

Economic Growth Plan

Governor Jim Douglas has proposed a multi-part strategy that builds upon his earlier initiatives to boost Vermont's economy, while also helping to prepare Vermonters and Vermont companies to succeed in the global economy.

This package will help Vermont lessen the effects of the national recession, keep costs down, inspire innovation and grow good jobs for Vermonters. These proposals are long term solutions that will not add to the short term burdens.

Taken together, these proposals will not only help Vermont emerge from this downturn in a better position than before but they will also encourage emerging industries and businesses to make Vermont their home so that young people will not have to leave in pursuit of a good paying job or an affordable place to live.

Governor Douglas is determined to keep our state on a path to prosperity by encouraging innovative businesses and entrepreneurs, making commonsense reforms to our permitting process, using existing infrastructure to help businesses expand or relocate in Vermont and encourage more affordable housing options, promote greater energy efficiency, and create more jobs in emerging green industries.

The Governor's strategy includes:

- Green Growth Zones
- Smart Grid for Vermont
- Innovation Challenge
- R&D Tax Credits
- Opportunity Zones
- Urban Homesteads
- Tech VEGI
- Permit Reform

I. Green Growth Zones

Concept: To create economic development opportunities within definable sites anchored by renewable, energy generation infrastructure. The state will provide incentives for the development of renewable generation to achieve a greater measure of control over energy costs and a reduction in greenhouse gas emissions. Additional incentives will be provided to enterprises or housing within the Zone and will have access to some portion of the developed electricity and, potentially, heat being made available at reduced cost with the goal of creating net new jobs or housing units.

Electrical Generation: Any form of generation from renewable sources will be considered eligible for designation as the energy component of a Green Growth Zones to include wind, solar, geothermal and biomass as affirmed by the Public Service Department. Incentives in the form of financing, expedited permitting and rate setting will be made available to the owners of the generation facility component of the Green Growth Zone to encourage their participation. All generation from the Green Growth Zones can meet the renewable definition as set in 10 V.S.A. §6523 of Vermont Statutes.

Zones: Green Growth Zones will be identifiable, designated areas in which generation will occur as well as business and/or housing development.

Benefits: Enterprises within the zones will be treated separately from enterprises outside of the zone for purposes of electric rate-setting, permitting, taxation and access to other state or quasi governmental resources.

- *Electrical Rates:* A portion of the power generated by the renewable infrastructure will be made available to commercial enterprises or housing within the Zone. The pricing of the power within the Zone will be independent of the pricing outside of the Zone with the goal of lower rates for the Green Growth Zone customers. Green Growth Zone rates are intended to attract new, expanded or retained business activity to the GGZ. When approved, Green Growth Zone rates are designed to fully cover the incremental costs of serving that new load.
- *Waste Heat:* Green Growth Zones that incorporate co-generation facilities can sell their excess heat within the Zone.
- *Permitting:* The Green Growth Zone will be eligible for an “umbrella permit” and will receive expedited, priority permitting from the NRB and relevant state agencies. Renewable generation that needs a 248(j) certificate of public good (CPG) under the Public Service Board will have certain criteria reduced or automatically “checked off” if located in a Green Growth Zone. *See 248(j) process outlines below.*
- *Financing:* Special loan rates will be set up through VEDA subsidized by the State that will be below VEDA’s normal lending rates.
- *VEGI:* Companies within the Zone will be eligible for a separate VEGI set aside program outside of the existing cap with an altered formula to achieve higher benefits.

- *TIF Financing*: The entire Green Growth Zone will be considered a 10 year TIF zone. The incremental property taxes generated will be available to pay off debt associated with the construction of infrastructure that serves the Zone.
- *Clean Energy Development Fund*: Renewable generation projects within the Green Growth Zone will get preferential scoring for grants and loans by the CEDF Investment Committee, as well as increased funding levels.

Designation Process: Each Regional Development Corporation, in conjunction with a host community, may designate one or more Green Growth Zones for their region. Application will be made to the Economic Incentive Review Board to consider and approve or reject the application for Green Growth Zone status. The application must include a letter from the Public Service Department confirming that the generation source(s) within the Zone is/are, in fact, as defined in 10 V.S.A. §6523 for the Clean Energy Development Fund. The generation must occur within the Zone. The application must also include a letter submitted by the governing legislative body of the host community in support of the application and with the endorsement of the project as well as a letter of support from the Regional Planning Commission having considered regional impacts of the site.

Public Service Board 248(j) with Green Growth Zones: Unlike other petitions for electric generation facilities, those brought under the auspices of a Green Growth Zone would actually begin with and to some degree, have been considered by the community in which the project would be constructed. V.S.A. § 248(j) allows the Board to issue a CPG “without the notice and hearings otherwise required by this chapter” where:

- (B) such facilities will be of limited size and scope;
- (C) the petition does not raise a significant issue with respect to the substantive criteria of this section; and
- (D) the public interest is satisfied by the procedures authorized by this subsection.

248(j) language, applied to projects constructed in Green Growth Zones would be a conservative approach toward reducing the regulatory rigors of permitting a facility and would serve to expedite the permitting process. 248(j) language still requires a showing to be made by the Petitioner that the criteria of 248 have been met and the Board must find that no significant issue has been raised before it may issue a CPG. Accordingly, many 248 criteria could be simply dealt with “up front” in the Green Growth Zone designation process such that when the Public Service Board received the Petition for the project, there would be a legal presumption that the following 248(b) criteria had already been satisfied:

248(b)(1) – That the project will not unduly interfere with the orderly development of the region.

248(b)(2) – That the project is needed to meet the need for present and future demand for service which could not otherwise be provided in a more cost effective manner through energy efficiency and load management measures.

248(b)(4) - That the project will result in an economic benefit to the state and its residents.

248(b)(5) - That the project will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment and the public health and safety.

248(b)(6) - That the project is consistent with the company's approved least cost integrated plan.

248(b)(7) - That the project be in compliance with the Department's electric energy plan.

248(b)(8) - That the project does not have an undue adverse effect on outstanding water resources.

248(b)(9) – That the project is consistent with the state solid waste management plan (where applicable).

248(b)(10) – That the project cannot be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers.

Establishing that there would be a rebuttable presumption that a project located within a Green Growth Zone would have met the above criteria, essentially takes 219a and creates a slightly higher burden of proof for one opposing the project.

Example: An RDC comes forward with partners from an existing industrial park, a CHP generation developer and the host community to apply for Green Growth Zone designation. They meet the VEPC criteria for job creation (?) and PSD's review of their generation proposal. The financing and tax credits would offset some of the cost for constructing the CHP generation thus lowering the costs it would otherwise have to charge the park customers. The total power costs to the park customers would be further reduced through the use of the waste heat from the electric generation through CHP. Further, any market benefits that arise from the location of the generation and their attributes (such as renewable energy credits or RECs) would be split among the developer and park customers as they see fit.

II. Smart Grid for Vermont

Concept: A *Smart Grid* will empower Vermonters by giving them the tools they need to lower electricity consumption and costs; improve system reliability; and give all Vermonters an opportunity to help shape our shared energy future. This statewide initiative will transform our electric grid and deliver economic and environmental benefits to Vermont consumers that are especially needed in a time of rising fuel prices.

Plan: A *Smart Grid* is an enhanced electric transmission and distribution network that uses an internet-like communications network technology, distributed computing and associated sensors and software to provide consumers with the decision-making information they need to better manage their family or business' consumption and energy costs.

Vermonters will have the option of having Smart Meters installed in their homes that will tell them how much energy they are consuming at any given time and also provide them with real time prices so they can make informed choices about their energy use.

Achieving a statewide *Smart Grid* goal won't require construction of new transmission lines but will require enhancements of the existing system and the development of a statewide wireless communications network – both of which are currently underway.

Our utilities, to their credit, have begun to move in this direction. But they need greater regulatory cooperation and clear coordination with the Vermont Telecommunication Authority.

The Public Service Department, VTA, and Agency of Administration will oversee this project and ensure its completion.

III. The Vermont Innovation Challenge

Concept: The *Vermont Innovation Challenge* is meant to facilitate the development of new ideas and products by Vermont companies and entrepreneurs that will help find solutions to the most difficult challenges of our time such as climate change, energy independence and health care costs.

The challenge will inspire employers and employees on the cutting edge of new technologies to compete for meaningful incentives that will lead to their success and allow them to compete in the global economy here in Vermont.

Plan: The State, in consultation with a panel of industry experts and leading scientific scholars, will outline a series of goals that both solve an engineering challenge and benefit the public good. These will be “stretch” goals by their nature – difficult to obtain.

The first company, small business or entrepreneur to cross the line and achieve the goal secures the right to operate new or expanded manufacturing operations free from state taxes, specifically state corporate taxes and education property taxes. The tax waiver will apply to the line of business specific to the invention – i.e., it will apply to capital, operating and labor specific to the challenge, not the company’s entire business – and will sunset with the life of the product or 15 years, whichever comes first. In the case of sole proprietorship, limited liability company, or subchapter S corporation, the tax waiver will apply to state income taxes specific to the invention.

Further, the first company over the line in each challenge will earn a cash incentive to kick-start job growth. The expert panel will work with the Clean Energy Development Fund to establish the incentives using the Fund’s future revenue.

The initial series of challenges will focus on reducing energy consumption. For instance,

- The first company to produce a commercially viable residential wind turbine that increases its rated capacity 50% above current standards;
- The first company to produce a commercially viable pellet or wood stove technologies that increase the efficiency of such stoves by 50% over current industry efficiency leaders;
- The first company to produce a commercially viable rooftop solar system capable of providing power, heating and/or cooling energy for a building at a substantially lower installation and maintenance costs than traditional electric and deliverable fossil fuel sources.
- The first company to produce a commercially viable automobile capable of exceeding 70 MPG, or components for that vehicle such as advanced ignition systems, new generation transmissions or lightweight materials; or an automobile that does not rely on any combustible fossil fuel but has comparable horsepower and mileage to today’s average;

- The first company to produce a commercially viable engine for other motorized items (like airplanes, motorcycles, boats, lawn mowers or snow blowers) that achieves efficiency improvements of greater than 50% over the existing technology or that reduce by 50% the CO2 emissions these engines produce;
- The first company to produce a commercially viable non-petroleum based fuels (other than corn-based ethanol) for vehicles that achieve an efficiency 150% greater than carbon fuels and has a non-subsidized price equal to the average retail price of petroleum fuels over the past three years.

Over time, we'll also extend this program to cover innovations in software, biomedical fields and other areas where the skill and drive of Vermonters can excel. To ensure fairness, accuracy and success, Vermont Economic Progress Council (VEPC) will establish the guidelines and criteria for this program.

IV. Research and Development Tax Credits

Concept: Research and development is a key aspect of Vermont's economic future. As the knowledge based sector of the global economy expands, Vermont must continue to adapt by welcoming software development and other high tech industries. While the E-state initiative is an important step for growth in these areas, we can do more to promote these emerging sectors of our economy. Incentives will allow Vermont companies to better compete with companies in other states that offer similar credits.

Plan: Research and development tax credits for Vermont businesses will mirror the federal R&D tax credits at the state level for entrepreneurs on the cutting edge of their industries.

V. Opportunity Zones

Concept: We can use our existing infrastructure – such as aging empty industrial facilities – as a resource we can leverage to attract new employers or help existing employers expand. Creating *Opportunity Zones* will help revitalize communities that have been hit hard by the migration of manufacturing jobs out of New England.

Plan: Industrial facilities that have been vacant for five years or more would be afforded certain benefits to create incentives for renovation and renewal of use. No income tax on revenue from rental of space in the building would accrue to the owner for 10 years. There would be a five year tax increment allocation to the community for infrastructure costs associated with support for the renovation of the building.

VI. Urban Homesteading

Concept: Throughout Vermont's downtowns there are buildings with thriving commercial space on the first floor but underutilized space on the upper floors. By encouraging first-time homeowners to invest in these spaces we can significantly increase economic activity in our downtowns and village centers and creating more affordable housing option for Vermonters. The Homestead model produces units of housing in smart growth locations at very affordable prices.

Plan: The *Urban Homestead* program would provide incentives to the buyers of newly subdivided condominiums in the now underutilized upper stories of mixed use buildings, mills and other buildings. Similarly, mill structures, vacant schools and other underutilized structures could be converted to affordable condominiums.

This initiative would allow us to create affordable housing units with little impact on open space, farmland and the environment.

VII. Tech VEGI

Concept: Over the last several years, Vermont has set the stage to promote job creation in the knowledge-based economy and in particular, the information technology solution (ITS) industry. We are deploying new telecommunication infrastructure regularly under the leadership of the Vermont Telecommunications Authority and our higher learning institutions have become leaders in training the next generation in this industry.

With these key pieces in place – infrastructure, education and support –the logical next step is to provide an incentive to ITS companies to help them grow in Vermont. These jobs are high-paying; have a low environmental impact and have been able to flourish throughout our state, from downtown Bellows Falls to St. Johnsbury.

Plan: Fortunately, we have an existing program Vermont Employment Growth Incentive (VEGI) that is an effective tool to recruit new companies to Vermont and encourage Vermont companies to grow. Enhancing the VEGI program to allow for a greater benefit for ITS companies can seamlessly enable this important industry sector to grow and prosper in Vermont.

To be eligible, businesses have to meet the current VEGI eligibility and approval requirements, but if an existing Vermont company or a relocating company will add new jobs in software development or external software and systems implementation, they may be eligible for an increased level of VEGI incentive.

VIII. Permit Reform

Concept: Vermont requires a predictable, clear, fair, straightforward and efficient system that balances our noted ecological ethic with much needed responsible development. A system that not only protects our environmental values but also recognizes other important public values as well such as a project's recreational, cultural, economic and social benefits.

Plan: Through a series of modifications and changes to the various permitting systems in the state,

Public Benefit

Currently, Act 250 does take into consideration the concept of public benefit when it reviews a project under Criterion 8(A) (Necessary wildlife habitat and endangered species) and Criterion 9 (H) (Costs of scattered development)

Why limit this review to these two sub-criteria? The following Criteria would also benefit from a similar consideration of any evidence of economic, social, cultural, recreational or other benefit to the public from the subdivision or development in question:

Criterion 6 (Ability of a municipality to provide educational services)

Criteria 7 (Ability of a municipality to provide municipal services)

Criteria 8 (Aesthetics/historic sites)

Criteria 9 (A) (Impact of growth) (D) (Earth resources) (F) (Energy conservation) (G) (Private utility services), (J) Public utility services, (K) Development affecting public investments

On the record (OTR) review of District Commission decisions

Presently, the nine Act 250 District Commissions consider and decide many (all but minor) permit applications only after holding hearings at which evidence and exhibits are presented by the parties, cross examination may occur, and argument is offered. On appeal, pursuant to 10 V.S.A. ' 8504(h), the Environmental Court hears the criteria that are appealed *de novo*. Where matters on appeal are heard *de novo* (from the Latin for Aanew@ or Aafresh@), the Court tries the case as if no hearing had ever been conducted by the Commission below and as if no decision had been rendered and it will therefore again receive evidence and hear witnesses and argument,

The Administration proposes to amend Act 250 to allow, at an applicant=s option and expense the hearing before the Commission be conducted with the creation of a formal record. Any appeal to the Environmental Court would then be taken Aon the record@

created before the Commission, in much the same way as civil appeals to the Vermont Supreme Court from the Superior Courts are reviewed; no witnesses or evidence would be presented to the Environmental Court. While the Court may hear argument as to the proper application of the law to the facts, argument as to the facts found by the Commission would be limited to whether the Commission had sufficient evidence on which to make its findings. Under this approach, matters would not be tried twice. Both time and expense would be saved.

Dispositive ANR Permits in Act 250

Rationale

Currently, ANR permits have a rebuttable presumption in Act 250. As a consequence, ANR staff and applicants routinely defend permits against challenges in Act 250. ANR permits are also appealable to the Environmental Court, with a de novo standard of review. This means that even if an ANR permit is not rebutted in an Act 250 proceeding, the opponents of a project can still appeal to the Environmental Court, where the ANR permit may be challenged again. Consequently, ANR permits should be dispositive in Act 250. The goals to be achieved through this modification are as follows: 1) streamlining the process for applicants; 2) providing greater predictability in the Act 250 process; and 3) maximization of staff resources due to a reduction in time spent defending permits in multiple forums. The following parameters would apply:

- ANR permits may still be appealed to the Environmental Court ensuring an appropriate forum is available to resolve any disputes over the permit;
- ANR permits will be dispositive in Act 250 only with regard to the issues and technical determinations covered by the permit;
- Only those ANR permits which are currently subject to public notice requirements will be dispositive in Act 250 (the public notice requirements currently in place will remain the same). These include the following types of permits:
 - Air emissions
 - Stormwater
 - Wastewater NPDES
 - Indirect wastewater discharges
 - Wetlands Conditional Use Determinations
 - Solid Waste Certifications
 - Public Water Supply permits

Expansion of alternatives to traditional individual permitting

Rationale

A variety of DEC programs utilize alternatives to the traditional individual permit as a regulatory tool. For example, permit by rule, general permits, and self-certifications are integral to the successful implementation of the many regulatory programs administered

by the department. ANR will undertake an evaluation of all existing permitting programs to identify additional areas where these and other strategies may be appropriate and will implement them accordingly in an effort to: 1) further streamline the process and provide greater predictability for applicants; 2) maximize staff resources; and 3) ensure a greater ability to provide staff field presence and increase the environmental and public health benefits associated with that presence.

General Permitting

A General Permit is a permit which incorporates standard conditions issued after a full public process for a broad class of permittees, such as storm water discharges. Once the terms of the General Permit are established, there is a simplified process for adding an applicant to the general permit. This means less time and expense associated with the issuance of the permit for the applicant. In addition, under current law, once the appeal period for a General Permit to discharge has expired, the terms and conditions of the General Permit to discharge can no longer be challenged. If an authorization for coverage issued to a particular applicant under the General Permit to discharge is appealed, the appeal is limited in scope to whether the permitted activity complies with the terms and conditions of the general permit. The expansion of general permits to additional environmental programs will require specific statutory authority and amendments to ensure that appeals are appropriately limited. Compliance is verified through inspection and enforcement action taken where necessary.

Permit by Rule

A Permit by Rule is similar to the General Permit, however, the applicable design and environmental standards are adopted for a class of permittees as a rule. The agency conducts training and outreach, the regulated community is expected to comply with the rules and is subject to an inspection program. Enforcement is conducted where necessary. This approach furthers the goals identified above: 1) streamlining and greater predictability; 2) maximization of staff resources; 3) providing greater staff field presence. Examples of permit by rule are the air emission standards for dry cleaners and vapor recovery rules for gas stations.

Self-Certification

Self-certification has a variety of forms. The approach furthers the goals identified above: 1) streamlining and greater predictability; 2) maximization of staff resources; 3) providing greater staff field presence. For example, in some programs an applicant may submit a permit application with detailed plans and a certification from a qualified professional indicating that the proposed project meets statutory and regulatory requirements. The permit is then issued based upon the certification. The agency places a heavy emphasis on the professional judgment of the qualified professional designing the project. Compliance is then verified through inspections, and enforcement conducted where necessary.

In other programs, such as the underground storage tank program, DEC is utilizing compliance self-certification. In this instance, the regulated entity conducts an inspection of its operations annually and certifies that it is in compliance with environmental regulatory requirements. If it is not in compliance, the regulated entity is required to submit a return to compliance plan. The agency conducts training and outreach and provides technical assistance to the regulated community. The agency also conducts follow up inspections to “audit” and verify the certifications and ensure that return to compliance plans are implemented. The compliance certification process proactively engages industry in ensuring its environmental compliance.

Additional Considerations

Several factors will need to be considered in expanding the use of these regulatory alternatives. For example, to the extent programs do not currently provide for self-certification, i.e. wetlands, it is likely a licensing or certifying body would need to be created to set qualification standards and to oversee the private professionals conducting the work. In addition, with a decrease in upfront permit application reviews, staff resources will need to be shifted toward inspection, compliance and enforcement efforts to ensure a high level of compliance with environmental standards for both federally delegated and state programs. ANR will need to continue to collect the same level of permit fees to support administration of these regulatory programs- administration of the program will merely shift in its focus.