives funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

Sec. 54. SUNSET

Effective July 1, 2011, each occurrence of "25" in 10 V.S.A. § 6081(d) is amended to "10". Also effective July 1, 2011, 10 V.S.A. § 6081(d)(5) (exemption for ARRA-funded road and bridge improvements) shall cease to be effective. However, the construction of improvements commenced prior to July 1, 2011 shall not require a permit by operation of this section if such construction was exempt under Sec. 53 of this act.

* * * Utility Relocations: ARRA * * *

Sec. 55. 19 V.S.A. § 1607 is added to read:

§ 1607. FEDERAL REIMBURSEMENT FOR CERTAIN UTILITY RELOCATIONS

(a) As a result of appropriations for infrastructure enhancement and development contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, and other federal transportation-aid programs, significant highway construction projects are expected to be

constructed in the near future.

(b) To ensure that projects are not delayed or canceled because of the inability of utilities and municipalities to pay for utility relocation costs and to ensure that available federal funds are utilized on shovel-worthy projects, it is the intent of the general assembly to reimburse utilities with infrastructure, including municipally owned drinking water facilities and municipally owned wastewater infrastructure, up to 80 percent of the approved relocation costs, if the relocation is necessitated by a highway construction project funded by ARRA or other federal transportation-aid programs.

(c) Eligible relocation costs under subsection (b) of this section shall be reimbursed by the state agency or other entity primarily responsible for managing or directing the construction project on the condition that federal stimulus funds or other federal funds are available and eligible to pay for the relocation costs.

(d) The state and municipalities shall not be obligated to pay to utilities the state or local share of a federally funded project.

(e) The state shall not be obligated to pay the state or local share to a municipality for the relocation of municipal drinking water and municipal wastewater infrastructure.

* * * Indirect Source Permits * * *

Sec. 56. 10 V.S.A. § 556(i) is added to read:

(i) Notwithstanding any provisions of this section, section 5-503 of the air pollution control regulations, as adopted through April 27, 2007 (indirect source permits) is hereby repealed.

Sec. 57. 10 V.S.A. § 8019 is added to read:

§ 8019. ENVIRONMENTAL TICKETING

(a) The secretary and the board each shall have the authority to adopt rules for the issuance of civil complaints for violations of their respective enabling statutes or rules adopted under those statutes that are enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4. Any proposed rule under this section shall include both the full and waiver penalty amounts for each violation. The maximum civil penalty for any violation brought under this section shall not exceed $3,000.00 exclusive of court fees.

(b) A civil complaint issued under this section shall preclude the issuing entity from seeking an additional monetary penalty for the violation specified in the complaint when any one of the following occurs: the waiver penalty is paid, judgment is entered after trial or appeal, or a default judgment is entered. Notwithstanding this preclusion, the agency and the board may issue additional complaints or initiate an action under chapter 201 of this title, including a monetary penalty when a violation is continuing or is repeated, and may also

bring an enforcement action to obtain injunctive relief or remediation and, in such additional action, may recover the costs of bringing the additional action and the amount of any economic benefit the respondent obtained as a result of the underlying violation in accordance with subdivisions 8010(b)(7) and (c)(1) of this title.

(c) The secretary or board chair and his or her duly authorized representative shall have the authority to amend or dismiss a complaint by so marking the complaint and returning it to the judicial bureau or by notifying the hearing officer at the hearing.

(d) Subsequent to the issuance of a civil complaint under this section and the conclusion of any hearing and appeal regarding that complaint, the following shall be considered part of the respondent's record of compliance calculating a penalty under section 8010 of this title:

(1) The respondent's payment of the full or waiver penalty stated in the complaint.

(2) The respondent's commission of a violation after the hearing before the judicial bureau on the complaint.

(3) The respondent's failure to appear or answer the complaint resulting in the entry of a default judgment.

(4) A finding, after appeal, that the respondent committed a violation.

Sec. 58. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(17) Violations of the statutes listed in 10 V.S.A. § 8003, any rules or permits issued under those statutes, and any assurances of discontinuance or orders issued under chapter 201 of Title 10, provided that a rule has been adopted and a civil complaint issued concerning such a violation under 10 V.S.A. § 8019.

* * *

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except ~~that~~:

(1) ~~m~~Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to section 1979 of Title 24. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall

indicate the appropriate full and waiver penalties on the complaint.

Sec. 59. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

* * *

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the state or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the department of motor vehicles, the agency of natural resources, or the natural resources board and presented by the issuing officer or other person shall be admissible without testimony by a representative of the department of motor vehicles, the agency of natural resources, or the natural resources board.

* * *

(e) A state's attorney may dismiss or amend a complaint, except that dismissal or amendment of a complaint subject to subdivision 1102(b)(17) of this title shall be governed by 10 V.S.A. § 8019(c).

(f) The supreme court shall establish rules for the conduct of hearings

under this chapter.

Sec. 60. 4 V.S.A. § 1107 is amended to read:

§ 1107. APPEALS

(a) A decision of the hearing officer may be appealed to the district court, except for a decision in a proceeding under subdivision 1102(b)(17) of this title. The proceeding before the district court shall be on the record, or at the option of the defendant, de novo. The defendant shall have the right to trial by jury. An appeal shall stay payment of a penalty and the imposition of points.

(b) ~~If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state and the state's attorney, grand juror or municipal attorney shall represent the municipality~~ A decision of the hearing officer in a proceeding under subdivision 1102(b)(17) of this title may be appealed to the environmental court created under chapter 27 of this title. The proceedings before the environmental court shall be on the record. The defendant shall not have a right to a jury trial. An appeal shall stay the payment of a penalty.

(c) If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state, and the state's attorney, grand juror, or municipal attorney shall represent the municipality. In an appeal to the environmental court from a decision under subdivision 1102(b)(17) of this title, an attorney from the agency of natural resources or the natural resources

board shall represent the state.

(d) No appeal as of right exists to the supreme court. On motion made to the supreme court by a party, the supreme court may allow an appeal to be taken to it from the district court or environmental court.

Sec. 61. 20 V.S.A. § 2063 is amended to read:

§ 2063. CRIMINAL HISTORY RECORD FEES; CRIMINAL HISTORY RECORD CHECK FUND

* * *

(b) Requests made by criminal justice agencies for criminal justice purposes or other purposes authorized by state or federal law shall be exempt from all record check fees. The following types of requests shall be exempt from the Vermont criminal record check fee:

* * *

(5) Requests made by environmental enforcement officers employed by the agency of natural resources.

* * *

Sec. 62. PERMIT EXPEDITING; FEDERAL STIMULUS

(a) Notwithstanding any other provision of law, the following shall apply to an application for a permit, certificate, or other approval to the agency of natural resources, the agency of transportation, an appropriate municipal panel under 24 V.S.A. chapter 117, or a district environmental commission under

10 V.S.A. chapter 151 with respect to a project for municipal, county, or state purposes that will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5:

(1) The application shall be given priority over any other pending application.

(2) An appropriate municipal panel shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 45 days after the adjournment of the hearing, and failure of the panel to issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

(3) A district commission shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 90 days after the adjournment of the hearing, and failure of the commission to issue a decision within this period shall be deemed approval and shall be effective on the 91st day.

(b) This section shall be repealed on July 1, 2012.

Sec. 63. EXPIRED PERMITS; FEDERAL STIMULUS

A permit, certificate, or approval that, by operation of law or other means, has lapsed or expired because the project subject to the permit, certificate, or approval has not been constructed shall be deemed effective if all of the following apply:

(1) The project subject to the permit, certificate, or other approval will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

(2) The permit, certificate, or other approval was issued within the five-year period preceding the date this section is enacted by the agency of natural resources, the agency of transportation, a municipality or appropriate municipal panel under 24 V.S.A. chapter 117, a district commission under 10 V.S.A. chapter 151, or an appellate court or other tribunal on appeal from such an agency, municipality, panel, or commission.

(3) No change is proposed to the project as approved by the permit, certificate, or other approval.

Sec. 64. 32 V.S.A. § 5930a(a) is amended as follows:

(a) There is created ~~an economic incentive review board~~ a Vermont economic progress council which shall be attached to the department of economic development for administrative support, including an executive director who shall be appointed by the governor with the advice and consent of the senate, who shall be knowledgeable in subject areas of the ~~board's~~ council's jurisdiction, and hold the status of an exempt state employee, and administrative staff employed in the state classified service. The ~~board~~ council shall consist of 11 members, nine of whom shall be residents of the state appointed by the governor with the advice and consent of the senate. The

governor shall appoint residents to the ~~board~~ council who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, state fiscal affairs, property taxation, or entrepreneurial ventures, and shall make appointments to the ~~board~~ council insofar as possible as to provide representation to the various geographical areas of the state and municipalities of various sizes. Members of the ~~board~~ council appointed by the governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms. All ~~board~~ council members' terms shall be four-year terms upon the expiration of their initial terms and ~~board~~ council members may be reappointed to serve successive terms. All terms shall commence on April 1 of each odd-numbered year. The governor shall select a chair from among the ~~board's~~ council's members. In addition the ~~board~~ council shall include one member selected by the speaker of the house, who shall be a member of the house; and one member selected by the committee on committees of the senate, who shall be a member of the senate. Legislative members shall be voting members. There shall also be two regional members from each region of the state; one shall be designated by the regional development corporation of the region and one shall be designated by the regional planning commission of the region. Regional members shall be nonvoting members and shall serve during consideration by the ~~board~~ council of applications from their respective

regions. For attendance at meetings and for other official duties, appointed members shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that members who are members of the legislature shall be entitled to compensation for services and reimbursement for expenses as provided in section 406 of Title 2. A regional member who does not otherwise receive compensation and reimbursement for expenses from his or her regional development or planning organization shall also be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

Sec. 65. TRANSITION

(a) Sec. 64 of this act shall take effect upon passage, at which time the economic incentive review board shall be renamed the Vermont economic progress council. The council shall have the responsibilities and authority of the economic incentive review board with respect to administering and monitoring the Vermont employment growth incentives (VEGI) program and the tax increment financing program and property tax allocations under Secs. 2a through 2h of No. 184 of the Acts of the 2005 Adj. Sess. (2006). The legislative council is directed to make necessary revisions to the Vermont Statutes Annotated to reflect the changes made in Secs. 64 and 65 of this act.

Sec. 66. FINDINGS AND PURPOSE; VERMONT VILLAGE GREEN RENEWABLE PILOT PROGRAM

The general assembly finds all of the following:

(1) The use of fossil fuels for heat and power contributes to emissions of greenhouse gases and climate change.

(2) Fossil fuel prices in recent years have been highly volatile, and significant potential exists for those prices to reach rates that are equal to or greater than the exceptionally high prices seen within the last few years.

(3) Payments for fossil fuels by Vermonters involve the movement of significant sums of money outside the state and the country to pay for heating fuel, draining Vermont's economy.

(4) The state of Vermont seeks to ensure that Vermonters obtain a greater measure of control over the environmental impacts of energy use and energy costs.

(5) The state of Vermont seeks to increase its efforts to limit its emissions of greenhouse gases.

(6) Community energy infrastructure that uses renewable fuels can reduce the environmental impacts of energy use and provide a community with the opportunity to obtain heat and potentially power at stable prices that reduce the economic risks associated with fossil fuels. Local energy purchases

recirculate money in the Vermont economy and can provide businesses with competitive energy rates.

(7) The state of Vermont seeks to establish incentives for communities to host energy generation that is renewable and efficiently utilized and that provides heat and potentially power to groups of commercial, industrial, or residential uses, or combinations of such uses, within the community.

Sec. 67. 30 V.S.A. chapter 93 is added to read:

CHAPTER 93. VERMONT VILLAGE GREEN RENEWABLE PILOT PROGRAM

§ 8100. DEFINITIONS

In this chapter:

(1) "Board" means the public service board created under section 3 of this title.

(2) "Certification" or "certified," except when part of the phrase "third party certified," refers to certification of a Vermont village green renewable project by the department under subsection 8101(b) of this title.

(3) "Combined heat and power " or "CHP" shall have the meaning stated in 10 V.S.A. § 6523(b), except that:

(A) CHP excludes facilities using fossil fuel.

(B) CHP using woody biomass as a fuel must achieve, for that fuel, no less than a 50-percent net annual efficiency of energy utilized and, during

the heating season, a minimum energy conversion efficiency of 70 percent considering all energy inputs and outputs at normal load.

(4) "Department" means the department of public service created under section 1 of this title.

(5) "District heating" means a system for distributing heat generated in a centralized location within a host community to multiple residential, commercial, or industrial uses within that community or a combination of such uses. The source of heat may be a dedicated heat-only facility using renewable energy as a fuel or waste heat from electrical generation that uses renewable energy as a fuel to form a CHP system.

(6) "District power" means a system for distributing electricity generated in a centralized location within a host community to multiple residential, commercial, or industrial uses in that community or a combination of such uses. The electricity must be produced using renewable energy as a fuel source and may include CHP.

(7) "Host community" means the municipality in which a Vermont village green renewable project is to be located.

(8) "Renewable energy" shall have the meaning stated in 10 V.S.A. § 6523(b)(4), except that renewable energy using woody biomass as a fuel must achieve, for that fuel, no less than a 50-percent net annual efficiency of energy utilized and, during the heating season, a minimum energy conversion

efficiency of 70 percent considering all energy inputs and outputs at normal load.

(9) "Vermont village green renewable project" means district heating, either with or without district power, to serve a downtown development district designated as such pursuant to 24 V.S.A. § 2793 or a growth center designated as such pursuant to 24 V.S.A. § 2793c. As long as the end uses served by the project are within such a district or center, the generation of heat and power may be outside the district or center.

§ 8101. PILOT PROGRAM; CERTIFICATION

(a) The Vermont village green renewable pilot program is created to consist of no more than two Vermont village green renewable projects, one each in the city of Montpelier and in the town of Randolph. Another municipality may seek certification under this chapter in the event either the city of Montpelier or the town of Randolph or both decline to seek or are denied certification.

(b) On application of a host community, the department may certify a Vermont village green renewable project under this chapter on finding each of the following:

(1) The host community proposes a Vermont village green renewable project.

(2) The host community has submitted an application to the board that includes each of the following:

(A) A description and map of the proposed Vermont village green renewable project, showing its location within the host community.

(B) A complete description of the existing industrial, commercial, or residential uses to be served by the Vermont village green renewable project, of how the project will serve those uses, and of the billing, payment, and customer service arrangements.

(C) A letter submitted by the host community in support of the application and, if the host community has a town plan, the letter shall confirm that the proposed project is consistent with that plan.

(D) A letter issued by the appropriate regional planning commission indicating that the regional impacts of the proposed project and selected site have been considered and that the project conforms with the applicable regional plan.

(E) A letter from the Vermont downtown development board, as described under 24 V.S.A. § 2792(f), that the development board has been notified of the Vermont village green renewable project.

(3) The Vermont village green renewable project is consistent with the purposes of the clean energy development fund as established in 10 V.S.A. § 6523.

(4) The host community will invest in the Vermont village green renewable project the incentive created under section 8102 of this title and has provided a plan that demonstrates that such investment will be made.

(5) The Vermont village green renewable project, if it uses woody biomass as a fuel, will use procurement standards, management practices, and a supply chain that are third party certified using a performance-based audit.

(6) The Vermont village green renewable project will comply with all applicable national ambient air quality standards and air pollution control regulations of the agency of natural resources. If, during 2009, the U.S. Environmental Protection Agency proposes updated emissions standards applicable to wood-fueled boilers to be used in connection with the project, the project shall comply with such proposed standards.

(7) The Vermont village green renewable project meets all applicable requirements of this chapter.

(c) Notwithstanding any other provision of law, certification under this section shall not be subject to the provisions of 3 V.S.A. chapter 25 and shall not be subject to appeal.

(d) A host community does not need to obtain certification unless it seeks its Vermont village green renewable project to be eligible for incentives under section 8102 of this title or rates for electricity as provided under subsection

8104(b) of this title. Certification shall not be required to qualify for net metering under section 219a of this title.

§ 8102. INCENTIVES; CUSTOMER CONNECTIONS

Notwithstanding any other provision of law, the clean energy development fund created under 10 V.S.A. § 6523 shall provide at least $100,000.00 in incentives to customers who will connect to a certified Vermont village green renewable project. Any such incentive shall be applied by the customer to the cost of constructing the customer's connection to the project.

§ 8103. HEAT AVAILABILITY

All of the heat generated by a Vermont village green renewable project shall be made available to the commercial, industrial, and residential users identified in the host community's application to the board under subsection 8101(b) of this title.

§ 8104. RATES FOR ELECTRICITY

(a) All or a portion of the electricity generated by a Vermont village green renewable project, if it includes district power, shall be made available to the commercial, industrial, and residential users identified in the host community's application to the board under subsection 8101(b) of this title.

(b) If a Vermont village green renewable project includes district power and does not qualify or opt for treatment as a net metering system under section 219a of this title:

(1) On petition of the host community, the board after notice and opportunity for hearing shall create a rate class for the commercial, industrial, and residential uses served by the project, the rates for which class at a minimum shall be consistent with the following principle: An end user shall pay the same share of the distribution utility's fixed costs as a similar end user not served by the project.

(2) Excess electricity may be sold to the distribution utility at the market rate or by contract.

§ 8105. REPORTING

(a) A host community for which a Vermont village green renewable project has been certified under this chapter shall file a report to the board and the commissioner of public service by December 31 of each year following certification. The report shall contain such information as is required by the board and the commissioner. The report shall include at a minimum sufficient information for the commissioner of public service to submit the report required by subsection (b) of this section.

(b) Beginning March 1, 2010, and annually thereafter, the commissioner of public service shall submit a report to the senate committees on economic development, housing and general affairs, on finance, and on natural resources and energy, the house committees on ways and means, on commerce and economic development, and on natural resources and energy, and the governor

which shall include an update on progress made in the development of the Vermont village green renewable projects authorized under this chapter. The report also shall include an analysis of the costs and benefits of the projects as well as any recommendations consistent with the purposes of this chapter.

Sec. 68. LETTER OF INTENT; VERMONT VILLAGE GREEN RENEWABLE PILOT PROGRAM

No later than July 1, 2010, the City of Montpelier and the Town of Randolph shall each issue a letter of intent to the department of public service stating whether or not the city or the town, respectively, intends to seek certification under 30 V.S.A. § 8101.

* * * VOSHA Service of Process * * *

Sec. 69. 21 V.S.A. § 225(a) is amended to read:

(a) If, upon inspection or investigation the commissioner or the director, or the agent of either of them, finds that an employer has violated a requirement of the VOSHA Code, the commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the superior court. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. By rule the commissioner shall

prescribe procedures for issuance of a notice in lieu of a citation with respect to de minimus violations which have no direct or immediate relationship to safety or health, and for hearing interested parties before a civil penalty is assessed.

* * * Workers' Comp. Info. Sharing * * *

Sec. 69a. 21 V.S.A. § 1314(e)(1) is amended to read:

(e)(1) Subject to such restrictions as the board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The commissioner may also make information available to colleges, universities, and public agencies of the state for use in connection with research projects of a public service nature, and to the Vermont economic progress council with regard to the administration of subchapter 11E of chapter 151 of Title 32; but no person associated with those institutions or agencies may disclose that information in any manner which would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commissioner.

* * *

Sec. 70. STUDY; SPECIAL COMMITTEE ON MOBILE HOME RENT-TO-OWN AGREEMENTS

(a) There is created a special committee on mobile home rent-to-own agreements, the organization of which shall be as follows:

(1) The committee shall hold its first meeting no later than June 30, 2009 at a place and time agreed to by a majority of the members. The commissioner of the department of housing and community affairs, or his or her designee, shall chair the first meeting, at which the committee shall elect a chair and vice chair and shall establish a schedule for accomplishing its duties under this act.

(2) Following its first meeting, the committee shall provide bi-monthly progress reports to the chairs of the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs, and shall submit its final report to those committees on or before January 15, 2010.

(3) The staff of the legislative council shall provide technical and clerical support to the committee. Legislative member shall be entitled to a per diem and expenses as provided in 2 V.S.A. § 406.

(b) The committee shall consist of the following individuals:

(1) The commissioner of the department of housing and community affairs or designee.

(2) The commissioner of the department of banking, insurance, securities, and health care administration or designee.

(3) A representative of the banking industry with experience in real estate transactions recommended by the Vermont Bankers Association, Inc.

(4) A member representing the interests of Vermont town clerks who shall be appointed collaboratively by the Vermont League of Cities and Towns, Inc. and the Vermont Municipal Clerks' & Treasurers' Association.

(5) Two members representing the interests of mobile home tenants, one of whom shall be appointed by Vermont Legal Aid, and one of whom shall be appointed by the Champlain valley office of economic opportunity.

(6) A member representing the interests of mobile home park owners who shall be appointed by the Vermont Apartment Owners Association, LLC.

(7) The chair of the house committee on general, housing and military affairs, or designee, and the senate committee on economic development, housing and general affairs, or designee.

(c) The committee shall take such testimony and review such reports or other information to examine and develop proposals to address the following issues, and any additional issues it deems necessary, to accomplish its duties under this act:

(1) The historical and current practice of mobile home purchases on a "rent-to-own" basis, including:

(A) The prevalence of purchases on a rent-to-own basis.

(B) Whether rent-to-own purchases occur pursuant to written agreement, the form and content of those agreements, whether those agreements comply with current law, and whether a standard agreement unique to rent-to-own purchases of mobile homes should be adopted.

(C) The extent to which rent-to-own sellers and purchasers are aware of, and follow, notice and documentation requirements, including bills of sale, UCC filings, tax filings, and related recording requirements, and whether these requirements are sufficient to create an adequate public record of ownership.

(D) The extent to which rent-to-own purchasers utilize counsel or other resources when entering into agreements to purchase a mobile home.

(2) The current framework regulating foreclosure of interests in mobile homes and whether and how that framework sufficiently addresses rent-to-own purchases.

(3) The treatment of mobile homes as personal property, with emphasis on whether such treatment causes legal, financial, or other uncertainty with respect to ownership, and any potential resolution of these issues.

* * * Necessity Proceedings * * *

Sec. 71. 19 V.S.A. § 507 is amended to read:

§ 507. HEARING AND ORDER OF NECESSITY

~~(a)~~ At the time and place appointed for the hearing, the ~~court, consisting of the superior judge signing the order or the other superior judge as may be assigned and, if available within the meaning of 4 V.S.A. § 112, the assistant judges of the county in which the hearing is held~~ board shall hear all persons interested and wishing to be heard. If any person owning or having an interest in the land to be taken or affected appears and objects to the necessity of taking the land included within the survey or any part of the survey, then the ~~court~~ board shall require the agency of transportation to proceed with the introduction of evidence of the necessity of the taking. The burden of proof of the necessity of the taking shall be upon the agency of transportation and shall be established by a fair preponderance of the evidence, and the exercise of reasonable discretion upon the part of the agency shall not be presumed. The ~~court~~ board may cite in additional parties including other property owners whose interest may be concerned or affected and shall cause to be notified, the legislative body of all adjoining cities, towns, villages, or other municipal corporations affected by any taking of land or interest in land based on any ultimate order of the ~~court~~ board. The ~~court~~ board shall make findings of fact and ~~file them and any party in interest may appeal under the rules of appellate~~

~~procedure adopted by the supreme court~~ conclusions of law. The ~~court~~ board shall, by its order, determine whether the necessity of the state requires the ~~taking~~ acquisition of the land and rights as set forth in the petition and may find from the evidence that another route or routes are preferable in which case the agency shall proceed in accordance with section 502 of this title and this section and may modify or alter the proposed ~~taking~~ acquisitions in such respects as to the ~~court~~ board may seem proper.

~~(b) By its order, the court may also direct the agency of transportation to install passes under the highway as specified in this chapter for the benefit of the large modern farm properties, the fee title of which is owned by any party to the proceedings, where a reasonable need is shown by the owner. The court may consider evidence relative to present and anticipated future highway traffic volume, future land development in the area, and the amount and type of acreage separated by the highway in determining the need for an underpass of larger dimensions than a standard cattle-pass of reinforced concrete, metal or other suitable material which provides usable dimensions five feet wide by six feet three inches high. Where a herd of greater than fifty milking cows is consistently maintained on the property, the court may direct that the dimensions of the larger underpass shall be eight feet in width and six feet three inches in height to be constructed of reinforced concrete, and the owner of the farm property shall pay one-fourth of the difference in overall cost~~

~~between the standard cattle-pass and the larger underpass. Where the owner of the farm property desires an underpass of dimensions greater than eight feet in width and six feet three inches in height, the underpass may be constructed if feasible and in accordance with acceptable design standards, and the total additional costs over the dimensions specified shall be paid by the owner. The provisions of this section shall not be interpreted to prohibit the agency of transportation and the property owner from determining the specifications of a cattle-pass or underpass by mutual agreement at any time, either prior or subsequent to the date of the court's order. The owner of a fee title shall be interpreted to include lessees of so-called lease land.~~

Sec. 72. 19 V.S.A. § 508 is amended to read:

§ 508. STIPULATION OF NECESSITY

(a) A person or municipality owning or having an interest in lands or rights to be taken or affected, a municipality in which the land is to be taken or affected, and other interested persons may stipulate as to the necessity of the taking.

(b)(1) The stipulation shall be an affidavit sworn to before a person authorized to take acknowledgments, and, in the case of a municipality, shall be executed by a majority of its legislative body. The stipulation shall be in a form approved by the attorney general and shall include but not be limited to the following:

~~(1)~~(A) a recital that the person or persons executing the stipulation have examined the applicable plan and survey of the lands or rights to be taken;

~~(2)~~(B) an explanation of the legal and property rights affected; and

~~(3)~~(C) that the right of the person to adequate compensation is not affected by executing the stipulation.

(2) The stipulation shall be invalid unless within two years of the date of the stipulation an order of necessity is granted.

Sec. 73. 19 V.S.A. § 509 is amended to read:

§ 509. PROCEDURE

(a) The stipulation shall be filed with the ~~appropriate superior court~~ board, together with the petition for an order of necessity. Notice of the hearing on the petition shall be published in accordance with section 506 of this title. Other interested persons who have not stipulated to necessity shall be notified and served in accordance with section 506 of this title. The ~~court~~ board may also cite in additional parties in accordance with section 507 of this title.

(b) If a person claiming to be affected or concerned files a notice of objection to a proposed finding of necessity prior to the date of the hearing, the ~~court~~ board shall at the hearing determine if the person has an interest in lands or rights to be ~~taken~~ acquired such as to be entitled to object to the proposed finding of necessity, and, if ~~he~~ the person is so affected or concerned, whether there is necessity for the ~~taking~~ proposed acquisitions, in accordance with

section 507 of this title. Nothing in this section shall prohibit an interested person from consenting to necessity. The ~~court~~ board may continue the hearing to allow proper preparation by the agency of transportation and interested parties.

(c) If all interested persons and municipalities stipulate as to the necessity of the taking, the ~~court~~ board may immediately issue an order of necessity.

(d) Interested persons or municipalities who do not consent to necessity are entitled to a necessity hearing in accordance with the provisions of this chapter.

(e) A copy of the order finding necessity shall be mailed by the agency to each person and municipality who consented by stipulation to necessity, by certified mail, return receipt requested.

(f) The stipulation of necessity shall not affect the rights of the person with regard to fixing the amount of compensation to be paid in accordance with sections 511-514 of this title. However, the agency of transportation ~~board~~ may enter into an agreement for purchase of lands or rights affected, provided the agreement is conditioned upon the issuance of an order of necessity.

Sec. 74. 19 V.S.A. § 510 is amended to read:

§ 510. ~~APPEAL FROM ORDER OF NECESSITY~~ JUDICIAL REVIEW

(a) If the state, municipal corporation or any owner affected by the order of the ~~court~~ board is aggrieved by the order, an appeal may be taken to the ~~supreme~~ superior court pursuant to subsection 5(c) of this title. In the event an

appeal is taken according to these provisions from an order of necessity, its effect may be stayed by the superior court or the supreme court where the person requesting the stay establishes:

(1) that he or she has a likelihood of success on the merits;

(2) that he or she will suffer irreparable harm in the absence of the requested stay;

(3) that other interested parties will not be substantially harmed if a stay is granted; and

(4) that the public interest supports a grant of the proposed stay.

(b) If no stay is granted or, if a stay is granted, upon final disposition of the appeal, a copy of the order of the court shall be recorded within 30 days in the office of the clerk of each town in which the land affected lies.

(c) Thereafter for a period of one year, the agency of transportation may request the transportation board to institute proceedings for the condemnation of the land included in the survey as finally approved by the ~~court~~ board without further hearing or consideration of any question of the necessity of the taking. ~~In no event shall title to or possession of the appealing landowner's property pass to the state until there is a final adjudication of the issue of the necessity and propriety of the proposed taking.~~

~~(b)~~(d) If the agency of transportation is delayed in requesting the transportation board to institute condemnation proceedings within the one-year

period by court actions or federal procedural actions, the time lost pending final determination shall not be counted as part of the one-year necessity period.

Sec. 75. 19 V.S.A. § 520 is added to read:

§ 520. MUNICIPALITIES; USE OF CHAPTER 5 PROCEDURES

When the construction, reconstruction, alteration, or repair of a town highway involves the acquisition of private lands or rights in private land, the legislative body of the municipality may elect to follow the procedures outlined in chapter 5 of this title to acquire private lands or rights in land for state highways. In such event, the legislative body of the municipality shall carry out the functions of the agency and the board.

* * * Miscellaneous Tax Amendments * * *

Sec. 76. INCREASING THE NUMBER OF COMPLIANCE PERSONNEL IN THE DEPARTMENT OF TAXES

(a) In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department $535,000.00 in fiscal year 2010 for the purpose of hiring nine full-time limited service employees to augment the department's compliance division. The department shall use the funds so appropriated to hire four tax field examiners, two desk audit examiners, one collector, one desk audit supervisor, and either one attorney or a second collector.

(b) In addition to any other funds appropriated to the department of taxes in fiscal year 2011, there is appropriated from the general fund to the department $935,000.00 in fiscal year 2011 for the purpose of retaining the nine full-time limited service employees hired pursuant to subsection (a) of this section and hiring six additional full-time limited service employees to further augment the department's compliance division. The department shall use the additional funds so appropriated to hire four tax field examiners and two desk audit examiners.

(c) It is the intent of the legislature to further augment the department's compliance efforts in fiscal year 2012 by appropriating additional funds for fiscal year 2012 for the purpose of retaining the 15 full-time limited service employees hired pursuant to subsections (a) and (b) of this section and hiring five additional limited service employees.

(d) The positions created pursuant to subsections (a) and (b) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(e) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

Sec. 77. 20 V.S.A. § 3815(c) is added to read:

§ 3815. DOG, CAT, AND WOLF-HYBRID SPAYING AND NEUTERING PROGRAM

* * *

(c) The agency of agriculture, food and markets is authorized to promulgate an emergency administrative rule by August 1, 2009, the purpose of which shall be that only a dog, cat, or wolf-hybrid acquired for no compensation shall be eligible for funding from the animal spaying and neutering program established under this section. The rule shall provide consideration for the financial ability of the funding applicant to pay for the requested service. For the purposes of this subsection, a nominal fee or donation required for adoption of a dog, cat, or wolf-hybrid shall not constitute compensation paid for the animal.

* * * Increased Penalties for Misclassification * * *

Sec. 78. 8 V.S.A. § 3661(c) is added to read:

(c) An employer who makes a false statement or representation that results in a lower workers' compensation premium, after notice and opportunity for hearing before the commissioner, may be assessed an administrative penalty of not more than $20,000.00 in addition to any other appropriate penalty.

Sec. 79. 21 V.S.A. § 708(b) is amended to read:

(b) ~~Action by the commissioner of banking, insurance, securities, and health care administration. An employer who willfully makes a false statement or representation for the purpose of obtaining a lower workers' compensation premium, after notice and opportunity for hearing before the commissioner of banking, insurance, securities, and health care administration may be assessed an administrative penalty of not more than $5,000.00 in addition to any other appropriate penalty. In addition to any other remedy provided by law, the commissioner of banking, insurance, securities, and health care administration may pursue the collection of the administrative penalty imposed by this section in Washington superior court.~~ When the department of labor has sufficient reason to believe that an employer has made a false statement or representation for the purpose of obtaining a lower workers' compensation premium, the department shall refer the alleged violation to the commissioner of banking, insurance, securities, and health care administration for enforcement pursuant to 8 V.S.A. § 3661(c).

* * * Compliance Statements * * *

Sec. 80. 21 V.S.A. § 690 is amended to read:

§ 690. CERTIFICATE, FORM; COPY OF POLICY

(a) An employer subject to the provisions of this chapter who has workers' compensation insurance coverage pursuant to section 687 or 689 of this title

shall file with the commissioner a certificate of the insurance in a form prescribed by the commissioner. The certificate shall include the policy number, effective date, date of expiration, operations covered and such other information the commissioner requests. The certificate shall be signed by a duly authorized representative of the insurance or guarantee company that issued the insurance coverage. Upon request, the insurance or guarantee company shall file with the commissioner a copy of the contract or policy of insurance issued.

(b)(1) In addition to any other authority provided to the commissioner pursuant to this chapter, the commissioner may issue a written request to ~~a contractor engaged in the business of nonresidential building or construction~~ an employer subject to the provisions of this chapter to provide a workers' compensation compliance statement on a form provided by the commissioner. For the purposes of this subsection, ~~a contractor~~ an employer includes subcontractors and independent contractors. The form shall require all the following information sorted by job site:

(A) The number of employees employed during the entire current workers' compensation policy term or the previous year if no policy was in effect or partially in effect prior to the request and the effective dates of the term of any policies in effect.

(B) The total number of hours for which compensation was paid.

(C) ~~Designation of the hours that were the basis of the appropriate National Council on Compensation Insurance (NCCI) classification code~~ A list of all subcontractors and 1099 workers and their function on the job site for the period in question.

(D) The name of the workers' compensation insurance carrier, the policy number, and the agent, if any.

(E) As an attachment, the insurance policy declaration pages, including how much payroll the policy is covering and a designation of the hours that provide the basis of the appropriate National Council on Compensation Insurance classification code.

(2) Any ~~contractor~~ employer who fails to comply with this subsection or falsifies information on the compliance statement may be assessed an administrative penalty of not more than $5,000.00 for each week during which the noncompliance or falsification occurred and any costs and attorney fees required to enforce this subsection. The commissioner may also seek injunctive relief in Washington superior court.

(3) A compliance statement shall be a public record, and the commissioner shall provide a copy of a compliance statement to any person on request. An insurance company provided with a compliance statement may investigate the information in the statement. Based on evidence that ~~a contractor~~ an employer is not in compliance with this chapter, the

commissioner shall request a compliance statement or an amended compliance statement from the ~~contractor~~ employer, investigate further, and take appropriate enforcement action. ~~No contractor shall be required to provide more than one workers' compensation compliance statement per year, unless the commissioner explains the need for each additional statement.~~

(4) In the event the commissioner receives a request for an employer to provide a compliance statement but finds no evidence of noncompliance with this chapter, the commissioner shall provide timely notification of the findings to the requesting party.

Sec. 81. CURRENT USE FOR FISCAL YEAR 2011

In response to current economic conditions, there is a need in the fiscal year 2011 budget to adjust the use value appraisal program to achieve $1,600,000.00 in savings or in increased revenues. Multiple strategies will be considered to achieve this goal, with recommendations to be discussed by the joint fiscal committee at their November 2009 meeting.

* * * Tax Increment Financing * * *

Sec. 82. MILTON; TAX INCREMENT FINANCING DISTRICT

(a) For purposes of the tax increment financing district created in Milton:

(1) The following types of financing, in addition to those included in 24 V.S.A. § 1891(7), shall include conventional bank loans; certificates of

participation, approved by the state treasurer; lease-purchase, approved by the state treasurer; and revenue-anticipation notes, approved by the state treasurer.

(2) The education tax increment may be retained for up to 20 years beginning with the initial date of the creation of the district or on the date of the first debt incurred, at the discretion of Milton. The assessed valuation of all taxable real property within the district, as defined in 24 V.S.A. § 1895, shall be recertified if Milton chooses to begin retaining the education tax increment more than five years beyond the initial creation of the district.

(3) The legal voters of Milton may authorize the selectboard to pledge the credit of Milton for all debt obligations pursuant to 24 V.S.A. § 1897(a) in more than one vote.

(b) The provisions of this section shall be retroactive to July 1, 2008.

Sec. 83. BURLINGTON TAX INCREMENT FINANCING

(a) The authority of the City of Burlington to incur indebtedness for its currently-existing tax increment financing district is hereby extended for five years beginning January 1, 2010.

(b) The City of Burlington shall submit to the joint fiscal committee at least ten days prior to its September 2009 meeting a business plan and projection of new incremental education property tax revenue growth to be financed by any indebtedness authorized under subsection (a) of this section, and a proposal for implementation of a payment to the education fund in lieu of tax increment

which would approximate 25 percent of the new incremental education property tax revenue and the mechanism for payment by the City to the education fund, including payment dates.

(c) If the joint fiscal committee approves a formula for implementation of a payment to the education fund in lieu of tax increment (the increased revenue generated by the incremental grand list value), and if the City of Burlington incurs new indebtedness under subsection (a) of this section for its currently-existing tax increment financing district, then the city shall pay to the education fund the approved payment in lieu of tax increment as required under the plan approved by the joint fiscal committee.

Sec. 84. VERMONT OPPORTUNITY REDEVELOPMENT SITE IN SPRINGFIELD

(a) The town of Springfield may apply to the secretary of commerce and community development for certification of a redevelopment area known as the "J&L site," which shall include the J&L building and the portion of the underlying parcel allocable to the building site, and the secretary, upon certification, shall also certify the "redevelopment period," which shall be the seven years beginning with the year of certification of the site.

(b) The site certified under subsection (a) of this section shall be deemed approved by the Vermont Economic Progress Council (VEPC), and subject to such reporting as VEPC shall require, for education property tax stabilization;

and the education property tax liability of the site shall remain at its 2009 level for the redevelopment period.

(c) During the redevelopment period, a qualified business or a qualified redeveloper who pays wages and salaries for services performed within the certified site shall be eligible for an income tax credit equal to three percent of the total wages and salaries paid during the taxable year for services performed within the certified site.

(d) Materials and trade fixtures purchased for incorporation into redevelopment of the certified site by the qualified redeveloper during the redevelopment period shall be exempt from sales and use tax, and a purchaser shall apply to the commissioner of taxes for a sales tax exemption certificate, which shall be presented to vendors in order to obtain the tax exemption.

(e) For purposes of this section:

(1) "Qualified business" means any business that intends to locate in or expand into the redevelopment area and will employ at least 10 new full-time employees in positions that are not retail sales within a year of approval; and will pay wages and benefits to all full-time employees that meet or exceed the prevailing compensation level for that particular employment.

(2) "Qualified redeveloper" means any taxpayer that purchases and redevelops the certified site for sale or lease to a qualified business.

(f) Beginning January 15, 2011, the secretary of commerce and community

development shall report to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development the status of the Springfield redevelopment site.

Sec. 85. 10 V.S.A. § 1974(3) is added to read:

(3) An existing building, structure, or campground located on a subdivided lot when the building, structure, or campground is located 500 feet or more from the closest point of the new property boundary line, unless the wastewater system or potable water supply is a failed system or a failed supply at the time of subdivision.

Sec. 86. 13 V.S.A. § 4014 is amended to read:

§ 4014. PURCHASE OF FIREARMS IN ~~CONTIGUOUS~~ OTHER STATES

Residents of the state of Vermont may purchase rifles and shotguns in ~~a~~ another state, ~~contiguous to the state of Vermont~~ provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the ~~contiguous~~ state in which the purchase is made.

Sec. 87. 13 V.S.A. § 4015 is amended to read:

§ 4015. PURCHASE OF FIREARMS BY NONRESIDENTS

Residents of a state ~~contiguous to~~ other than the state of Vermont may purchase rifles and shotguns in the state of Vermont, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the state in which such persons reside.

* * * Professional Regulation * * *

Sec. 88. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXCEPTIONS

This chapter does not prohibit:

* * *

(9) The providing of care for the sick in accordance with the tenets of any church or religious denomination by its adherents if the individual does not hold himself or herself out to be a registered nurse, licensed practical nurse, or licensed nursing assistant and does not engage in the practice of nursing as defined in this chapter.

* * * General Permitting * * *

Sec. 89. GENERAL PERMITS; INTENT

It is the intent of the general assembly that general permitting authority of the agency of natural resources be used for classes or categories of discharges, emissions, disposal, facilities, or activities that present low risk to the environment and public health.

Sec. 90. 10 V.S.A. chapter 165 is added to read:

CHAPTER 165. GENERAL PERMIT AUTHORITY

§ 7500. PURPOSE AND DEFINITIONS

(a) This chapter is intended to provide for the protection of human health and the environment while allowing the secretary to utilize general permits as appropriate to streamline permitting processes and gain administrative efficiencies.

(b) When used in this chapter:

(1) "Agency" means the agency of natural resources.

(2) "Commissioner" means the commissioner of the department or the commissioner's duly authorized representative.

(3) "Department" means the department of environmental conservation.

(4) "General permit" means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire state or a region of the state. For a class

or category to be eligible to be placed under a general permit under this chapter, the class or category must meet each of the following:

(A) The discharges, emissions, disposal, facilities, or activities must share the same or substantially similar qualities.

(B) Those qualities must be such that the requirements of statute and rule applicable to the discharges, emissions, disposal, facilities, or activities can be met and human health and the environment protected by imposition of the same or substantially similar permit conditions on the class or category.

(5) "Individual permit" means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.

(6) "Secretary" means the secretary of the agency or the secretary's duly authorized representative.

§ 7501. GENERAL PERMITS

(a) When the secretary deems it to be appropriate and consistent with the purpose of this chapter, the secretary may issue a general permit under the following chapters of this title: chapter 23 (air pollution control) for stationary source construction permits; chapter 37 (water resources management) for aquatic nuisance control permits authorizing chemical treatment by the agency of natural resources, a department within that agency, or an appropriate federal

agency; chapter 56 (public water supply) for construction permits; and chapter 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications.

(b) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and conditions may include providing for specific emission or effluent limitations and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

(c) This chapter is in addition to any other authority granted to the agency or department.

(d) The secretary may adopt rules to implement this chapter.

§ 7502. ISSUANCE OF GENERAL PERMITS; PUBLIC PARTICIPATION

(a) When, under section 7501 of this title, the secretary determines to issue a general permit, the secretary shall prepare a proposed general permit and shall provide for public notice of the permit in a manner designed to inform interested and potentially interested persons of the proposed general permit.

(1) Notice of the proposed general permit shall be circulated within each geographic area to which the permit would apply and shall include at least all

of the following:

(A) Written notice to the clerk of each municipality within the geographic area.

(B) Written notice to each affected Vermont state agency and such other government agencies as the secretary deems appropriate.

(C) Publication of notice of the proposed permit in a newspaper or newspapers that circulate generally within each geographic area to which the permit would apply.

(D) Posting of notice and a copy of the proposed general permit prominently on the web page of the department.

(E) Mailing of notice and a copy of the proposed general permit to any individual, group, or organization upon request.

(F) Mailing of notice and a copy of the proposed general permit to the chairs of the house committees on commerce and economic development, on fish, wildlife and water resources, and on natural resources and energy, and the senate committees on economic development, housing and general affairs and on natural resources and energy. With this mailing, the secretary shall also include a brief summary of any scientific information on which the proposed rule is based. If the secretary proposes to amend a general permit previously issued under this chapter, the secretary further shall include an annotated text showing changes from the existing permit.

(G) The inclusion in any notice issued under this subsection of a summary of the proposed general permit, including a summary of the activities to which it would apply and its terms and conditions; the deadlines by which comments are to be submitted and a public information meeting requested; the procedure for submitting comments and requesting a public information meeting; the contact information for the agency or department concerning the proposed permit; and a statement of how a copy of the proposed general permit may be obtained.

(2) The secretary shall provide a period of not less than 30 days following the date of publication in a newspaper or newspapers of general circulation during which any person may submit written comments on the proposed general permit.

(b) The secretary shall provide an opportunity for any person, state, province, or country potentially affected by the proposed general permit to request a public informational meeting with respect to the proposed permit.

(1) The deadline for any request under this subsection shall be no earlier than the deadline for submitting written comments set under subdivision (a)(2) of this section. The secretary shall hold an informational meeting if there is a significant public interest in holding a meeting.

(2) The secretary shall provide public notice of any informational meeting in at least the same manner as public notice of the proposed general

permit was given under subsection (a) of this section, except that the secretary need not set a new comment deadline or provide, with the notice of the meeting, a copy of the proposed general permit to any person or entity to which the secretary has already provided a copy.

(3) Any person shall be permitted to submit oral or written statements and data concerning the proposed general permit at the informational meeting.

(4) All statements, comments, and data presented at the meeting shall be retained by the secretary and considered in the formulation of the secretary's determinations regarding the final general permit.

(c) Whether or not requested, the secretary may hold a public informational meeting on a proposed general permit at any time prior to final decision on and issuance of the general permit. The provisions of subdivisions (b)(2) through (4) of this section shall apply to such a meeting.

(d) The secretary may finally adopt a general permit following consideration of any written comments submitted on the general permit and any statements, comments, and data presented at a public information meeting on the permit. Where the secretary decides, in finally adopting a proposed general permit, to overrule substantial arguments and considerations raised for or against the original proposal, the secretary's final adoption of the general permit shall include a responsiveness summary stating the reasons for the secretary's decision.

(e) On final adoption of a general permit, the secretary shall provide notice of the permit's final adoption and an accompanying responsiveness summary in at least the same manner as notice of the proposed general permit was issued under subdivision (a)(1) of this section, except that the secretary need not set or include further deadlines for comment or requesting an informational meeting.

§ 7503. AUTHORIZATION UNDER A GENERAL PERMIT

(a) Any person wishing to discharge, emit, dispose, or operate a facility or engage in activity subject to a general permit under this chapter shall file an application for authorization under the general permit on a form provided by the secretary. Each application shall be accompanied by a fee as specified by section 2822 of Title 3.

(b) For each application under this section, the applicant shall provide notice, on a form provided by the secretary, to the clerk of the municipality in which the discharge, emission, disposal, facility, or activity is located, to the local and regional planning commissions, and to the owners of land adjoining the site of the proposed discharge, emission, disposition, or facility operation. The applicant shall provide a copy of this notice to the secretary, with such confirmation as the secretary deems adequate to demonstrate that the clerk, planning commissions, and adjoining landowners have received the notice. Following receipt of that confirmation, the secretary shall provide an

opportunity of at least ten working days for written comment regarding whether the application complies with the terms and conditions of the general permit under which coverage is sought.

(c) The secretary may grant an application for authorization to discharge, emit, dispose, operate a facility, or engage in activity to which a general permit under this chapter applies only after determining that each of the following applies:

(1) The filings required in subsections (a) and (b) of this section are complete.

(2) The discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit.

(d) The secretary may:

(1) Allow a transfer from one person or entity to another of an authorization to discharge, emit, dispose, operate a facility, or engage in activity under a general permit issued under this chapter.

(2) Require notification to the secretary for changes to a discharge, emission, disposal, facility, or activity for which authorization has been issued under a general permit under this chapter.

(3) Under the procedures specified in subsection 814(c) of Title 3, revoke or suspend authorization to discharge, emit, dispose, operate a facility, or engage in activity under a general permit issued under this chapter.

§ 7504. REQUIRING AN INDIVIDUAL PERMIT

The secretary may require any applicant for or permittee authorized under a general permit issued under this chapter to apply for an individual permit. Any interested person may petition the secretary to take action under this section. The secretary may require an individual permit if any one of the following applies:

(1) The discharge, emission, disposal, facility, or activity is a significant contributor of pollution as determined by consideration of each of the following factors:

(A) The location of the discharge with respect to waters of the state of Vermont.

(B) The size and scope of the applicant's or permittee's activities or operation.

(C) The quantity and nature of the pollutants.

(D) Other relevant factors.

(2) The permittee is not in compliance with the terms and conditions of a general permit issued under this chapter.

(3) The application does not qualify for a general permit issued under this chapter.

(4) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of wastes or pollutants

applicable to the discharge, emission, disposal, facility, or activity.

(5) Federal requirements have been adopted that conflict with one or more provisions of a general permit issued under this chapter.

§ 7505. REQUIRING AUTHORIZATION UNDER A GENERAL PERMIT

The secretary may require that a discharge, emission, disposal, facility, or activity for which issuance or reissuance of an individual permit is sought be subject to a general permit issued under this chapter if the secretary finds that the discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit and that authorization of the discharge, emission, disposal, facility, or activity under a general permit will protect human health and the environment.

Sec. 91. REPORT AND SUNSET

(a) On April 1, 2011, and again on April 1, 2014, the secretary of natural resources shall submit a report to the senate committees on natural resources and energy and on economic development, housing and general affairs, the house committees on natural resources and energy and on commerce and economic development, and the governor regarding the implementation, compliance, and enforcement of general permits under chapter 165 of Title 10. The secretary's report shall include at least each of the following:

(1) The number of persons seeking coverage under each general permit issued under this chapter.

(2) The number of site visits completed by agency of natural resources personnel to review applications for coverage under and compliance with a general permit issued under this chapter.

(3) The number of and disposition of enforcement actions brought by the agency of natural resources to enforce the requirements of a general permit issued under this chapter.

(b) Chapter 165 of Title 10 shall sunset on July 1, 2014; however, the sunset shall not affect any permit granted prior to July 1, 2014 under chapter 165 of Title 10.

Sec. 92. APPROPRIATION; ARRA; STATE ENERGY PROGRAM, ENERGY EFFICIENCY, AND CONSERVATION BLOCK GRANTS

In fiscal year 2010, funds under the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, consisting of $21,999,000.00 state energy program funds and $9,593,500.00 energy efficiency and conservation block grant (EECBG) program funds are appropriated to the department of public service in Sec. B.235 of H.441 (2009). These funds shall be transferred and deposited into the clean energy development fund created under 10 V.S.A. § 6523. These funds shall be administered and disbursed as set forth in 10 V.S.A. § 6523 with respect to ARRA funds received by the clean energy development fund.

** * Clean Energy Development Fund * * *

Sec. 93. 10 V.S.A. § 6523 is hereby amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

(a) Creation of fund.

(1) There is established the Vermont clean energy development fund to consist of all of the following:

(A) ~~the~~ The proceeds due the state under the terms of the memorandum of understanding between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered under public service board docket 6812; together with the proceeds due the state under the terms of any subsequent memoranda of understanding entered before July 1, 2005 between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc.~~; and~~

(B) $21,999,000.00 in funds received by the state under the appropriation contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, to the state energy program authorized under 42 U.S.C. § 6321 et seq.

(C) $9,593,500.00 received by the state under ARRA from the United States Department of Energy through the energy efficiency and conservation block grant (EECBG) program.

(D) ~~any~~ Any other monies that may be appropriated to or deposited into the fund.

(2) Balances in the fund ~~shall be held for the benefit of ratepayers,~~ shall be expended solely for the purposes set forth in this subchapter~~,~~ and shall not be used for the general obligations of government. All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund. Interest earned by the fund shall be deposited in the fund. This fund is established in the state treasury pursuant to subchapter 5 of chapter 7 of Title 32.

(b) Definitions. For purposes of this section, the following definitions shall apply:

(1) "Clean energy resources" means electric power supply and demand-side resources, or thermal energy or geothermal resources, that are ~~either~~ "combined heat and power facilities," "cost-effective energy efficiency resources," or "renewable energy" resources.

* * *

(4) "Emerging energy-efficient technologies" means technologies that are both precommercial but near commercialization and that have already entered the market but have less than five percent of current market share; that use less energy than existing technologies and practices to produce the same product or otherwise conserve energy and resources, regardless of whether or

not they are connected to the grid; and that have additional non-energy benefits such as reduced environmental impact, improved productivity and worker safety, or reduced capital costs.

(5) "Renewable energy" has the meaning established under 30 V.S.A. § 8002(2), and shall include the following: solar photovoltaic and solar thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer methane recovery; low emission, advanced biomass power, and combined heat and power technologies using biomass fuels such as wood, agricultural or food wastes, energy crops, and organic refuse-derived waste, but not municipal solid waste; advanced biomass heating technologies and technologies using biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources, and emerging energy-efficient technologies, for the long-term benefit of Vermont ~~electric customers~~ consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. 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 and for the benefit of Vermont ratepayers and the

power system.

(d) Expenditures authorized.

(1) ~~This fund shall be administered by the department of public service to facilitate the development and implementation of clean energy resources.~~

~~(2) The department shall assure an open public process in the administration of the fund for the purposes established in this subchapter.~~

~~(3) By January 15 of each year, commencing in 2007, the department of public service shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce a report detailing the revenues collected and the expenditures made under this subchapter, together with recommended principles to be followed in the allocation of funds and a proposed five-year plan for future expenditures from the fund.~~

~~(4)~~ Projects for funding may include, and in the case of subdivision (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; ~~and~~

(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; and

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

~~(5)~~(2) If during a particular year, the ~~department~~ clean energy development board determines that there is a lack of high value projects eligible for funding, as identified in the five-year plan, or as otherwise identified, the ~~department~~ clean energy development board may consult with the public service board, and shall consider transferring funds to the energy efficiency fund established under the provisions of 30 V.S.A. § 209(d). Such a

transfer may take place only in response to an opportunity for a particularly cost-effective investment in energy efficiency, and only as a temporary supplement to funds collected under that subsection, not as replacement funding.

~~(6)~~(3) ~~The~~ A sum ~~of $20,000.00~~ equal to the cost of the business solar energy income tax credits authorized in subsections 5822(d) and 5930z(a) of Title 32 shall be transferred annually from the clean energy development fund to the general fund ~~to support the cost of the solar energy income tax credits~~.

(e) Management of fund.

(1)~~(A)~~ There is created the clean energy development ~~fund advisory committee~~ board, which shall consist of ~~the commissioner of public service, or a designee, and the chairs of the house and senate committees on natural resources and energy, or their designees.~~ the following nine directors:

(A) Three at-large directors appointed by the speaker of the house;

(B) Three at-large directors appointed by the president pro tempore of the senate.

(C) Two at-large directors appointed by the governor.

(D) The state treasurer, ex officio.

~~(B) There is created the clean energy development fund investment committee, which shall consist of seven persons appointed by the clean energy development fund advisory committee.~~

~~(2) The commissioner of public service shall:~~

~~(A) by no later than October 30, 2006:~~

~~(i) develop a five year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process;~~

~~(ii) develop an annual operating budget;~~

~~(iii) develop proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive programs and strategies); and~~

~~(iv) submit the plans, budget, and program designs to the clean energy development fund advisory committee for review and to the clean energy development fund investment committee for approval;~~

~~(B) adopt rules by no later than January 1, 2007 to carry out the program approved under this subdivision;~~

~~(C) explore pursuing joint investments in clean energy projects with other state funds and private investors to increase the effectiveness of the clean energy development fund;~~

~~(D) acting jointly with the members of the clean energy development fund investment committee, make decisions with respect to specific grants and investments, after the plans, budget, and program designs have been approved by the clean energy development fund investment committee. This subdivision~~

~~(D) shall be repealed upon the effective date of rules adopted under subdivision (2)(B) of this subsection.~~

~~(3)~~ During fiscal years after FY 2006, up to five percent of amounts appropriated to the public service department from the fund may be used for administrative costs related to the clean energy development fund ~~and after FY 2007, another five percent of amounts appropriated to the public service department from the fund not to exceed $300,000.00 in any fiscal year shall be transferred to the secretary of the agency of agriculture, food, and markets for agricultural and farm-based energy project development activities~~.

(3) A quorum of the clean energy development board shall consist of five directors. The directors of the board shall select a chair and vice chair.

(4) In making appointments of at-large directors to the clean energy development board, the appointing authorities shall give consideration to citizens of the state with knowledge of relevant technology, regulatory law, infrastructure, finance, and environmental permitting. The at-large directors of the board shall serve terms of four years beginning July 1 of the year of appointment. However, one at-large director appointed by the speaker and one at-large director appointed by the president pro tempore shall serve an initial term of two years. Any vacancy occurring among the at-large directors shall be filled by the respective appointing authority and shall be filled for the balance of the unexpired term. A director may be reappointed.

(5) Except for those directors of the clean energy development board otherwise regularly employed by the state, the compensation of the directors shall be the same as that provided by subsection 1010(a) of Title 32. All directors of the clean energy development board, including those directors otherwise regularly employed by the state, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(6) At least every three years, the clean energy development board shall commission a detailed financial audit by an independent third party of the fund and the activities of the fund manager, which shall make available to the auditor its books, records, and any other information reasonably requested by the board or the auditor for the purpose of the audit.

(7) In performing its duties, the clean energy development board may utilize the legal and technical resources of the department of public service or, alternatively, may utilize reasonable amounts from the clean energy development fund to retain qualified private legal and technical service providers. The department of pubic service shall provide the clean energy development board and its fund manager with administrative services.

(8) By January 15 of each year, commencing in 2010, the clean energy development board shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce and economic development a report detailing the

revenues collected and the expenditures made under this subchapter.

(9) The clean energy development board is authorized, to the extent allowable under ARRA, to utilize up to 10 percent of ARRA funds received for the purpose of administration. Half of this amount shall be allocated to the treasurer to retain permanent, temporary, or limited service positions or contractors to administer such funds and the other half of this amount shall be allocated to the oversight of specific projects receiving ARRA funding through the clean energy development fund.

(10) At least quarterly, the clean energy development board shall hold a public meeting to review and discuss the status of the fund, fund projects, the performance of the fund manager, any reports, information, or inquiries submitted by the fund manager or the public, and any additional matters the clean energy development board deems necessary to fulfill its obligations under this section.

(f) Clean energy development fund manager. The clean energy development fund shall have a fund manager who shall be a state employee retained and supervised by the board and housed within the office of the treasurer.

(g) Bonds. The clean energy development board may explore use of the fund to establish one or more loan-loss reserve funds to back issuance of bonds by the state treasurer otherwise authorized by law, including clean renewable

energy bonds, that support the purposes of the fund.

(h) All ARRA funds placed in the clean energy development fund shall be disbursed, administered, and accounted for in a manner that ensures rapid deployment of the funds, is consistent with all requirements of ARRA, including requirements for administration of funds received and for transparency and accountability. These funds shall be maintained in a separate account specifically restricted to ARRA funds within the clean energy development fund. These funds shall be for the following, provided that no single project directly or indirectly receives a grant in more than one of these categories:

(1) The Vermont small-scale renewable energy incentive program currently administered by the renewable energy resource center, for use in residential and business installations. These funds may be used by the program for all forms of renewable energy as defined by 30 V.S.A. § 8002(2), including biomass and geothermal heating. The disbursement to this program shall seek to promote continuous funding for as long as funds are available.

(2) Grant and loan programs for renewable energy resources, including thermal resources such as district biomass heating that may not involve the generation of electricity.

(3) Grants and loans to thermal energy efficiency incentive programs, community-scale renewable energy financing programs, certification and

training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(4) $2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. For the purpose of this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process. On or before January 15, 2011, the treasurer shall report to the general assembly on the status of this program, including each award made and, for each such award, the expected energy savings or generation and the actual energy savings or generation achieved.

(5) $2 million to the Vermont housing and conservation board (VHCB) to make grants and deferred loans to nonprofit organizations for weatherization and renewable energy activities allowed by federal law, including assistance for nonprofit owners and occupants of permanently affordable housing.

(6) $2 million to the Vermont telecommunications authority (VTA) to make grants for installation of small-scale wind turbines and associated towers on which telecommunications equipment is to be collocated and which are developed in association with the VTA.

(7) $880,000.00 to the 11 regional planning commissions ($80,000.00 to each such commission) to conduct energy efficiency and energy conservation

activities that are eligible under the EECBG program.

(8) Of the funds authorized for use in subdivisions (5)-(7) of this subsection, to the extent permissible under ARRA, up to five percent may be spent for administration of the funds received.

(9) The clean energy development board is authorized, to the extent allowable under ARRA, to utilize up to 10 percent ARRA funds received for the purpose of administration. One-half of this amount shall be allocated to the treasurer to retain permanent, temporary, or limited service positions or contractors to administer such funds, and the other half of this amount shall be allocated to the oversight of specific projects receiving ARRA funding through the clean energy development fund.

(i) The treasurer shall consult with the other directors of the clean energy development fund board and the commissioner of public service and adopt rules pursuant to 3 V.S.A. chapter 25 to carry out this section. The treasurer shall adopt an initial set of rules under this subsection no later than July 15, 2009 and may use the emergency rulemaking process provided under 3 V.S.A. § 844 to do so. In adopting the initial set of rules, the treasurer shall consult with any at-large board directors who have been appointed, the chief recovery officer, and the commissioner of public service. Any rules adopted by the treasurer under this subsection shall comply with all of the following:

(1) The rules shall contain those provisions necessary to assure

compliance with requirements for any funds received by the fund through ARRA.

(2) The rules shall support efforts to coordinate applications for competitive or other funding opportunities under ARRA from various entities within Vermont.

(3) The rules shall provide reasonable opportunities for small businesses to participate in competitive or other funding opportunities.

(j) The governor shall have the authority within 30 days of approval or adoption to disapprove a project, program, or other activity approved by the clean energy development board to be funded by the clean energy development fund if the source of the funds is ARRA; and any rules adopted under subsection (i) of this section. The governor may at any time waive his or her authority to disapprove any project, program, or other activity or rule under this subsection.

Sec. 94. APPLICATION

Sec. 93 of this act shall supersede and replace any other provisions of law enacted in this legislative session to amend 10 V.S.A. § 6523.

Sec. 95. TRANSITION; POSITION TRANSFER

(a) It is the intent of the general assembly that the seven members of the clean energy development fund investment committee appointed prior to the effective date of this act shall be eligible for appointment as directors of the

clean energy development fund board for a full term or until the terms of their original appointments expire.

(b) All at-large directors of the clean energy development fund board shall be appointed within 21 days of passage of this act, and the board shall assume supervision of the clean energy development fund on the initial adoption of rules under 10 V.S.A. § 6523(i) or August 1, 2009, whichever is earlier. Until such time, the clean energy development fund advisory and investment committees enabled under prior law shall continue to exist, and they and the commissioner of public service shall continue to have all authorities as under prior law with respect to the clean energy development fund.

(c) Upon the effective date of this act, the fund manager currently retained for the clean energy development fund shall be deemed the fund manager retained by the clean energy development board pursuant to 10 V.S.A. § 6523(f). Upon assumption of supervision of the fund by the clean energy development board pursuant to subsection (b) of this section, the position occupied by that fund manager shall be transferred to the board and become subject to the board's supervision.

Sec. 96. GENERAL OBLIGATION BONDS FOR CLEAN RENEWABLE ENERGY PROJECTS

(a) The capital debt affordability advisory committee (CDAAC), in addition to submitting its fiscal year 2010 recommendation pursuant to 32

V.S.A. § 1001(c), shall consider, in the context of the size and affordability of net state tax-supported indebtedness and the receipt of federal funds under the American Recovery and Reinvestment Act of 2009 (ARRA) which may be used for tax-exempt renewable energy bonds, the issuance of additional general obligation bonds for clean renewable energy projects. The proceeds from these additional bonds, if any, shall be used to pay for projects authorized pursuant to 10 V.S.A. § 6523.

(b) By September 30, 2009, the CDAAC shall submit to the governor, the members of the joint fiscal committee, and the chairs of the house committee on corrections and institutions and the senate committee on institutions an estimate of the amount of additional long-term net tax-supported debt, in addition to the $69,995,000.00 in general obligation debt previously recommended for fiscal year 2010 for debt issuance to support the state's capital budget, that prudently may be authorized for additional bonds to support clean renewable energy projects.

(c) The general assembly hereby authorizes for fiscal year 2010 the issuance of general obligation bonds to be dedicated to projects that meet the requirements of 10 V.S.A. § 6523, provided that the total amount issued does not exceed the CDAAC recommendation to be submitted by September 30, 2009, and provided that the total amount is approved by the joint fiscal committee and the governor.

(d) The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized in accordance with this section consistent with the underlying nature of the projects to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the department of public service pursuant to 32 V.S.A. § 954(b).

(e) There is hereby created a clean energy bond fund which shall be a subfund of the clean energy development fund established in 10 V.S.A. § 6523. Monies in the clean energy bond fund shall be used to support projects in accordance with 10 V.S.A. § 6523. It is the intent of the general assembly that debt service for bonds authorized by this section shall be paid from principal and interest paid into the clean energy bond fund by entities receiving loans from the fund. It is also the intent of the general assembly that the treasurer may establish a loan-loss reserve fund to support the bond issuance.

(f) There is appropriated in fiscal year 2010 from the general fund to the treasurer for deposit into the Vermont clean energy bond fund the additional amount recommended by CDAAC and approved by the joint fiscal committee and the governor pursuant to subsection (c) of this section.

Sec. 97. 32 V.S.A. § 5822(d) is amended to read:

(d) 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. 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. 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.

Sec. 98. 32 V.S.A. § 5930z is amended to read:

§ 5930z. PASS-THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS

(a) A taxpayer of this state shall be eligible for a credit against the tax imposed under section 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.

Sec. 99. 32 V.S.A. § 5822(d) is amended to read:

(d) 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. ~~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 any public or private program that assists in providing capital investment for a renewable energy project is not eligible to claim the business solar energy tax credit for that project~~. 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.

Sec. 100. REPEAL

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.

Sec. 101. TRANSITION RULES

(a) A taxpayer who claimed the 76-percent business solar energy investment tax credit component of the federal investment tax credit pursuant to 32 V.S.A. § 5822(d) prior to January 1, 2011 shall be entitled to carry forward the unused portion of the credit for up to five years.

(b) A taxpayer who claimed the business solar energy investment tax credit pursuant to 32 V.S.A § 5930z prior to January 1, 2011 shall be entitled to carry forward the unused portion of the credit for up to five years.

Sec. 102. Sec. 29 of No. 92 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 29. EFFECTIVE DATE OF BUSINESS ENERGY TAX CREDIT

Secs. 27 and 28 of this act (business energy tax credits) shall apply to ~~carry through and recapture of~~ federal credits, including recapture, related to taxable year 2008 and after.

Sec. 103. 30 V.S.A. § 203a is amended to read:

§ 203a. FUEL EFFICIENCY FUND

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

* * *

Sec. 104. 30 V.S.A. § 209(d)(8) is added to read:

(8) Effective January 1, 2010, such revenues from the sale of carbon credits under the cap and trade program as provided for in section 255 of this title shall be deposited into the electric efficiency fund established by this section.

Sec. 105. 30 V.S.A. § 255(d) is amended to read:

(d) Appointment of consumer trustees. The public service board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial resources to manage a portfolio of carbon credits for the long-term benefit of Vermont energy consumers. ~~Proceeds~~ Fifty percent of the net proceeds above costs from the sale of carbon credits shall be deposited into the fuel efficiency fund established under section 203a of this title. These funds shall be used to provide expanded fossil fuel energy efficiency services to residential consumers who have incomes up to and including 80 percent of the median income in the state. The remaining 50 percent of the net proceeds above costs shall be deposited into the electric efficiency fund established under subdivision 209(d)(3) of this title. These funds shall be used by the entity or

entities appointed under subdivision 209(d)(2) of this title to help meet the building efficiency goals established under 10 V.S.A. § 581 by delivering fossil fuel energy efficiency services to Vermont heating and process-fuel consumers who are businesses or are residential consumers whose incomes exceed 80 percent of the median income in the state.

Sec. 106. ADDING COMPLIANCE PERSONNEL TO THE DEPARTMENT OF LABOR

(a) In addition to any other funds appropriated to the department of labor in fiscal year 2010, there is appropriated from the general fund to the department $308,212.00 in fiscal year 2010 for the purpose of hiring four full-time limited service employees as workers' compensation fraud staff who will investigate the classification of workers as either contractors or employees and enforce compliance of the proper classification by businesses.

(b) The positions created pursuant to subsection (a) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(c) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

* * * Privatization Contract * * *

Sec. 107. 3 V.S.A. § 341(3) is amended to read:

(3) "Privatization contract" means a personal services contract by which an entity or an individual who is not a state employee agrees with an agency to provide services, valued at $20,000.00 or more per year, which are the same or substantially similar to and in lieu of services previously provided, in whole or in part, by permanent, classified state employees, and which result in ~~the~~ a reduction in force of at least one permanent, classified employee, or the elimination of a vacant position of an employee covered by a collective bargaining agreement.

Sec. 108. STATE PLEDGE ON BEHALF OF SMALL BUSINESSES

An amount not to exceed $1,000,000.00 of the full faith and credit of the state is pledged for the support of the activities of the Vermont economic development authority to be used solely for loss reserves for lending in the Vermont small business loan program and the TECH loan program, to be apportioned in a manner deemed appropriate by the authority and the state treasurer.

* * * Full Faith and Credit of the State * * *

Sec. 109. 10 V.S.A. § 221(a) is amended to read:

(a) Upon application of the proposed mortgagee, the authority may insure mortgage payments required to repay loans made by the mortgagee for the

purpose of financing the costs of a project, upon such terms and conditions as the authority may prescribe~~,~~; provided, however, that the total principal obligations of all mortgages insured under this subsection and under subsection (c) of this section outstanding at any one time shall not exceed ~~$15,000,000.00~~ $9,000,000.00. Before insuring any mortgage payments hereunder, the authority shall determine and incorporate each of the findings established by this subsection in its minutes. Such findings, when adopted by the authority shall be conclusive:

* * *

Sec. 110. 10 V.S.A. § 223 is amended to read:

§ 223. CREDIT OF THE STATE PLEDGED

The full faith and credit of the state is pledged to the support of the activities of the authority under this subchapter. In furtherance of the pledge, the state treasurer is authorized and directed to transfer to the fund, without further approval, first from the indemnification fund and then from available cash in the treasury or from the proceeds of bonds or notes issued under this section, such additional amounts as may be requested from time to time by the authority to enable it to perform all insurance contracts punctually and in accordance with their terms. The authority shall request such transfers from time to time as additional amounts are required for such purposes. The treasurer is authorized and directed, without further approval, to issue full faith

and credit bonds of the state, from time to time, in amounts necessary to support the activities of the authority under this subchapter and subchapter 8 of this chapter, but not to exceed an aggregate of ~~$35,000,000.00~~ $10,000,000.00 at any one time outstanding, and to borrow upon notes of the state in anticipation of the proceeds of such bonds. Any bonds under this subchapter shall be issued pursuant to the provisions of chapter 13 of Title 32, except that the approval of the governor shall not be required previous to their issuance by the treasurer.

Sec. 111. 10 V.S.A. § 279b(a) is amended to read:

(a) Upon registration by the authority of an eligible loan, the full faith and credit of the state shall be pledged in an amount equal to the reserve premium payment deposited to the fund by the participating bank in connection with such loan. The aggregate amount of the credit of the state which may be pledged pursuant to the provisions of this subchapter shall not exceed ~~$2,000,000.00~~ $1,000,000.00 at any time.

Sec. 112. ARRA APPROPRIATIONS; FULL FAITH AND CREDIT

(a) In fiscal year 2010, of the funds appropriated in Sec. B.1101(b)(1) of H.441 (2009), $3,400,000.00 from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, shall be disbursed as follows:

(1) $2,150,000.00 to the entrepreneurs' seed capital fund.

(2) $1,000,000.00 to the Vermont economic development authority to provide interest-rate subsidies in the Vermont jobs fund.

(3) $100,000.00 to the Vermont sustainable jobs fund program for the farm-to-plate investment program as provided in Sec. 35 of this act.

(4) $150,000.00 to the Vermont sustainable jobs fund for start-up capital in the flexible capital fund program.

(b) An amount not to exceed $1,000,000.00 of the full faith and credit of the state is pledged for the support of the activities of the Vermont economic development authority to be used for loss reserves for lending in the Vermont small business loan program and the TECH loan program, to be apportioned in a manner deemed appropriate by the authority and the state treasurer.

(c) In FY 2010, $500,000.00 of ARRA funds are appropriated to the department of tourism and marketing pursuant to Sec. B.1101(b)(3) of H.441 (2009).

(d) In FY 2010, $120,000.00 to the department of tourism and marketing, of which $100,000.00 shall be for a grant to the Vermont convention bureau and $20,000.00 to the Shires of Vermont, pursuant to Sec. B.1101(a)(6) of H.441 (2009).

(e) Legislative intent. Notwithstanding any provision of law to the contrary, in the event no funding from ARRA is appropriated to Sterling College in any act of the 2009 general assembly, then in fiscal year 2010, the

amount of $350,000.00 shall be transferred from the general fund to the department of economic development for a grant to Sterling College for student residency and program center costs, as provided in Sec. B.1101(a)(8) of H.441 (2009).

Sec. 113. EFFECTIVE DATE

This act shall take effect upon passage with the following exceptions:

(1) Secs. 97 and 98 (relating to business solar energy tax credits) shall apply to credits related to investments made on or after January 1, 2009; and

(2) Sec. 99 (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.

Approved: June 1, 2009