

1 Introduced by [...]

2 Referred to Committee on

3 Date:

4 Subject: Executive; boards and commissions; miscellaneous; repeal or revise

5 Statement of purpose of bill as introduced: This bill proposes to repeal or to

6 revise provisions regarding certain boards and commissions.

7 An act relating to boards and commissions

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

9 * * * Government Accountability Committee * * *

10 Sec. 1. It is the intent of the General Assembly for the House and Senate
11 Government Operations Committees to reexamine the principle of government
12 accountability with attention paid to how evidence is used to inform policy,
13 how information is publicly conveyed, review State laws to ensure
14 accountability, and for potential statutory amendments to accomplish these
15 goals.

16 Sec. 2. REPEAL OF GOVERNMENT ACCOUNTABILITY COMMITTEE
17 2 V.S.A. chapter 28 (Government Accountability Committee) is repealed.

18 * * * State Boards and Commissions Registry * * *

19 Sec. 3. 3 V.S.A. § 116a. is amended to read:

20 § 116A. STATE BOARDS AND COMMISSIONS REGISTRY

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* * *

(c) As used in this section, “State board or commission” means a professional or occupational licensing board or commission, advisory board or commission, appeals board, promotional board, interstate board, supervisory board or council, or any other similar entity that:

(1) is created by State law, ~~by federal law and contains State appointees, or by executive order;~~

(2) is established as or is attached to an Executive Branch entity;

(3) has statewide jurisdiction or carries out a State function; and

(4) is not composed of members appointed exclusively by regional, county, or municipal entities.

* * * Vermont Pension Investment Commission * * *

Sec. 4. 3 V.S.A. § 522 is amended to read:

§ 522. VERMONT PENSION INVESTMENT COMMISSION

* * *

(h) Compensation and reimbursements. Members and alternates of the Commission who are not public employees shall be entitled to per diem compensation as ~~set forth~~ permitted in 32 V.S.A. § 1010 and reimbursement for all necessary expenses that they may incur through service on the Commission from the funds of the retirement systems. The Chair of the Commission may be compensated from the funds at a level ~~not to exceed one-~~

1 ~~third of the salary of the State Treasurer, as determined by the other members~~
2 of the Commission.

3 (i) Assistance and expenses.

4 (1) ~~The Commission shall have the administrative and technical support~~
5 ~~of the Office of the State Treasurer.~~

6 ~~(2)~~ The Commission may collect proportionally from the funds of the
7 three retirement systems and any individual municipalities that have been
8 allowed to invest their retirement funds pursuant to subsection 523(a) of this
9 title, any expenses incurred that are associated with carrying out its duties, and
10 any expenses incurred by the Treasurer's office in support of the Commission.

11 ~~(3)~~(2) The Attorney General shall serve as legal advisor to the
12 Commission.

13 * * * Repeal of Agricultural Finance Program Advisory Panel * * *

14 Sec. 5. 10 V.S.A. § 213 is amended to read:

15 § 213. AUTHORITY; ORGANIZATION

16 (a) The Vermont Economic Development Authority is hereby created and
17 established as a body corporate and politic and a public instrumentality of the
18 State. The exercise by the Authority of the powers conferred upon it in this
19 chapter constitutes the performance of essential governmental functions.

20 * * *

1 Sec. 6. REPEAL OF COALITION FOR HEALTHY ACTIVITY,
2 MOTIVATION, AND PREVENTION PROGRAMS (CHAMPPS)/FIT
3 AND HEALTHY ADVISORY COUNCIL

4 18 V.S.A. § 11 (Coalition for Healthy Activity, Motivation, and Prevention
5 Programs (CHAMPPS)/Fit and Healthy Advisory Council) is repealed.

6 * * * Repeal of Birth Information Network Advisory Committee * * *

7 Sec. 7. 18 V.S.A. chapter 20 is amended to read:

8 CHAPTER 20. BIRTH INFORMATION NETWORK

9 § 991. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

10 * * *

11 (h) The Department of Health shall develop a form that contains a
12 description of the Birth Information Network and the purpose of the Network.
13 The form shall include a statement that the parent or guardian of a child may
14 contact the Department of Health and have ~~his or her~~ the child's personally
15 identifying information removed from the Network, ~~using a process developed~~
16 ~~by the Advisory Committee.~~

17 * * *

18 § 993. ~~ADVISORY COMMITTEE~~

19 ~~The Commissioner of Health shall appoint an advisory committee to~~
20 ~~comment on the effectiveness of the Birth Information Network and to gather~~
21 ~~information about funding opportunities. The Advisory Committee shall be~~

1 ~~composed of representatives from the primary organizations involved in~~
2 ~~Network data collection and use. [Repealed.]~~

3 * * * Prospective Repeal of Nuclear Decommissioning Citizens Advisory
4 Panel * * *

5 Sec. 8. PROSPECTIVE REPEAL OF NUCLEAR DECOMMISSIONING
6 CITIZENS ADVISORY PANEL

7 18 V.S.A. chapter 34 (nuclear decommissioning citizens advisory panel) is
8 repealed on January 1, 2030.

9 * * * Repeal of Vermont Prescription Drug Advisory Council * * *

10 Sec. 9. REPEAL OF VERMONT PRESCRIPTION DRUG ADVISORY
11 COUNCIL

12 18 V.S.A. § 4255 (Vermont Prescription Drug Advisory Council) is repealed.

13 * * * Vermont Employment Security Board * * *

14 Sec. 10. 21 V.S.A. § 1302 is amended to read:

15 § 1302. VERMONT EMPLOYMENT SECURITY BOARD,

16 COMPOSITION, DUTIES

17 (a) There is hereby created a board of three members to be known as the
18 Vermont Employment Security Board. One member, who will serve as the
19 chair of the Board, shall be the Commissioner of Labor, ex officio. The two
20 other members of the Board shall be appointed by the Governor, with the
21 advice and consent of the Senate. The term of each appointed member shall be

1 six years. Biennially, in the month of February, with the advice and consent of
2 the Senate, the Governor shall appoint a person as a member of ~~such~~ the Board
3 for the term of six years, whose term of office shall commence March 1 of the
4 year in which such appointment is made. Any appointment to a vacancy shall
5 be for the unexpired term. In case of a vacancy by resignation, the member
6 resigning shall continue in office until ~~his or her~~ that member's successor is
7 appointed. No more than two members of the Board shall be members of the
8 same political party. ~~Biennially, in the month of February, the Governor shall~~
9 ~~designate a member of such board to be its chair.~~ The Governor may at any
10 time remove ~~a~~ an appointed member of such Board for gross inefficiency,
11 neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

12 * * *

13 * * * Repeal of Natural Gas and Oil Resources Board and Statutory

14 Framework * * *

15 Sec. 11. 29 V.S.A. chapter 14 is amended to read:

16 CHAPTER 14. NATURAL GAS AND OIL CONSERVATION

17 ~~Subchapter 1. General Provisions~~

18 ~~§ 501. TITLE OF CHAPTER~~

19 ~~This chapter shall be known as the Vermont Natural Gas and Oil~~
20 ~~Conservation Act.~~

21 ~~§ 502. PURPOSES~~

1 ~~(a) The prevention of waste of oil and gas, the promotion of conservation,~~
2 ~~and the protection of correlative rights of owners are declared to be in the~~
3 ~~public interest.~~

4 ~~(b) The purposes of this chapter are to:~~

5 ~~(1) encourage oil and gas exploration and production;~~

6 ~~(2) protect property rights and interests of all citizens;~~

7 ~~(3) prevent long term harm to the environment and other resources that~~
8 ~~might occur through oil and gas activities;~~

9 ~~(4) protect correlative rights;~~

10 ~~(5) prevent undue waste of oil and gas;~~

11 ~~(6) promote greatest ultimate recovery of oil and gas, consistent with~~
12 ~~technology and economic conditions.~~

13 ~~(c) This purpose requires the creation of a Vermont Natural Gas and Oil~~
14 ~~Resources Board to administer and enforce the provisions of this chapter.~~

15 ~~(d) Whenever the Board exercises discretion and authority under this act, it~~
16 ~~shall do so only under the standards and purposes described in subsection (b)~~
17 ~~of this section.~~

18 ~~§ 503. DEFINITIONS~~

19 ~~As used in this chapter:~~

20 ~~(1) “Board” means the Vermont Natural Gas and Oil Resources Board.~~

1 ~~(2) “Certificate of clearance” means a permit prescribed by the Board for~~
2 ~~the transportation or the delivery of oil or gas or product.~~

3 ~~(3) “Correlative rights” means the reciprocal rights and duties of each~~
4 ~~owner in a reservoir to produce oil and gas in a manner that will not cause~~
5 ~~waste and in an amount representing his or her just and equitable share.~~

6 ~~(4) “Development drilling unit” means the area attributed by the Board~~
7 ~~to a well drilled or to be drilled in a known reservoir, for the purpose of~~
8 ~~allocating production so as to prevent waste and protect correlative rights.~~

9 ~~(5) “Drilling site” means all the land disturbed in preparing a site for the~~
10 ~~drilling of an oil and gas well, and related activities, including roadways and~~
11 ~~utility access.~~

12 ~~(6) “Exploratory drilling unit” means the area attributed by the Board to~~
13 ~~the first well drilled or to be drilled to test for a reservoir, for the purpose of~~
14 ~~allocating production so as to prevent waste and protect correlative rights.~~

15 ~~(7) “Field” means the general area underlaid by one or more reservoirs.~~

16 ~~(8) “Gas” means all natural gas, whether hydrocarbon or~~
17 ~~nonhydrocarbon, including hydrogen sulfide, helium, carbon dioxide, nitrogen,~~
18 ~~hydrogen, casinghead gas, and all other fluid hydrocarbons not defined as oil.~~

19 ~~(9) “Illegal oil” or “illegal gas” means oil or gas that has been produced~~
20 ~~from any well within the State in violation of this chapter or any rule,~~
21 ~~regulation, or order of the Board.~~

1 ~~(10) “Illegal product” means any product derived in whole or in part~~
2 ~~from illegal oil or illegal gas.~~

3 ~~(11) “Just and equitable share of the production” means, as to each~~
4 ~~owner, that part of the authorized production from a reservoir that is reasonable~~
5 ~~in the proportion that the amount of recoverable oil or gas in the developed~~
6 ~~area of his or her tract or tracts in the reservoir bears to the recoverable oil or~~
7 ~~gas in the total of the developed areas in the reservoir.~~

8 ~~(12) “Lands” means all lands within the State, publicly or privately~~
9 ~~owned, over which the State, under its police power, has jurisdiction.~~

10 ~~(13) “Local agency” means any county, city, town, village, or other~~
11 ~~political subdivision and any local agency, board, commission, district, or~~
12 ~~other administrative body.~~

13 ~~(14) “Most efficient rate” means the rate at which a well can produce~~
14 ~~without inefficient, excessive, or improper use or dissipation of reservoir~~
15 ~~energy to achieve the maximum economically feasible recovery of oil or gas.~~

16 ~~(15) “Oil” means crude petroleum, oil, and all hydrocarbons, regardless~~
17 ~~of specific gravity, that are in the liquid phase in the reservoir and are produced~~
18 ~~at the wellhead in liquid form.~~

19 ~~(16) “Oil and gas” means both oil and gas, or either oil or gas, as the~~
20 ~~context may require to give effect to the purposes of this chapter.~~

1 ~~(17) “Operator” means the person who has been designated by the~~
2 ~~owners or the Board to operate the well or field-wide unit, and who is~~
3 ~~responsible for compliance with this chapter.~~

4 ~~(18) “Owner” means the person who has the right to drill into and~~
5 ~~produce from a reservoir and to appropriate the oil or gas that is produced,~~
6 ~~either for that person or for that person and others; and in the event that there is~~
7 ~~no oil and gas lease with respect to any land, the owner of the oil and gas rights~~
8 ~~shall be considered “owner” to the extent of seven eighths of the oil and gas~~
9 ~~underlying the lands in question, and as “royalty interest holder” to the extent~~
10 ~~of one eighth of the oil and gas.~~

11 ~~(19) “Plug and abandon” means the plugging, replugging if necessary,~~
12 ~~and abandonment of a well including the placing of all bridges, plugs, and~~
13 ~~fluids therein, and the restoration and reclamation of the drilling site to a~~
14 ~~condition reasonably consistent with the adjacent terrain and landscape.~~

15 ~~(20) “Producer” means the operator of a well or wells capable of~~
16 ~~producing oil or gas.~~

17 ~~(21) “Product” means any commodity made from oil or gas.~~

18 ~~(22) “Reservoir” means an underground accumulation of oil or gas that~~
19 ~~is a common source of supply, or several such accumulations that by rule or~~
20 ~~order of the Board are allowed to be produced on a commingled basis, and are~~
21 ~~treated by the Board as a common source of supply.~~

1 ~~(23) “Resourcees” means oil, gas, and their constituents, existing in or~~
2 ~~under lands within the State of Vermont.~~

3 ~~(24) “State lands” means all State owned lands inside or outside the~~
4 ~~State, including the State owned lands under the waters of Lake Champlain or~~
5 ~~any other waters.~~

6 ~~(25) “State land manager,” with respect to any State lands, means the~~
7 ~~secretary of any agency to which a department or division having~~
8 ~~responsibility for those lands is attached; or if not attached to an agency, the~~
9 ~~commissioner of a department or the chair of a board having responsibility for~~
10 ~~those lands; or if no agency has responsibility for the lands, the Secretary of~~
11 ~~Natural Resources.~~

12 ~~(26) “Unitization” means the combining of tracts and interests necessary~~
13 ~~to establish a field wide area for the cooperative development or operation of~~
14 ~~all or part of a reservoir.~~

15 ~~(27) “Waste” includes:~~

16 ~~(A) the inefficient, excessive, or improper use or the unnecessary~~
17 ~~dissipation of reservoir energy;~~

18 ~~(B) the inefficient storing of oil or gas;~~

19 ~~(C) the locating, drilling, equipping, operating, or producing of an oil~~
20 ~~and gas well in a manner that causes or tends to cause reduction in the quantity~~
21 ~~of oil or gas that would be ultimately recoverable from a reservoir under~~

1 ~~prudent and proper operations, or that causes or tends to cause unnecessary~~
2 ~~wells to be drilled, or that causes or tends to cause surface or subsurface loss or~~
3 ~~destruction of oil or gas;~~

4 ~~(D) the unauthorized flaring of gas produced from an oil and~~
5 ~~condensate well after the Board has found that the use of gas is, or will be,~~
6 ~~economically feasible within a reasonable time on terms that are just and~~
7 ~~reasonable.~~

8 ~~(28) “Well log” means all information obtained in and from the drilled~~
9 ~~borehole including the driller’s log, geological log, geophysical log,~~
10 ~~hydrological log, and other information.~~

11 ~~(29) “Fluid” means any material or substance that flows or moves~~
12 ~~whether in semi-solid, liquid, sludge, gas, or any other form or state.~~

13 ~~(30) “Hydraulic fracturing” means the process of pumping a fluid into or~~
14 ~~under the surface of the ground in order to create fractures in rock for the~~
15 ~~purpose of the production or recovery of oil or gas.~~

16 ~~§ 504. COMPOSITION OF THE BOARD~~

17 ~~(a) The Board shall consist of five members who shall be appointed by the~~
18 ~~Governor with the advice and consent of the Senate. Appointments shall be for~~
19 ~~a term of three years and, in the event of death or resignation, successors shall~~
20 ~~serve out the term of the deceased or resigned member. The terms of members~~
21 ~~initially appointed shall be set so that not more than two terms shall expire in~~

1 ~~the same year. Annually, in February after new appointments, the Governor~~
2 ~~shall designate a chair.~~

3 ~~(b) In order for the Board to function in the best interests of the people of~~
4 ~~the State, Board members should have a knowledge of one or more of the~~
5 ~~following: geology, engineering, law, State and local government, economic~~
6 ~~development, environmental protection, regional planning, agriculture, or~~
7 ~~related fields of knowledge.~~

8 ~~(c) A person in the employ of or holding any official relation to any~~
9 ~~company subject to the supervision of the Board, or engaged in the~~
10 ~~management of such company, or owning stock, bonds, or other securities~~
11 ~~thereof, or who is, in any manner, connected with the operation of such~~
12 ~~company in this State, shall not be a member of the Board.~~

13 ~~(d) No member of the Board shall participate in any action of the Board that~~
14 ~~involves himself or herself or any person engaged in oil and gas development~~
15 ~~in which he or she has a financial interest.~~

16 ~~(e) Each prospective appointee or member of the Board shall have the~~
17 ~~affirmative duty to disclose any actual or potential conflicts of interest to the~~
18 ~~other members of the Board.~~

19 ~~§ 505. AUTHORITY OF THE BOARD~~

20 ~~(a) For the purposes of this chapter, the Board shall have authority over all~~
21 ~~lands and over all oil and gas resources. The Board shall prevent the waste of~~

1 ~~oil and gas, promote conservation, protect correlative rights, and otherwise~~
2 ~~administer and enforce this chapter. In the event of a conflict, the duty to~~
3 ~~prevent waste is paramount.~~

4 ~~(b) Without limiting its general authority, the Board may:~~

5 ~~(1) require identification of ownership of oil and gas wells, producing~~
6 ~~leases, tanks, processing plants, structures, and facilities for the transportation~~
7 ~~or refining of oil and gas;~~

8 ~~(2) require the making and filing of well logs, directional surveys, and~~
9 ~~reports on well location, drilling, and production; provided that all such records~~
10 ~~marked “confidential” shall be kept confidential for two years after their filing,~~
11 ~~unless the owner gives written permission to release them at an earlier date;~~
12 ~~provided, however, that the State Geologist is authorized access to this~~
13 ~~information. The Board may provide by rule for extension of the period of~~
14 ~~confidentiality for an additional period of one year upon written request of the~~
15 ~~owner and a showing of special circumstances requiring an extension;~~

16 ~~(3) require the drilling, casing, installation of proper equipment and~~
17 ~~facilities, operating, and plugging of wells in such manner as to prevent:~~

18 ~~(A) the escape of oil or gas out of one reservoir into another,~~

19 ~~(B) the detrimental intrusion of water into an oil or gas reservoir~~
20 ~~where that is avoidable by efficient operations,~~

1 ~~(C) the pollution of fresh water supplies by oil, gas, or salt water, or~~
2 ~~other substances,~~

3 ~~(D) blowouts, cave ins, seepages, and fires;~~

4 ~~(4) require the testing of wells used in connection with the production of~~
5 ~~oil and gas including production, injection, and disposal wells;~~

6 ~~(5) require the licensing of oil and gas well drillers and the furnishing of~~
7 ~~a reasonable performance bond or other good and sufficient surety, conditioned~~
8 ~~for the performance of the duty to plug and restore the drilling site of each dry~~
9 ~~or abandoned well, and to repair each well causing waste or pollution if repair~~
10 ~~will prevent the waste or pollution;~~

11 ~~(6) require that production from wells be separated into gaseous and~~
12 ~~liquid hydrocarbons, and that each be measured by means and upon standards~~
13 ~~that may be prescribed by the Board;~~

14 ~~(7) require that wells be operated at efficient gas-oil or water-oil ratios or~~
15 ~~that production be limited from wells with inefficient gas-oil or water-oil~~
16 ~~ratios;~~

17 ~~(8) require certificates of clearance in connection with the transportation~~
18 ~~or delivery of oil, gas, or product;~~

19 ~~(9) require the metering or other measuring of oil, gas, or product;~~

20 ~~(10) require that every person who produces, sells, purchases, acquires,~~
21 ~~stores, transports, refines, or processes oil or gas in this State keep complete~~

1 ~~and accurate records of their quantities, which records shall be available for~~
2 ~~examination by the Board or its agents at all reasonable times;~~

3 ~~(11) require the filing of reports, plats, and other data related to matters~~
4 ~~within the Board's jurisdiction;~~

5 ~~(12) regulate the drilling, testing, equipping, completing, operating,~~
6 ~~producing, and plugging of wells, and all other operations for the production of~~
7 ~~oil or gas;~~

8 ~~(13) regulate the stimulation and treatment of wells;~~

9 ~~(14) regulate the spacing or locating of wells;~~

10 ~~(15) regulate operations to increase ultimate recovery, such as cycling of~~
11 ~~gas, the maintenance of pressure, and the introduction of gas, water, or other~~
12 ~~substances into a reservoir;~~

13 ~~(16) regulate the disposal of salt water and oil field wastes;~~

14 ~~(17) determine the amount of oil or gas that may be produced without~~
15 ~~waste from any unit, reservoir, or field, and allocate the allowed production to~~
16 ~~and among the wells in such fields or reservoirs;~~

17 ~~(18) permit by rule or order the flaring of gas produced from an oil well,~~
18 ~~pending the time when, with reasonable diligence, the gas can be sold or~~
19 ~~otherwise utilized on terms that are just and reasonable, if such flaring is in the~~
20 ~~public interest;~~

1 ~~the Board and times within which requests for a rehearing must be made. Upon~~
2 ~~request of an interested party, the Board shall hold a rehearing.~~

3 ~~(c) The Board may enter orders based upon the reports and~~
4 ~~recommendations of its examiners.~~

5 ~~(1) If an order grants the request of an applicant and no objection has~~
6 ~~been made or filed before or during the hearing before the examiner, the order~~
7 ~~shall be effective immediately.~~

8 ~~(2) If an order denies the request of the applicant, in whole or in part, or~~
9 ~~if a timely protest to the granting of an application is made or filed, the order~~
10 ~~shall not become effective if a request for rehearing is made; and shall become~~
11 ~~effective only when either all interested parties have waived their right to~~
12 ~~rehearing or the time to request a rehearing has expired.~~

13 ~~(d) After an order based on a hearing before an examiner has become~~
14 ~~effective, it shall have the same force and effect as if the hearing had been~~
15 ~~conducted before the Board. If a timely request for rehearing is made, the~~
16 ~~Board may deny rehearing or affirm, revoke, or modify the order.~~

17 ~~§ 512. HEARINGS CONDUCTED BY THE BOARD~~

18 ~~(a) Notwithstanding any provision of this chapter or any rule of the Board,~~
19 ~~any hearing on any matter or proceeding may be held before the Board if the~~
20 ~~Board desires to hear the matter; or if the matter is initiated on the motion of~~
21 ~~the Board and is for the purpose of enforcing, amending, establishing, or~~

1 ~~revoking a statewide rule, regulation, or order; or if any person who may be~~
2 ~~affected by the matter or proceeding files with the Board, more than 10 days~~
3 ~~prior to the date set for the hearing, a written objection to the hearing before an~~
4 ~~examiner.~~

5 ~~(b) The parties shall have the right to present additional testimony and~~
6 ~~documentary evidence at any rehearing.~~

7 ~~§ 513. SUBPOENA~~

8 ~~(a) In any matter properly before it, the Board may compel the attendance of~~
9 ~~witnesses and the production of documentary evidence. A party shall be~~
10 ~~entitled to the issuance of subpoenas by making a written request. In all other~~
11 ~~respects, the Vermont Rules of Civil Procedure shall apply to the proceedings~~
12 ~~before the Board.~~

13 ~~(b) A person aggrieved by a subpoena issued by the Board may petition a~~
14 ~~Superior judge, who may issue any order authorized in civil cases to protect a~~
15 ~~party from improper discovery.~~

16 ~~(c) A person who disobeys a proper subpoena of the Board or refuses to~~
17 ~~take an oath or affirmation properly required by the Board shall be liable to the~~
18 ~~penalty and attachment provided in Title 12 for disobeying a judicial subpoena.~~

19 ~~§ 514. APPEAL~~

1 ~~An appeal from a decision of the Board shall be to the Supreme Court. The~~
2 ~~provisions of the Administrative Procedure Act shall apply to the extent they~~
3 ~~are not inconsistent with the provisions of this chapter.~~

4 ~~§ 515. PERSONNEL~~

5 ~~Within the limits of legislative authorizations of positions and~~
6 ~~appropriations of funds, the Board may employ an executive officer and other~~
7 ~~personnel as it finds necessary in carrying out its duties, including engineering,~~
8 ~~technical, and other consultants.~~

9 ~~§ 516. GOVERNMENTAL COOPERATION~~

10 ~~(a) Other departments and agencies of State government shall cooperate~~
11 ~~with the Board and, as mutually agreeable, make available at cost data,~~
12 ~~facilities, and personnel as may be needed to assist the Board in carrying out its~~
13 ~~duties and functions. Geological services for the Board shall be provided by or~~
14 ~~in cooperation with the State Geologist.~~

15 ~~(b) The Board, within the scope of its jurisdiction and authorization, may~~
16 ~~cooperate with agencies of the federal government or other states to protect the~~
17 ~~interests of the State in its oil and gas resources.~~

18 ~~§ 517. STANDARDS FOR RULEMAKING~~

19 ~~(a) Rulemaking power granted by this chapter shall be exercised in the~~
20 ~~manner provided by the Vermont Administrative Procedure Act.~~

1 ~~(b) Rules adopted under this chapter shall be consistent with the purposes of~~
2 ~~this chapter and within the intent of the Legislature.~~

3 ~~(c) Rules adopted under this chapter concerning administrative procedures,~~
4 ~~such as rules of evidence during hearings, shall be in accordance with due~~
5 ~~process of law.~~

6 ~~(d) The power under this chapter to establish fees by rule shall be construed~~
7 ~~to authorize only fees which are approximately sufficient to cover the costs~~
8 ~~associated with the program or part of the program intended to be financed by~~
9 ~~the fee.~~

10 ~~Subchapter 3. Conservation of Oil and Gas~~

11 ~~§ 521. WASTE PROHIBITED~~

12 ~~(a) The waste of oil and gas is prohibited.~~

13 ~~(b) The Board shall limit the rate at which oil and gas may be produced~~
14 ~~from any field or reservoir to the most efficient rate consistent with~~
15 ~~economically feasible recovery as determined by the Board from available~~
16 ~~technical information. However, controlled well performance tests to~~
17 ~~determine maximum potential or maximum productivity may be performed~~
18 ~~periodically, when authorized by the Board.~~

19 ~~(c) The Board shall allocate the allowable production among the several~~
20 ~~wells or producing properties in a field or reservoir so that each owner will~~
21 ~~have a reasonable opportunity to produce or receive his or her just and~~

1 ~~equitable share of production. However, no allocation made by the Board shall~~
2 ~~be inconsistent with the prevention of waste.~~

3 ~~§ 522. DRILLING UNITS~~

4 ~~(a) The Board shall regulate the spacing and location of oil and gas wells by~~
5 ~~the establishment of drilling units whenever reasonably necessary to prevent~~
6 ~~waste and protect correlative rights.~~

7 ~~(b) The Board may establish an exploratory unit whenever a well is to be~~
8 ~~drilled to test for the occurrence of a reservoir. The order establishing the~~
9 ~~exploratory drilling unit shall specify the size and shape of the exploratory~~
10 ~~unit.~~

11 ~~(1) To the extent that available geological and engineering information~~
12 ~~permit such a determination to be made, the exploratory unit shall be no~~
13 ~~smaller than the area expected to be drained by the exploratory well and shall~~
14 ~~be no larger than the expected total area of the reservoir.~~

15 ~~(2) If insufficient information is available, the Board may establish a~~
16 ~~temporary unit to ensure orderly development of the reservoir pending the~~
17 ~~availability of additional information.~~

18 ~~(c) The Board may establish the size and shape of development drilling~~
19 ~~units in known reservoirs based upon available geological and engineering~~
20 ~~data.~~

1 ~~(1) The size of a development drilling unit shall be the area that can be~~
2 ~~efficiently and economically drained by one well. If insufficient information is~~
3 ~~available to permit such a determination to be made, the Board may establish a~~
4 ~~temporary development unit pending the availability of the necessary~~
5 ~~information. In order that all owners are accorded substantially equal~~
6 ~~treatment, development units shall be of approximately uniform size if~~
7 ~~consistent with available geological and engineering information.~~

8 ~~(2) A well shall be located on a development drilling unit in accordance~~
9 ~~with a reasonably uniform field-wide spacing pattern, except for wells drilled~~
10 ~~or being drilled at the time a notice of hearing was issued. If the Board finds~~
11 ~~that a well drilled in a uniform spacing pattern would not be likely to produce~~
12 ~~in economic quantities, or that surface conditions would substantially add to~~
13 ~~the burden or hazard of drilling the well, or for other good cause, the well may~~
14 ~~be drilled at another location.~~

15 ~~(3) An order establishing development drilling units for a reservoir shall~~
16 ~~cover all lands believed to be underlain by that reservoir, and may be modified~~
17 ~~by the Board from time to time based on additional geological and engineering~~
18 ~~information. The Board may grant exceptions to the size and shape of any~~
19 ~~development unit or units, or may change the size or shape of any development~~
20 ~~unit or units, or may permit the drilling of additional wells if such actions are~~
21 ~~reasonably necessary to prevent waste or protect correlative rights.~~

1 ~~(4) After the date of the notice of hearing called to establish development~~
2 ~~units in a reservoir, unless expressly authorized by the Board, no well shall be~~
3 ~~commenced into that reservoir until an order establishing development drilling~~
4 ~~units has been adopted.~~

5 ~~§ 523. POOLING~~

6 ~~(a) When two or more separately owned tracts are embraced within an~~
7 ~~exploratory or development drilling unit, or when there are separately owned~~
8 ~~interests in all or part of a unit, the persons owning such tracts or interests may~~
9 ~~pool their tracts or interests. In the absence of voluntary pooling and upon~~
10 ~~application by any person owning a tract or interest within an exploratory or~~
11 ~~development drilling unit, the Board may enter an order pooling all tracts and~~
12 ~~interests within the unit.~~

13 ~~(b) All operations, including the commencement, drilling, operation, or~~
14 ~~production of a well upon any portion of a pooled unit shall be deemed for all~~
15 ~~purposes the commencement, drilling, operation, or production of a well upon~~
16 ~~each separately owned tract or upon each separately owned interest in the unit~~
17 ~~by the several owners. That portion of the production allocated to a separately~~
18 ~~owned tract or separately owned interest included in a unit shall be deemed to~~
19 ~~have been produced from such tract or interest.~~

20 ~~(c) Each pooling order of the Board shall specify which owner will drill,~~
21 ~~complete, and operate a well on the pooled unit. All owners shall share in the~~

1 reasonable costs of drilling, completing, and operating the well. Any owner
2 whose tract or interest has been involuntarily pooled shall be permitted, at his
3 or her option, to pay his or her share of costs out of production, plus a
4 supervision, risk, and interest assessment not to exceed 300 percent of that
5 owner's share of the costs.

6 (d) Production and costs associated with a pooled unit shall be allocated
7 among the owners in the same proportion each owner's acreage in the unit
8 bears to the total acreage in the unit or in any other manner agreed to by the
9 owners and approved by the Board.

10 ~~§ 524. ANTITRUST IMMUNITY FOR VOLUNTARY UNITS~~

11 An agreement for the unit or cooperative development or operation of a
12 field, reservoir, or part thereof, may be submitted to the Board for approval as
13 being in the public interest or reasonably necessary to prevent waste or to
14 protect correlative rights. For the purposes of this chapter, approval by the
15 Board shall constitute a complete defense to any suit charging violation of any
16 statute of the State relating to trust and monopolies on account of the
17 agreement or on account of operations conducted pursuant to such agreement.

18 The failure to submit such an agreement to the Board for approval shall not for
19 that reason imply or constitute evidence that the agreement or operations
20 conducted pursuant thereto are in violation of laws relating to trusts and
21 monopolies.

1 ~~§ 525. FIELD-WIDE UNITIZATION~~

2 ~~(a) In addition to the authority for the establishment of drilling units for~~
3 ~~individual wells granted in section 522 of this title, the Board may establish~~
4 ~~field-wide units composed of one or more reservoirs or parts thereof and~~
5 ~~including one or more wells. After adequate geological, engineering, and other~~
6 ~~information has been required through development of the reservoir, the~~
7 ~~Board, on its own motion or upon application of any owner, shall hold a~~
8 ~~hearing to consider the need for cooperative development or operation as a~~
9 ~~field-wide unit.~~

10 ~~(b) The Board shall enter an order providing for the unit development or~~
11 ~~operation of a reservoir or part thereof if it finds that:~~

12 ~~(1) such operation will increase the ultimate recovery of oil or gas; and~~

13 ~~(2) the value of the estimated additional recovery of oil and gas exceeds~~
14 ~~the estimated additional cost incident to conducting such operations; and~~

15 ~~(3) the development or operation is reasonably necessary to prevent~~
16 ~~waste.~~

17 ~~(c) The order shall be upon terms and conditions that are just and reasonable~~
18 ~~and shall prescribe a plan for unit operations that shall include:~~

19 ~~(1) a description of the reservoir, reservoirs, or parts thereof to be~~
20 ~~operated as a unit, termed the unitized area;~~

21 ~~(2) a statement of the nature of the operations contemplated;~~

1 ~~(3) an allocation of production and costs to the separately owned tracts in~~
2 ~~the unitized area. The allocation shall be in accord with the agreement, if any,~~
3 ~~of the interested parties. If there is no such agreement, production shall be~~
4 ~~allocated in a manner calculated to ensure that each owner within the unitized~~
5 ~~area receives his or her just and equitable share of production. Costs shall be~~
6 ~~allocated on a just and reasonable basis;~~

7 ~~(4) a provision, if necessary, permitting any owner who has involuntarily~~
8 ~~unitized to pay his or her share of costs out of his or her share of production,~~
9 ~~plus a supervision, risk, and interest assessment not to exceed 300 percent of~~
10 ~~that owner's share of the costs;~~

11 ~~(5) a provision for the supervision and conduct of the unit operations, in~~
12 ~~respect to which each owner shall have a vote with a value corresponding to~~
13 ~~the percentage of the costs of unit operations chargeable against its interest;~~

14 ~~(6) the time when the unit operations shall commence and the manner in~~
15 ~~which, and the circumstances under which, the unit operations shall terminate;~~
16 ~~and~~

17 ~~(7) such additional provisions as are found to be appropriate for carrying~~
18 ~~out the unit operations.~~

19 ~~(d) No order of the Board providing for unit operations shall become~~
20 ~~effective until the plan for unit operations approved by the Board:~~

1 ~~(1) has been approved in writing by the owners who, under the Board's~~
2 ~~order, will be required to pay at least 60 percent of the costs of the unit~~
3 ~~operation, and also by those persons who own at least 60 percent of the~~
4 ~~royalties; and~~

5 ~~(2) the Board has made a finding, either in the order providing for unit~~
6 ~~operations or in a supplemental order, that the plan for unit operations has been~~
7 ~~approved.~~

8 ~~(e) If the plan for unit operations has not been approved at the time the~~
9 ~~order providing for unit operations is made, the Board shall upon application~~
10 ~~and notice hold supplemental hearings to determine if and when the plan for~~
11 ~~unit operations has been approved. If the persons owning required percentages~~
12 ~~of interest in the unitized area do not approve the plan for unit operations~~
13 ~~within a period of six months from the date on which the order providing for~~
14 ~~unit operations is made, or within such additional period or periods of time as~~
15 ~~the Board prescribes, the order will be unenforceable and shall be withdrawn~~
16 ~~by the Board.~~

17 ~~(f) An order providing for unit operations may be amended by Board order~~
18 ~~made in the same manner and subject to the same conditions as an original~~
19 ~~order providing for unit operations, provided:~~

1 ~~(1) if the amendment affects only the rights and interests of the owners,~~
2 ~~the approval of the amendment by the owners of interests free of cost shall not~~
3 ~~be required; and~~

4 ~~(2) the order of amendment shall not change the percentage established~~
5 ~~in the original order for the allocation of oil and gas as established for any~~
6 ~~separately owned tract, except with the consent of all persons owning oil and~~
7 ~~gas rights in the tract; and~~

8 ~~(3) the order of amendment shall not change the percentage established~~
9 ~~in the original order for the allocation of cost as established for any separately~~
10 ~~owned tract, except with the consent of all owners in the tract.~~

11 ~~(g) The Board may order the unit operation of a reservoir or parts thereof~~
12 ~~that include a unitized area established by a previous order of the Board. In~~
13 ~~providing for the allocation of unit production, the order shall first treat the~~
14 ~~unitized area previously established as a single tract. The portion of the new~~
15 ~~unit production shall then be allocated among the separately owned tracts~~
16 ~~included in such previously established unit area in the same proportions as~~
17 ~~those specified in the previous order.~~

18 ~~(h) All operations, including the commencement, drilling, or operation of a~~
19 ~~well under any portion of the unit area shall be deemed for all purposes the~~
20 ~~conduct of that operation upon each separately owned tract in the unit area by~~
21 ~~the several owners. The portion of the unit production allocated to a separately~~

1 ~~owned tract in a unit area shall be deemed, for all purposes, to have actually~~
2 ~~been produced from the tract by a well drilled on it. Operations conducted~~
3 ~~pursuant to an order of the Board providing for unit operations shall constitute~~
4 ~~fulfillment of all the express or implied obligations of each lease or contract~~
5 ~~covering lands in the unit area to the extent that compliance with those~~
6 ~~obligations cannot be had because of the order of the Board.~~

7 (i) ~~The portion of the unit production allocated to any tract, and the~~
8 ~~proceeds from its sale, shall be the property and income of the several persons~~
9 ~~to whom, or to whose credit, they are allocated or payable under the order~~
10 ~~providing for unit operations.~~

11 (j) ~~No division order or other contract relating to the sale or purchase of~~
12 ~~production from a separately owned tract shall be terminated by the order~~
13 ~~providing for unit operations, but shall remain in force and apply to oil and gas~~
14 ~~allocated to that tract until terminated in accordance with the provisions of the~~
15 ~~order.~~

16 (k) ~~Except to the extent that the parties affected so agree, no order providing~~
17 ~~for unit operations shall be construed to result in a transfer of all or any part of~~
18 ~~the title of any person to the oil and gas rights in any tract in the unit area. All~~
19 ~~property, whether real or personal, that may be acquired in the conduct of unit~~
20 ~~operations shall be acquired for the account of the owners within the unit area,~~

1 and shall be the property of those owners in the proportion that the expenses of
2 unit operations are charged.

3 ~~§ 526. RATABLE TAKES REQUIRED~~

4 (a) Oil or gas produced in this State shall be purchased and taken without
5 discrimination between producers in the same reservoir. After notice and
6 hearing, the Board may relieve any person of his or her duty to purchase and
7 take oil or gas produced in this State without discrimination, if the oil and gas
8 is of inferior quality or for other good cause.

9 (b) The provisions of this section do not apply:

10 (1) to any wells or reservoirs used for storage and withdrawal from
11 storage of oil or gas originally produced in compliance with this chapter and
12 the rules of the Board;

13 (2) to purchases of gas produced from oil wells; or

14 (3) to any other purchases or production to which the Board finds, after
15 notice and hearing, the application of this section would be unjust or
16 unreasonable.

17 Subchapter 4. State Oil and Gas Leases

18 ~~§ 531. MANAGEMENT OF STATE OIL AND GAS RESOURCES~~

19 (a) The management of State oil and gas resources shall be undertaken to
20 accomplish the following goals:

1 ~~(1) provide for the timely leasing, exploration, discovery, assessment,~~
2 ~~and development of oil and gas resources which may be found on State lands;~~

3 ~~(2) provide the State and its citizens an adequate economic return on~~
4 ~~State oil and gas resources if discovered in commercially valuable quantities;~~

5 ~~(3) encourage competition among oil and gas developers by the use of~~
6 ~~appropriate competitive bidding and leasing procedures in the granting of~~
7 ~~exploration and development rights;~~

8 ~~(4) provide for a program of development that will facilitate sound~~
9 ~~planning by both developers and all levels of government;~~

10 ~~(5) give due consideration to the protection of the State's diverse natural,~~
11 ~~cultural, and social resources.~~

12 ~~(b) Each State land manager shall be responsible for management of the~~
13 ~~leasing, exploration, and development of the oil and gas resources found on~~
14 ~~State lands under the manager's primary jurisdiction.~~

15 ~~(c) Each State land manager shall adopt a written statement of objectives,~~
16 ~~policies, procedures, and a program to guide the development of the State's oil~~
17 ~~and gas resources. Biennially, each State land manager and the Board shall~~
18 ~~prepare and submit to the General Assembly a proposed four year oil and gas~~
19 ~~leasing and management program and a report on all leasing and management~~
20 ~~activities undertaken during the preceding two years. The provisions of 2~~
21 ~~V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to~~

1 ~~be made under this subsection. Managers may elect to collaborate on a joint~~
2 ~~program of planning, leasing, and reporting to fulfill the requirements of this~~
3 ~~section.~~

4 ~~§ 532. STATE OIL AND GAS LEASES AUTHORIZED~~

5 ~~(a) State land managers may execute oil and gas leases and other related~~
6 ~~contracts for lands under their jurisdiction. The leases and contracts shall be~~
7 ~~upon terms and conditions which the manager finds most beneficial to the~~
8 ~~interests of the State.~~

9 ~~(b) When a State land manager proposes to lease State lands for oil and gas~~
10 ~~purposes, he or she shall notify the Board and forward a copy of the proposed~~
11 ~~lease. The Board shall review and comment on the terms of the proposed lease~~
12 ~~and shall specify additional terms and conditions necessary or advisable to~~
13 ~~accomplish the purposes of this chapter.~~

14 ~~(c) Each State land manager shall require, as a condition to the issuance of~~
15 ~~any oil and gas lease that the lessee make available to the Board all exploration~~
16 ~~and production information, logs, and records resulting from operations under~~
17 ~~the lease. Such information shall be held confidential; provided, however, that~~
18 ~~the State Geologist shall have access to this information.~~

19 ~~(d) State oil and gas leases may be assigned only with the written consent~~
20 ~~and approval of the State land manager having jurisdiction.~~

1 ~~(e) All proceeds from State leases or other related contracts shall be paid~~
2 ~~into the General Fund.~~

3 ~~§ 533. NOTICE OF INTENTION TO LEASE STATE LANDS~~

4 ~~(a) At least 30 days before he or she intends to lease State lands, the State~~
5 ~~land manager shall give public notice of his or her intention by commencing~~
6 ~~publication in two newspapers of general circulation, one in Montpelier and~~
7 ~~one where the lands or the greater portion thereof are situated.~~

8 ~~(b) Publication shall be made in newspapers of record approved by the~~
9 ~~Secretary of State.~~

10 ~~(1) If the notice is published in a daily newspaper there shall be at least~~
11 ~~five days from the first to the last day of publication, both days included; and if~~
12 ~~a weekly newspaper, the notice shall appear on at least two different days of~~
13 ~~publication.~~

14 ~~(2) In addition to the publication required by subdivision (1) of this~~
15 ~~subsection, the notice shall be published on a weekly basis in selected~~
16 ~~newspapers in the State as determined by the Secretary of State.~~

17 ~~(c) The notice shall include a description of the State lands, either as a tract~~
18 ~~or by parcels, and a statement that the terms and conditions of the offered lease~~
19 ~~may be obtained at a designated office of the Board.~~

20 ~~§ 534. GAS PRODUCED FROM STATE LANDS~~

1 ~~(a) All State oil and gas leases shall provide that the Board may require the~~
2 ~~lessee to dedicate all the natural gas produced from State lands for the use and~~
3 ~~benefit of the people of the State.~~

4 ~~(b) If the Board determines that it would benefit the people of the State to so~~
5 ~~dedicate the natural gas, the Board may arrange for the sale of natural gas for~~
6 ~~the use of the people of the State, or arrange for the exchange of the natural gas~~
7 ~~produced with producers of natural gas from other lands if the exchange will~~
8 ~~benefit the people of the State.~~

9 ~~(c) If the Board determines the dedication would not be in the public interest,~~
10 ~~or would cause waste, or would unreasonably deny the lessee the opportunity~~
11 ~~to economically market the natural gas, it may waive dedication.~~

12 ~~§ 535. STATE RESERVATION OF OIL, GAS, AND MINERALS~~

13 ~~Each agricultural, timber, or other lease of any surface interest in state~~
14 ~~lands, and each mineral lease not for oil and gas purposes, shall reserve to the~~
15 ~~State all oil, gas, and other minerals not intended to be leased, and the right to~~
16 ~~drill and operate oil and gas wells on the premises and the easement, use, and~~
17 ~~right of way to enter upon and fully enjoy the rights reserved in this section.~~

18 Subchapter 5. Permits, Reports, and Notices

19 ~~§ 541. DRILLING PERMITS~~

1 ~~(a) No person shall commence drilling a well for oil or gas exploration,~~
2 ~~development, production, or related purposes without a permit issued by the~~
3 ~~Board.~~

4 ~~(b) An application for a permit shall be filed with the Board in the manner~~
5 ~~and form prescribed by rule, and shall include at least the following:~~

6 ~~(1) the applicant's name, address, address of each applicant's offices~~
7 ~~within the State and, where the applicant is not a natural person, the form, date,~~
8 ~~and place of formation of the applicant;~~

9 ~~(2) a plat prepared by a competent engineer or certified professional~~
10 ~~surveyor showing the county, town, and tract of land on which the proposed~~
11 ~~well is to be located and an exact location of the well site established in~~
12 ~~accordance with the Vermont coordinate system;~~

13 ~~(3) the proposed angle, direction, and depth of the well if the well is to~~
14 ~~be substantially deviated from a vertical course;~~

15 ~~(4) a fee, based on the depth to be drilled, as prescribed by rule of the~~
16 ~~Board;~~

17 ~~(5) a permit under 10 V.S.A. chapter 151 (Act 250). In the case of an~~
18 ~~application for a permit to drill on lands leased from the State, the State land~~
19 ~~manager shall be a co-applicant with the lessee for the permit; provided,~~
20 ~~however, that the Board shall be considered a party for purposes of any hearing~~
21 ~~or appeal.~~

1 ~~(c) The Board may conduct investigations it considers necessary to verify~~
2 ~~information contained in the application. The applicant shall grant the Board,~~
3 ~~its employees, and agents permission to enter upon the site for this purpose.~~

4 ~~(d) Within 30 days of the granting of a drilling permit by the Board, the~~
5 ~~permit shall be filed by the applicant for recording in the land records of the~~
6 ~~town in which the proposed well is to be located. Failure to comply with this~~
7 ~~section shall be cause for revocation of a drilling permit.~~

8 ~~(e) Drilling permits shall expire one year after issuance unless drilling~~
9 ~~operations are commenced within such time and prosecuted with due diligence.~~
10 ~~At least 15 days prior to the commencement of drilling operations, every~~
11 ~~person granted permission to drill a well pursuant to this section shall give~~
12 ~~written notice by certified mail to the Board, local agencies, and the surface~~
13 ~~landowner affected.~~

14 ~~§ 542. DRILLING REPORTS~~

15 ~~It shall be the duty of the well operator to keep a geologic log prepared by a~~
16 ~~competent petroleum geologist showing the character, thickness, and depth of~~
17 ~~the formations encountered in the drilling of a well and the depths at which all~~
18 ~~oil, gas, water, or other substances are encountered. The log shall show~~
19 ~~whether the well is productive of oil, gas, water, or other substances, the~~
20 ~~quantities thereof, and the initial pressure and production measured over a~~
21 ~~period of at least 48 hours. A copy of the well log shall be furnished to the~~

1 ~~Board within 30 days of the completion of the well. Such reports shall be held~~
2 ~~confidential; provided, however, that the State Geologist shall have access to~~
3 ~~this information.~~

4 ~~§ 543. REPORTS OF OIL AND GAS OPERATIONS~~

5 ~~(a) The owner, lessee, agent, employee, or other person in charge of any oil~~
6 ~~and gas well within the State shall forward to the Board, in the manner and~~
7 ~~form prescribed by the rules of the Board, a report showing the character of the~~
8 ~~well, method of operation, and total production for the preceding calendar~~
9 ~~year. Such reports shall be held confidential.~~

10 ~~(b) The Board may conduct investigations it considers necessary to verify~~
11 ~~compliance with this section. The operator shall grant the Board, its~~
12 ~~employees, and agents permission to enter upon the site for this purpose.~~

13 ~~(c) Statistical bulletins based on these reports shall be compiled by the~~
14 ~~Board to show, for the State as a whole, and separately for each town, the~~
15 ~~totals of oil and gas produced, provided that, in order not to disclose the~~
16 ~~production of any one operator, no production figure shall be published that~~
17 ~~represents the production of less than three operators. If necessary to maintain~~
18 ~~confidentiality, production figures for two or more towns shall be combined.~~

19 ~~§ 544. ABANDONMENT OF WELLS~~

20 ~~(a) Prior to the abandonment of any well drilled under a permit issued by~~
21 ~~the Board, it shall be the duty of the owner or operator of the well to plug it so~~

1 as to completely shut off and prevent the escape of all oil, gas, salt water, or
2 other substances that might pollute ground or surface waters.

3 (b) The operator of the well shall notify the Board in writing of his or her
4 intention to plug and abandon, identifying the well and fixing the time when
5 the work of plugging the well will be commenced so that a representative of
6 the Board may be present.

7 (c) When plugging and restoration and reclamation of the drill site have
8 been completed, a certificate of abandonment shall be filed in a form and
9 manner prescribed by the Board.

10 (d) If a person fails to produce and sell, or to produce for his or her own
11 purposes, oil or gas from a completed well for a period of more than 24
12 months, there shall be a rebuttable presumption that the person intends to
13 abandon the well and any well equipment situated on the premises. However,
14 this presumption shall not arise:

15 (1) concerning leases for gas storage purposes; or

16 (2) where any shut in royalty, flat rate well rental, delay rental, or other
17 similar payment designed to keep an oil and gas lease in effect or to extend its
18 term has been paid or tendered; or

19 (3) where the failure to produce and sell is the result of any act of neglect
20 of a third party beyond the control of the owner or operator of the well; or

1 ~~(4) when a delay in excess of 24 months occurs because of any inability~~
2 ~~to sell, deliver, or otherwise tender any oil or gas product.~~

3 ~~§ 545. CONVEYANCE AND ACQUISITION OF OIL AND GAS~~

4 ~~INTERESTS~~

5 ~~(a) An oil and gas interest shall be deemed to mean the interest that is~~
6 ~~created by an instrument transferring, either by grant, reservation, assignment,~~
7 ~~or otherwise, an interest of any kind in oil and gas, and other minerals if~~
8 ~~included in an interest in oil and gas.~~

9 ~~(b) An instrument transferring an interest in oil and gas, as described in~~
10 ~~subsection (a) of this section, shall identify the type of interest transferred in~~
11 ~~bold face type at the top of the instrument. For example:~~

12 ~~(1) LEASE OIL AND GAS ONLY;~~

13 ~~(2) LEASE OIL, GAS, AND OTHER MINERALS;~~

14 ~~(3) DEED OIL AND GAS ONLY;~~

15 ~~(4) DEED OIL, GAS, AND OTHER MINERALS.~~

16 ~~(c) The owner or operator of any well shall notify the Board and all royalty~~
17 ~~owners within 30 days of the sale, assignment, transfer, conveyance, or~~
18 ~~exchange by the owner or operator of such well and the land, owned or leased,~~
19 ~~upon which the well is located.~~

20 ~~(d) Every person who acquires the ownership or operation of any well,~~
21 ~~whether by purchase, assignment, transfer, conveyance, exchange, or otherwise~~

1 shall notify the Board and all royalty owners in writing within 60 days of the
2 acquisition.

3 (e) The notice required by this section shall be given in the form and
4 manner prescribed by the Board. The Board shall compile and maintain current
5 records of producing wells and their ownership and location. The State
6 Geologist shall have access to this information.

7 Subchapter 6. Violations, Enforcement, and Penalties

8 § 551. ILLEGAL OIL, GAS, AND PRODUCT

9 (a) The production, sale, acquisition, transportation, refining, processing, or
10 handling of illegal oil, gas, or product is prohibited. However, no penalty shall
11 be imposed upon a person who sells, purchases, acquires, transports, refines,
12 processes, or handles illegal oil, gas, or product, unless that person:

13 (1) knows, or is put on notice of facts indicating that illegal oil, gas, or
14 product is involved; or

15 (2) fails to obtain a certificate of clearance with respect to such oil, gas,
16 or product if prescribed by order of the Board; or

17 (3) fails to follow any other method prescribed by an order of the Board
18 for the identification of such oil, gas, or product.

19 (b) The payment of any penalty or fine shall not operate to legalize any
20 illegal oil, gas, or product involved in the violation for which the penalty or

1 ~~fine is imposed, or relieve a person on whom a penalty or fine is imposed from~~
2 ~~liability to any other person for damages arising out of the violations.~~

3 ~~§ 552. ILLEGAL OIL, GAS, OR PRODUCT DECLARED CONTRABAND~~

4 ~~(a) Illegal oil, gas, and product are declared to be contraband and are subject~~
5 ~~to seizure and sale. Seizure and sale shall be in addition to all other remedies~~
6 ~~and penalties provided in this chapter.~~

7 ~~(b) Whenever the Board believes that any oil, gas, or product is illegal, the~~
8 ~~Board, acting by the Attorney General, may bring a civil action in the Superior~~
9 ~~Court of the county where the oil, gas, or product is found, to seize and sell the~~
10 ~~same, or the Board may include such an action in any suit brought for an~~
11 ~~injunction or penalty. Any person claiming an interest in oil, gas, or product,~~
12 ~~affected by such an action shall have the right to intervene as an interested~~
13 ~~party.~~

14 ~~(c) Any person having an interest in oil, gas, or product alleged to be illegal~~
15 ~~and contesting the right of the State to seize and sell the same may obtain its~~
16 ~~release prior to sale upon furnishing a bond to the court. The bond shall be:~~

17 ~~(1) in an amount equal to 150 percent of the market value of the oil, gas,~~
18 ~~or product to be released;~~

19 ~~(2) conditioned upon either redelivery of the released commodity or~~
20 ~~payment of its market value, if and when ordered by the court; and~~

21 ~~(3) conditioned upon full compliance with all further orders of the court.~~

1 ~~(d) If the court finds that the oil, gas, or product is contraband, the court~~
2 ~~shall order its sale by the sheriff.~~

3 ~~(1) Upon such sale, title to the oil, gas, or product shall vest in the~~
4 ~~purchaser free of all claims, and it shall be legal oil, gas, or product in the~~
5 ~~hands of the purchaser.~~

6 ~~(2) All proceeds which are derived from the sale of illegal oil, gas, or~~
7 ~~product, less the costs of suit and expenses of sale, shall be paid into the~~
8 ~~General Fund. (Added 1981, No. 240 (Adj. Sess.), § 2, eff. April 28, 1982.)~~

9 ~~§ 553. DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED~~

10 ~~It shall be unlawful for any member of the Board, State land manager,~~
11 ~~employee, or other person performing any function on behalf of the Board or a~~
12 ~~State land manager, or any governmental agency or employee utilizing~~
13 ~~confidential information provided to the Board, to disclose or use such~~
14 ~~information for purposes other than those authorized by the Board, except~~
15 ~~upon the written consent of the person making the information available to the~~
16 ~~Board.~~

17 ~~§ 554. PENALTIES~~

18 ~~(a) Any person who violates any provision of this chapter or the rules or~~
19 ~~orders of the Board shall be fined not more than \$5,000.00 or imprisoned for~~
20 ~~not more than two years, or both. In the case of a continuing violation, each~~

1 ~~day's continuance may be deemed a separate offense for the purpose of the~~
2 ~~fine.~~

3 ~~(b) Any person who knowingly makes a false statement, representation, or~~
4 ~~certification in any application, record, report, plan, or other document filed or~~
5 ~~required to be maintained under this chapter or the rules, regulations, or orders~~
6 ~~of the Board shall be fined not more than \$5,000.00 or be imprisoned for not~~
7 ~~more than two years, or both.~~

8 ~~(c) Any person who unlawfully discloses or knowingly uses for his or her~~
9 ~~own purpose information made confidential under this chapter shall be fined~~
10 ~~not more than \$5,000.00 or imprisoned for not more than two years, or both.~~

11 ~~(d) Any person knowingly aiding or abetting any other person in the~~
12 ~~violation of this chapter or any rule, or order of the Board, shall be subject to~~
13 ~~the same penalties prescribed for the violation of that other person.~~

14 ~~§ 555. ENFORCEMENT~~

15 ~~(a) In addition to the other penalties herein provided, the Board may~~
16 ~~institute any appropriate action, injunction, or other proceeding to prevent,~~
17 ~~restrain, correct, or abate any violation of this chapter or of the rules,~~
18 ~~regulations, or orders promulgated hereunder.~~

19 ~~(b) If the Board fails to bring a suit or other action to enjoin a violation or~~
20 ~~threatened violation of this chapter or any rule or order of the Board within 10~~
21 ~~days after the receipt of a written request to do so by any person who is or will~~

1 ~~be adversely affected by the violation, the person making the request may~~
2 ~~bring suit on his or her own behalf to restrain the violation or threatened~~
3 ~~violation.~~

4 ~~Subchapter 7. Miscellaneous~~

5 ~~§ 561. RELEASE OF OIL AND GAS LEASES~~

6 ~~(a) After the expiration, cancellation, surrender, or relinquishment of an oil~~
7 ~~and gas lease, upon written request of the lessor, the lessee shall file a release~~
8 ~~or discharge of the lease in the land records of the town or towns where the~~
9 ~~lands described in the lease are located. The filing shall be in recordable form~~
10 ~~and shall include any fees.~~

11 ~~(b) If any lessee, his or her personal representative, successor, or assign fails~~
12 ~~or refuses to record a release for a period of 30 days after being so requested,~~
13 ~~he or she shall be liable for all damages occasioned thereby, including costs~~
14 ~~and reasonable attorney's fees.~~

15 ~~(c) A lessor's request for release or discharge shall be in writing and~~
16 ~~delivered to the lessee by personal service or registered mail at his or her last~~
17 ~~known address.~~

18 ~~§ 562. SUBDIVISION OF LAND SUBJECT TO AN OIL AND GAS LEASE~~

19 ~~Unless the parties agree in writing to the contrary, if ownership of any land~~
20 ~~subject to an oil and gas lease is thereafter subdivided into separate interests,~~
21 ~~the land shall be developed and operated for oil and gas purposes as an entirety~~

1 ~~and the rentals and royalties shall be divided and paid to the separate owners in~~
2 ~~the proportion that the acreage or interest owned bears to the entire leased~~
3 ~~acreage.~~

4 ~~§ 563. ABANDONMENT OF OIL AND GAS INTERESTS;~~

5 ~~PRESERVATION~~

6 ~~(a) An abandoned interest in oil and gas shall revert to and merge with the~~
7 ~~surface estate from which it was severed.~~

8 ~~(b) An interest in oil and gas is deemed abandoned at any time that:~~

9 ~~(1) it has been unused for a continuous period of 10 years after July 1,~~
10 ~~1973; and~~

11 ~~(2) no statement of interest under subsection (e) of this section has been~~
12 ~~filed at any time within the preceding five years.~~

13 ~~(c) The provisions of subsection (b) of this section shall not apply to any~~
14 ~~interest in oil or gas that has been retained by the owner who originally severed~~
15 ~~the mineral estate from the surface estate, notwithstanding that other interests~~
16 ~~in the land, including ownership of the surface, may have been sold, leased,~~
17 ~~mortgaged, or otherwise transferred.~~

18 ~~(d) This section applies to all interests in oil and gas. It also applies to~~
19 ~~interests in other minerals if created inclusively in the same instrument which~~
20 ~~expressly creates an oil and gas interest. It does not apply to mineral interests~~

1 ~~that do not expressly include an oil and gas interest or were intended to be~~
2 ~~separate from an oil and gas interest.~~

3 ~~(e) An interest in oil and gas is deemed used at any time in which:~~

4 ~~(1) there is actual production of oil or gas, including production from~~
5 ~~lands covered by a lease to which an oil and gas interest is subject, or from~~
6 ~~lands pooled or unitized with such lands; or~~

7 ~~(2) oil and gas operations are conducted under the terms of the~~
8 ~~instrument creating the oil and gas interest; or~~

9 ~~(3) payment is made of rental or royalties for the purpose of delaying the~~
10 ~~use or continuing the use of the oil and gas interest; or~~

11 ~~(4) payment of taxes is made on the oil and gas interest; or~~

12 ~~(5) there exists a currently valid permit under 10 V.S.A. chapter 151 or a~~
13 ~~currently valid drilling permit under this chapter for development of the oil and~~
14 ~~gas interest.~~

15 ~~(f) The owner of an interest in oil or gas may file a statement of interest in~~
16 ~~the land records of any municipality in which the land affected is located. The~~
17 ~~statement shall include a description of the land affected, the nature of the~~
18 ~~interest claimed, the book and page of recording of the original grant of the~~
19 ~~interest, and the name and address of the person claiming the interest.~~

20 ~~(g) The owner of the surface estate from which an oil and gas interest was~~
21 ~~severed may give notice of abandonment under this subsection. Notice shall~~

1 ~~contain the name of the record owner of the interest, a description of the land~~
2 ~~and the nature of the interest, the book and page of filing of the interest, if it is~~
3 ~~filed, the name and address of the person giving notice, and a statement that~~
4 ~~the interest is presumed abandoned. The notice shall be published in a~~
5 ~~newspaper of general circulation in the town or towns where the land affected~~
6 ~~is located. If the address of the owner of the oil and gas interest is shown on~~
7 ~~record, a copy of the notice shall be mailed to that address by certified or~~
8 ~~registered mail within 10 days after the date of publication.~~

9 ~~(h) A copy of the notice under subsection (g) of this section, and an~~
10 ~~affidavit, may be filed in the land records of the municipality in which the land~~
11 ~~is located. The affidavit shall state that the oil or gas interest has been~~
12 ~~abandoned under the criteria set forth in subsection (b) of this section, and that~~
13 ~~notice of abandonment has been given under subsection (g). After the notice~~
14 ~~and affidavit have been filed, unless a court finds to the contrary, the oil and~~
15 ~~gas interest shall be presumed abandoned, and the interest of the surface owner~~
16 ~~shall be presumed for all purposes free of encumbrance from that interest.~~

17 ~~§ 564. SURFACE USE VALUE APPRAISAL OF AGRICULTURE AND~~
18 ~~FORESTLANDS~~

19 ~~In order to support and encourage the accomplishment of the purposes set~~
20 ~~forth in 32 V.S.A. § 3751, the eligibility of agricultural land and managed~~
21 ~~forestland for use value appraisal shall not be denied solely by the leasing or~~

1 development of the subsurface of those lands for oil and gas exploration and
2 production. However, those lands shall nevertheless be required to meet the
3 criteria contained in 32 V.S.A. chapter 124 and the rules adopted by the
4 Current Use Advisory Board.

5 ~~§ 565. GOVERNOR AUTHORIZED TO JOIN IN INTERSTATE COMPACT~~

6 (a) ~~The Governor, in the name of the State, may join with the other states in~~
7 ~~the Interstate Compact to Conserve Oil and Gas. This compact was executed in~~
8 ~~Dallas, Texas, on February 16, 1935, has been extended, with the consent of~~
9 ~~Congress on October 14, 1976 by Public Law 94-493, and said compact and all~~
10 ~~extensions are now on deposit with the Department of State of the United~~
11 ~~States.~~

12 (b) ~~The Governor, in the name of the State, may execute agreements for the~~
13 ~~further extension of the expiration date of that interstate compact to conserve~~
14 ~~oil and gas and to determine if and when it shall be to the best interest of this~~
15 ~~State to withdraw from said compact upon 60 days' notice as provided by its~~
16 ~~terms. If he or she determines that the State shall withdraw from said compact,~~
17 ~~he or she may give necessary notice and take any and all steps necessary and~~
18 ~~proper to effect the withdrawal.~~

19 (c) ~~The Governor shall be the official representative of the State in the~~
20 ~~Compact to Conserve Oil and Gas, and shall exercise and perform for the State~~
21 ~~all of the powers and duties as such; provided, however, that the assistant~~

1 ~~representative who shall act in his or her stead as the official representative of~~
2 ~~the State shall be the Chair of the Board.~~

3 ~~§ 566. CONSTRUCTION~~

4 ~~(a) This chapter shall be liberally construed so as to effect the purposes set~~
5 ~~forth in section 502 of this chapter.~~

6 ~~(b) The provisions of this chapter shall supersede all local laws and~~
7 ~~regulations relating to oil and gas development insofar as they may specify~~
8 ~~performance standards, methods, materials, procedures, or equipment to be~~
9 ~~used by a well operator.~~

10 ~~(c) The provisions of this chapter shall not supersede local laws and~~
11 ~~regulations that provide for:~~

12 ~~(1) specific uses permitted or prohibited in land use or zoning districts;~~

13 ~~(2) other matters not fully covered by State law, regulation, or rule of the~~
14 ~~Board, to the extent that local regulation does not conflict or interfere with~~
15 ~~State regulation. [Repealed.]~~

16 ~~Subchapter 8. Hydraulic Fracturing for Oil or Gas Recovery~~

17 ~~§ 571. HYDRAULIC FRACTURING; PROHIBITION~~

18 ~~(a) No person may engage in hydraulic fracturing in the State.~~

19 ~~(b) No person within the State may collect, store, or treat wastewater from~~
20 ~~hydraulic fracturing.~~

21 * * * Repeal of Review Board on Retail Sales * * *

1 The Department is authorized to expend monies from the Clean Energy
2 Development Fund in accordance with this section. The Commissioner of the
3 Department shall make all decisions necessary to implement this section and
4 administer the Fund ~~except those decisions committed to the Clean Energy~~
5 ~~Development Board under this subsection.~~ The Department shall ensure an
6 open public process in the administration of the Fund for the purposes
7 established in this subchapter.

8 (2) During fiscal years after FY 2006, up to five percent of amounts
9 appropriated to the Department of Public Service from the Fund may be used
10 for administrative costs related to the Clean Energy Development Fund.

11 ~~(3) There is created the Clean Energy Development Board, which shall~~
12 ~~consist of seven persons appointed in accordance with subdivision (4) of this~~
13 ~~subsection.~~

14 ~~(A) The Clean Energy Development Board shall have decision-~~
15 ~~making and approval authority with respect to the plans, budget, and program~~
16 ~~designs described in subdivisions (7)(B) (D) of this subsection (e). The Clean~~
17 ~~Energy Development Board shall function in an advisory capacity to the~~
18 ~~Commissioner on all other aspects of this section's implementation.~~

19 ~~(B) During a Board member's term and for a period of one year after~~
20 ~~the member leaves the Board, the Clean Energy Development Fund shall not~~
21 ~~make any award of funds to and shall confer no financial benefit on a company~~

1 ~~or corporation of which the member is an employee, officer, partner,~~
2 ~~proprietor, or Board member or of which the member owns more than 10~~
3 ~~percent of the outstanding voting securities. This prohibition shall not apply to~~
4 ~~a financial benefit that is available to any person and is not awarded on a~~
5 ~~competitive basis or offered only to a limited number of persons.~~

6 ~~(4) The Commissioner of Public Service shall appoint three members of~~
7 ~~the Clean Energy Development Board, and the Chairs of the House Committee~~
8 ~~on Energy and Technology and the Senate Committee on Natural Resources~~
9 ~~and Energy each shall appoint two members of the Clean Energy Development~~
10 ~~Board. The terms of the members of the Clean Energy Development Board~~
11 ~~shall be four years, except that when appointments to this Board are made for~~
12 ~~the first time after May 25, 2011, each appointing authority shall appoint one~~
13 ~~member for a two-year term and the remaining members for four-year terms.~~
14 ~~When a vacancy occurs in the Board during the term of a member, the~~
15 ~~authority who appointed that member shall appoint a new member for the~~
16 ~~balance of the departing member's term.~~

17 ~~(5) Except for those members of the Clean Energy Development Board~~
18 ~~otherwise regularly employed by the State, the compensation of the members~~
19 ~~shall be the same as that provided by 32 V.S.A. § 1010(a).~~

20 ~~(6) In performing its duties, the Clean Energy Development Board may~~
21 ~~utilize the legal and technical resources of the Department of Public Service.~~

1 ~~The Department of Public Service shall provide the Clean Energy~~
2 ~~Development Board with administrative services.~~

3 ~~(7)~~(3) The Department shall perform each of the following:

4 (A) On or before January 15 of each year, provide to the Senate
5 Committees on Finance and on Natural Resources and Energy and the House
6 Committees on Commerce and Economic Development and on Energy and
7 Technology a report for the fiscal year ending the preceding June 30 detailing
8 the activities undertaken, the revenues collected, and the expenditures made
9 under this subchapter. The provisions of 2 V.S.A. § 20(d) (expiration of
10 required reports) shall not apply to the report to be made under this
11 subdivision.

12 (B) ~~Develop, and submit to the Clean Energy Development Board for~~
13 ~~review and approval,~~ a five-year strategic plan and an annual program plan,
14 both of which shall be developed with input from a public stakeholder process
15 and shall be consistent with State energy planning principles.

16 (C) ~~Develop, and submit to the Clean Energy Development Board for~~
17 ~~review and approval,~~ an annual operating budget.

18 (D) ~~Develop, and submit to the Clean Energy Development Board for~~
19 ~~review and approval,~~ proposed program designs to facilitate clean energy
20 market and project development (including use of financial assistance,
21 investments, competitive solicitations, technical assistance, and other incentive

1 programs and strategies). Prior to any approval of a new program or of a
2 substantial modification to a previously approved program of the Clean Energy
3 Development Fund, the Department of Public Service shall publish online the
4 proposed program or modification, shall provide an opportunity for public
5 comment of no less than 30 days, ~~and shall provide to the Clean Energy~~
6 ~~Development Board copies of all comments received on the proposed program~~
7 ~~or modification.~~ In For the purposes of this subdivision (D), “substantial
8 modification” ~~shall include~~ includes a change to a program’s application
9 criteria or application deadlines and ~~shall include~~ includes any change to a
10 program if advance knowledge of the change could unfairly benefit one
11 applicant over another applicant. For the purpose of 3 V.S.A. § 831(c)
12 (initiating rulemaking on request), a new program or substantial modification
13 of a previously approved program shall be treated as if it were an existing
14 practice or procedure.

15 ~~(8)(4)~~ At least annually, the ~~Clean Energy Development Board and the~~
16 Commissioner or designee jointly shall hold a public meeting to review and
17 discuss the status of the Fund; Fund projects; the performance of the Fund
18 Manager; any reports, information, or inquiries submitted by the Fund
19 manager or the public; and any additional matters they deem necessary to
20 fulfill ~~their~~ the Commissioner’s obligations under this section.

1 (f) Clean Energy Development Fund Manager. The Clean Energy
2 Development Fund shall have a Fund Manager who shall be an employee of
3 the Department of Public Service.

4 (g) Bonds. The Commissioner of Public Service, ~~in consultation with the~~
5 ~~Clean Energy Development Board~~, may explore use of the Fund to establish
6 one or more loan-loss reserve funds to back issuance of bonds by the State
7 Treasurer otherwise authorized by law, including Clean Renewable Energy
8 Bonds, that support the purposes of the Fund.

9 (h) ARRA funds. All American Recovery and Reinvestment Act (ARRA)
10 funds described in section 8016 of this title shall be disbursed, administered,
11 and accounted for in a manner that ensures rapid deployment of the funds and
12 is consistent with all applicable requirements of ARRA, including
13 requirements for administration of funds received and for timeliness, energy
14 savings, matching, transparency, and accountability. These funds shall be
15 expended for the following categories listed in this subsection, provided that
16 no single project directly or indirectly receives a grant in more than one of
17 these categories. ~~After consultation with the Clean Energy Development~~
18 ~~Board, the~~ The Commissioner of Public Service shall have discretion to use
19 non-ARRA monies within the fund to support all or a portion of these
20 categories and shall direct any ARRA monies for which non-ARRA monies

1 have been substituted to the support of other eligible projects, programs, or
2 activities under ARRA and this section.

3 (1) The Vermont ~~Small-scale~~ Small Scale Renewable Energy Incentive
4 Program currently administered by the Renewable Energy Resource Center,
5 for use in residential and business installations. These funds may be used by
6 the Program for all forms of renewable energy as defined by section 8002 of
7 this title, including biomass and geothermal heating. The disbursement to this
8 Program shall seek to promote continuous funding for as long as funds are
9 available.

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

13 (3) Grants and loans to thermal energy efficiency incentive programs,
14 community-scale renewable energy financing programs, certification and
15 training for renewable energy workers, promotion of local biomass and
16 geothermal heating, and an anemometer loan program.

17 (4) \$2 million for a public-serving institution efficiency and renewable
18 energy program that may include grants and loans and create a revolving loan
19 fund. ~~It~~ As used in this subsection, “public-serving institution” means
20 government buildings and nonprofit public and private universities, colleges,

1 and hospitals. In this program, awards shall be made through a competitive bid
2 process.

3 (5) \$2 million to the Vermont Housing and Conservation Board
4 (VHCB) to make grants and deferred loans to nonprofit organizations for
5 weatherization and renewable energy activities allowed by federal law,
6 including assistance for nonprofit owners and occupants of permanently
7 affordable housing.

8 ~~(6) \$2 million to the Vermont Telecommunications Authority (VTA) to~~
9 ~~make grants of no more than \$10,000 per turbine for installation of small-scale~~
10 ~~wind turbines and associated towers on which telecommunications equipment~~
11 ~~is to be collocated and which are developed in association with the VTA.~~

12 ~~(7)~~ \$880,000.00 to the 11 regional planning commissions (\$80,000.00 to
13 each such commission) to conduct energy efficiency and energy conservation
14 activities that are eligible under the EECBG program.

15 (8) Concerning the funds authorized for use in subdivisions (4)–(7) of
16 this subsection:

17 (A) To the extent permissible under ARRA, up to five percent may
18 be spent for administration of the funds received.

19 (B) In the event that the Commissioner of Public Service determines
20 that a recipient of such funds has insufficient eligible projects, programs, or
21 activities to fully utilize the authorized funds, ~~then after consultation with the~~

1 ~~Clean Energy Development Board~~, the Commissioner shall have discretion to
2 reallocate the balance to other eligible projects, programs, or activities under
3 this section.

4 (9) The Commissioner of Public Service is authorized, to the extent
5 allowable under ARRA, to utilize up to 10 percent of ARRA funds received
6 for the purpose of administration. The Commissioner shall allocate a portion
7 of the amount utilized for administration to retain permanent, temporary, or
8 limited service positions or contractors and the remaining portion to the
9 oversight of specific projects receiving ARRA funding pursuant to section
10 6524 of this title.

11 (i) Rules. The Department ~~and the Clean Energy Development Board each~~
12 may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out its functions
13 under this section ~~and shall consult with each other either before or during the~~
14 ~~rulemaking process.~~

15 * * * Repeal of Vermont Telecommunications Authority * * *

16 Sec. 14. REPEAL OF VERMONT TELECOMMUNICATIONS

17 AUTHORITY

18 30 V.S.A. chapter 91 (Vermont Telecommunications Authority) is repealed.

19 * * * Repeal and Transfer of Duties of Private Activity Bond Advisory

20 Committee * * *

21 Sec. 15. 32 V.S.A. § 994 is amended to read:

1 § 994. ~~ADVISORY COMMITTEE~~ RECOMMENDATION REGARDING
2 PRIVATE BOND VOLUME CAP

3 The Treasurer shall, in coordination with the Secretary of Administration,
4 the Secretary of Commerce and Community Development, and any bond
5 issuing authority of the State or instrumentality of the State that is eligible to
6 issue private activity bonds:

7 ~~(a)(1) Creation; composition. There is created a Private Activity Bond~~
8 ~~Advisory Committee, which shall consist of the following members:~~

9 ~~(A) the State Treasurer or his or her designee;~~

10 ~~(B) the Secretary of Administration or his or her designee;~~

11 ~~(C) the Secretary of Commerce and Community Development or his~~
12 ~~or her designee;~~

13 ~~(D) two members who shall be representatives of the public,~~
14 ~~appointed by the Governor.~~

15 ~~(2) Each public representative shall serve for a two-year term beginning~~
16 ~~February 1, or until his or her successor is appointed. The terms of the public~~
17 ~~representatives shall be staggered so that only one member's term expires in~~
18 ~~each year.~~

19 ~~(3) The State Treasurer or designee shall serve as Chair of the~~
20 ~~Committee.~~

1 ~~(4) The Office of the State Treasurer shall provide administrative support~~
2 ~~to the Committee.~~

3 ~~(5) Public representatives may receive reimbursement of expenses and~~
4 ~~per diem compensation pursuant to section 1010 of this title.~~

5 ~~(b) Committee charge.~~

6 (1) ~~The Committee shall~~ annually survey the expected need for private
7 activity bond allocations ~~among constituted and eligible issuing authorities~~
8 ~~empowered to issue such bonds on an annual basis~~ and provide
9 recommendations to the Emergency Board prior to its meetings;

10 ~~(2)(A) The Committee shall develop~~ maintain guidelines for allocation
11 of private activity bonding capacity designed to maximize the availability of
12 ~~tax-exempt~~ tax-exempt financing among various sectors of the Vermont
13 economy with a focus on economic development, housing, education,
14 redevelopment, public works, energy, waste management, waste and recycling
15 collection, transportation, and other activities that ~~the Committee determines~~
16 ~~will~~ benefit the citizens of Vermont: which

17 ~~(B)~~ The guidelines should support efforts and entities that increase the
18 number of good-paying jobs in the State, promote economic development,
19 support affordable housing, and affordable access to postsecondary education
20 and training, and encourage the use of Vermont's human and natural resources
21 in endeavors that maximize Vermont's comparative economic advantages, and

1 be flexible enough to include new and innovative uses of private activity
2 bonds, consistent with federal regulations and the Internal Revenue Code.;

3 ~~(3) The Committee shall meet at least annually and shall hold at least one~~
4 ~~public hearing prior to submitting its recommendations to the Emergency~~
5 ~~Board. The Committee shall further submit its recommendations in an annual~~
6 ~~report of its activities to the Governor and the General Assembly.~~

7 ~~(4) On~~ on or before December 1 of each year, ~~the Committee~~ shall make
8 recommendations to the Emergency Board on the allocation, including any
9 amounts reserved for contingency allocations, of the State's private activity
10 bond ceiling for the following calendar year to and among the constituted
11 issuing authorities empowered to issue such bonds; and

12 ~~(5)(4) On its own initiative, as required, or~~ at the request of the Governor
13 or ~~at the request~~ of the Emergency Board, ~~the Committee may~~ make
14 recommendations to the Governor or Emergency Board concerning
15 assignments or reallocation of any unused portion of the ceiling subsequent to
16 an allocation by the Emergency Board in a given year.

17 * * * Effective Dates * * *

18 Sec. 16. EFFECTIVE DATES

19 This act shall take effect on passage, except that Sec. 9 shall take effect on
20 June 30, 2025.