

## London, Sarah

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**From:** Roessle, Drusilla  
**Sent:** Thursday, March 01, 2012 8:45 AM  
**To:** London, Sarah  
**Subject:** Related to H.468 RPS/SPEED

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**From:** Miller, Elizabeth  
**Sent:** Wednesday, February 15, 2012 3:22 PM  
**To:** MacLean, Alex; Roessle, Drusilla  
**Subject:** FW: H468 - HNR notes from 2-15-12

To the extent you actually have time, thought you'd appreciate this review of "pro" testimony on HNR RPS bill. We have to testify tomorrow afternoon. Liz

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**From:** Hofmann, Sarah  
**Sent:** Wednesday, February 15, 2012 1:28 PM  
**To:** Miller, Elizabeth; Hopkins, Asa; Perchlik, Andrew; Fetter, Theodore  
**Subject:** H468 - HNR notes from 2-15-12

The witnesses this morning (VPIRG, CLF and BED) love the new version (1.2) of the bill that came out yesterday. Asa, I think you will have an education piece tomorrow as well as our position. From some of the questions, I am not sure the committee members understand completely what is going on. Seemed to be confusion between SPEED, 30%, the old 75 or 80%. A graphic of what the new bill is would go a long way. Here is a summary of this morning's witnesses:

Ben Walsh, VPIRG - he had a handout but not enough. I have asked him for a copy. In the meantime:

- Thanked the committee profusely. This bill is a significant improvement from earlier versions.
- VPIRG sees three necessary components of any bill: (1) utilities need to hold long term contracts of renewables; (2) RECs need to be retired; and (3) have to have a Std. Offer.
- Need long term contracts because developers need financing
- Need to retire RECS as incentive for renewables.
- Std Offer is best and most cost effective way to get renewables built
- Original bill had long term contract in it and that was dropped in this version. On the 30% the long term contracts should have to be long term. Go back to original version and stick in language from pages 26-28 on this subject.
- Add back the sale of RECs from the original version.
- Understand giving latitude to PSB but should give guidance to PSB such as have to have at least 1.5% a year.
- Std Offer also needs a baseline. Need to have at least a Std Offer of 15 MW a year or otherwise not helping developers.
- Bill as written says 200 MW but want 250 new (I may have written this down incorrectly because now this doesn't make sense)
- Avoided cost language needs to be reviewed to make sure it is correct because otherwise prices can be set too low and developers won't build.
- Re HQ on page 4, lines 11-17. HQ is planning on adding 10% capacity. That would be 2.5% right off the top of the 30% new. Limit HQ impact on new renewables. HQ doesn't need incentives. Habitat destruction and greenhouse gases are all because of HQ.
- 100% renewable exemption at page 10, lines 12-21. Thinks it is only WEC but that would be another ½ % off the 30%. Need to up the 30 %.

- Thermal efficiency on page 11: Overall goal would have to be raised because this will not be incentivizing renewables. If do it, only count renewable heating sources.
- This is a giant step forward.

Q and As and comments from the committee – always the best part.

BN believes that long term contracts are hard to get. Might we be putting utilities in bad spot.

RE wanted to know % of renewable contract that are long term

MC asked what VPIRG thought of an auction. Answer: VPIRG is skeptical of an auction system. Might work for big projects but for small it would add significant upfront costs to developers because of the planning involved in an auction.

Sandy Levine, CLF – Comments are attached, I won't summarize but will go right to Q&A and comments:

On her point 2, Sandy added that proceedings at the Board take a long time so need to start having targets immediately. Can't wait until 2025.

On point 3 re HQ, TK questioned Sandy on VT's impact on getting HQ to build more dams. Obviously didn't believe it. TK also commented that since we have recognized HQ as renewable it would look hypocritical to now take them out of the equation. I think there probably is a problem in the bill because it talks about new renewable as a "plant". What we buy from HQ is not a plant but system mix.

Sandy was questioned about not wanting an exemption for any utility. She said all consumers should pay. In response to a TK question about those utilities already doing a lot toward renewables, Sandy responded that the utilities knew all along that there could be an RPS so they shouldn't be surprised or exempt.

TK seems to not want to talk about rate impacts at all and declared price projections as a bunch of "hooley."

Tom Buckley – BED

- This draft vastly simplifies how utilities will move forward and that is greatly appreciated.
- Comfortable with overall goal
- Long term fine. Most of what is now negotiated by BED is around 15 years. McNeil is a lifer.
- Key element is that existing renewables are left out of the equation. Sale of RECs is big part of BED strategy and VT should take advantage of the sale of RECs for as long as we can. BED will not rest on its laurels.
- 2012 simplifies things and gives the utilities a "clean slate."
- Understands CLF's concern about HQ but that horse already left the barn
- Need to define 100% renewable at bottom of page 10 so it clear. Appreciate the carve out but have to make sure it is clear. BED in some hours has to buy market power.
- Thermal Efficiency Placeholder: try to create some link to on-bill financing under which the utility could get incentive.
- Tom tried to make the point that rate impacts are real and are what they are. If could no longer sell RECs then dramatic impact on rates.
- Stroke of genius to bring IRP into this. Proposal reinvigorates the IRP process.

Q&A and comments: Many questions to Tom about McNeil and how they plan around it. TK said that the reason he doesn't like talk of rate impacts is because people only talk about rate impacts when they talk about renewables and efficiency. You never hear anyone talk about rate impacts from nuclear or gas and that is the basis for most upward rate impacts.

Talk among the committee on how to incentivize long term contracts. TK did note there is some long term negative history in VT with long-term contracts.

Sarah Hofmann  
Deputy Commissioner  
Vermont Department of Public Service  
112 State Street

## London, Sarah

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**From:** MacLean, Alex  
**Sent:** Monday, March 05, 2012 4:17 PM  
**To:** London, Sarah  
**Subject:** Fwd: H468

Sent from my iPhone

Begin forwarded message:

**From:** "Miller, Elizabeth" <[Elizabeth.Miller@state.vt.us](mailto:Elizabeth.Miller@state.vt.us)>  
**Date:** February 17, 2012 12:08:35 PM MST  
**To:** "MacLean, Alex" <[Alex.MacLean@state.vt.us](mailto:Alex.MacLean@state.vt.us)>  
**Subject:** Fw: H468

*Connected by DROID on Verizon Wireless*

-----Original message-----

**From:** "Perchlik, Andrew" <[Andrew.Perchlik@state.vt.us](mailto:Andrew.Perchlik@state.vt.us)>  
**To:** "Hofmann, Sarah" <[Sarah.Hofmann@state.vt.us](mailto:Sarah.Hofmann@state.vt.us)>, "Miller, Elizabeth" <[Elizabeth.Miller@state.vt.us](mailto:Elizabeth.Miller@state.vt.us)>, "Hopkins, Asa" <[Asa.Hopkins@state.vt.us](mailto:Asa.Hopkins@state.vt.us)>  
**Sent:** Fri, Feb 17, 2012 15:56:11 GMT+00:00  
**Subject:** RE: H468

I think Asa has a good response that reports on the death of the RE industry under the DPS proposal are exaggerated.

- Small scale projects will continue with net metering (improvements being made this year will help), and the incentive program.
- Small and commercial projects will continue with the SO program, especially if they get their way and there is 20MW a year auctioned off.
- Utility-scale projects in the works that will take time regardless: Deerfield, Georgia Mtn, Beaver wood, Springfield biomass.

Setting a goal for 2020 is not much different than when set the 2012 goal in 2005.

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Andrew Perchlik  
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802-828-4017

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**From:** Hofmann, Sarah  
**Sent:** Friday, February 17, 2012 10:45 AM  
**To:** Miller, Elizabeth; Hopkins, Asa; Perchlik, Andrew  
**Subject:** H468

Rep Cheney just asked me into the hall for a talk. Part plea and part threat I think. Disturbed by Asa's testimony about increased cost. Probably can't pass this with those numbers. Tony may just let the bill die. But committee wants something. Last weeks bill she said is really doing nothing for a decade. Do we have a sense of where we can go? Is there middle ground to keep the industry going but isn't too expensive?

Sarah Hofmann  
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**From:** [Alexandra MacLean](mailto:Alexandra.MacLean)  
**To:** [Miller, Elizabeth](mailto:Miller.Elizabeth)  
**Subject:** Fwd: tax bill and renewables idea  
**Date:** Wednesday, February 22, 2012 7:43:59 AM  
**Attachments:** [H-679\\_RE\\_property\\_tax.pdf](#)  
[ATT00001.htm](#)

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Sent from my iPhone

Begin forwarded message:

**From:** Andrew Savage <[asavage@allearthrenewables.com](mailto:asavage@allearthrenewables.com)>  
**Date:** February 21, 2012 4:13:16 PM EST  
**To:** Alexandra MacLean <[allymac9@gmail.com](mailto:allymac9@gmail.com)>  
**Subject:** tax bill and renewables idea

Hey Alex, Hope NYC was fun. I'd love to get out and ski sometime soon. Been crazy busy though.

Quick question-- I talked with Mary Peterson about this, but Margaret has a tax bill that would apply to solar projects that the industry can live with and, I think, could creatively be framed as both providing new revenue to the state (and municipalities), creating stability/predictability for project developers, and is fair given the goal of expanding renewable development (many state's exempt renewables from all taxes).

Think about it. Could be interesting.

--

Andrew Savage  
Director of Communications and Public Affairs

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1 H.679

2 Introduced by Representatives Cheney of Norwich, Edwards of Brattleboro,  
3 Jerman of Essex and Masland of Thetford

4 Referred to Committee on

5 Date:

6 Subject: Taxation; renewable energy plants

7 Statement of purpose: This bill proposes to tax renewable energy plants under  
8 a uniform generation tax rather than under Vermont's property tax system.

9 An act relating to creating a uniform generation tax for renewable energy  
10 plants

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

12 Sec. 1. 32 V.S.A. chapter 215 is added to read:

13 CHAPTER 215. RENEWABLE ENERGY

14 § 8701. UNIFORM GENERATION TAX

15 (a) For the purposes of this section, the term "renewable energy" has the  
16 same meaning as in 30 V.S.A. § 8002(2), the term "plant" has the same  
17 meaning as in 30 V.S.A. § 8002(12), and the term "plant capacity" has the  
18 same meaning as in 30 V.S.A. § 8002(13).

19 (b) There is assessed on any renewable energy plant in Vermont an annual  
20 tax of \$4.00 per kilowatt capacity. The tax shall be paid to the department of

1 taxes no later than April 15 of each year, for energy generated in the preceding  
2 year, and accompanied by a return with such information as the department of  
3 taxes may require. The department of taxes is authorized to promulgate  
4 procedures and rules necessary to implement the tax in this section.

5 (c) Renewable energy plants of equal to or less than 10 kilowatt nameplate  
6 capacity and farm methane generators of less than 100 kilowatts are exempt  
7 from the tax under this section.

8 (d) For each renewable energy plant taxed under this section, the  
9 department of taxes shall:

10 (1) determine the municipality in which the renewable energy plant is  
11 situated;

12 (2) determine the ratio of the municipal taxes raised in the previous tax  
13 year to the education property taxes raised in the previous tax year in the  
14 municipality in which the renewable energy plant is located;

15 (3) multiply the tax received from the renewable energy plant by the  
16 ratio in subdivision (2) of this subsection;

17 (4) pay an amount equal to the municipal tax portion of the ratio back to  
18 the municipality, and pay the remaining amount to the education fund.

19 Sec. 2. 32 V.S.A. § 3802(17) is added to read:

20 (17) Real and personal property composing a renewable energy plant  
21 subject to taxation under chapter 215 of this title.

1     Sec. 3. EFFECTIVE DATE

2             This act shall take effect on January 1, 2013 and apply to power generated

3     after that date.

## London, Sarah

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**From:** MacLean, Alex  
**Sent:** Monday, March 05, 2012 4:17 PM  
**To:** London, Sarah  
**Subject:** Fwd: Vermont Standard Offer

Sent from my iPhone

Begin forwarded message:

**From:** "Miller, Elizabeth" <[Elizabeth.Miller@state.vt.us](mailto:Elizabeth.Miller@state.vt.us)>  
**Date:** February 24, 2012 6:48:23 AM MST  
**To:** "Hopkins, Asa" <[Asa.Hopkins@state.vt.us](mailto:Asa.Hopkins@state.vt.us)>, "Perchlik, Andrew" <[Andrew.Perchlik@state.vt.us](mailto:Andrew.Perchlik@state.vt.us)>, "Hofmann, Sarah" <[Sarah.Hofmann@state.vt.us](mailto:Sarah.Hofmann@state.vt.us)>  
**Cc:** "MacLean, Alex" <[Alex.MacLean@state.vt.us](mailto:Alex.MacLean@state.vt.us)>  
**Subject:** FW: Vermont Standard Offer

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**From:** Amin, Parthiv [<mailto:pamin@northernpower.com>]  
**Sent:** Friday, February 24, 2012 8:44 AM  
**To:** Miller, Elizabeth  
**Subject:** Vermont Standard Offer

Dear Ms. Miller,

Hope you had wonderful holidays. I enjoyed our discussion with yourself and Ms. Mary Powell on how best to accelerate renewables in Vermont to meet the Governor's energy plan.

I understand the legislative branch is working with your office to come up with a solution that fits the needs of Vermont citizens, business community and meet Governor's plan. As we had discussed in your office the current 50 MW Standard Offer program is backed up and very little is being implemented. I fully agree with you that we need a better mechanism.

I realize the time is limited in the current legislative schedule, we would be glad to support you in anyway and help drive the Governor's agenda forward. I am hoping to carve out 15 minutes with you on Monday if possible to discuss the following further, let me know if this fits your schedule. Please do not hesitate to contact me on my cell at +1-802-595-2915.

We at Northern Power continue to drive cost out to bring down the Levelized cost of energy (LCOE) in line with retail cost of distributed energy. Standard Offer (FIT) or any other programs should be short term in nature to allow renewables enough runway to take off without further support. To get there we need to have support. Our appeal is as a rate payer and a business creating good renewable jobs in Vermont is to extend the standard offer for a period of time, with reasonable amount of renewable energy produced, that is cost neutral and helps generate jobs. We recommend a program that is generates 50 MW over 3-4 years, at rates based on the most recent PSB ruling (see attached link, I am sure you are well familiar with it) and with specific deliverables to ensure projects do take place. To level the playing field, so one technology does not gobble up the 50 MW, may be it can be split between competing technologies without picking 'winners and losers'.

In our view, 50 MW over the 3-4 years is a negligible amount in the total Vermont's 5.7 million megawatt hours of electricity consumed and from our discussion with a local utility distributed renewable will have a very small impact on rate, if any. In addition with lower natural gas prices the mix of renewables in the portfolio may have no overall impact in the state?

Two, Northern Power, our suppliers in Vermont and manufacturers like us in the state will generate new jobs and help retain current high paying manufacturing and engineering local jobs. Local for local, not only manufacturing jobs, but also construction and post-installation service jobs are created within the state. With the support from state it will continue to allow us to bring the LCOE down which will benefit the state further as well as help us continue to expand exports which creates more jobs in economically depressed area like Barre. As you well know, Northern Power through tough economic environment continues to invest in its employees and infrastructure in Vermont. Support from state will show its continued support for renewable manufacturing and technology development in the state.

In long term a renewable portfolio standard and energy efficiency that is market driven is the right solution. However in the near term some mechanism is needed to maintain the momentum and deliver energy where it is consumed, locally.

We wish you the best in your upcoming discussions with the legislative branch.

<http://psb.vermont.gov/sites/psb/files/orders/2012/7780%20Order.pdf>

<http://psb.vermont.gov/sites/psb/files/orders/2012/7780Attachment1.pdf>

Best Regards,

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**London, Sarah**

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**From:** MacLean, Alex  
**Sent:** Monday, March 05, 2012 4:18 PM  
**To:** London, Sarah  
**Subject:** Fwd: MSW as renewable  
**Attachments:** Obama Renewable energy documentation.docx; ATT00001..htm; image001.png; ATT00002..htm

Sent from my iPhone

Begin forwarded message:

**From:** "Miller, Elizabeth" <[Elizabeth.Miller@state.vt.us](mailto:Elizabeth.Miller@state.vt.us)>  
**Date:** February 25, 2012 10:36:00 AM MST  
**To:** "MacLean, Alex" <[Alex.MacLean@state.vt.us](mailto:Alex.MacLean@state.vt.us)>  
**Subject:** Fw: MSW as renewable

*Connected by DROID on Verizon Wireless*

-----Original message-----

**From:** Rich Tarrant <[rtarrant@plasmapowerllc.com](mailto:rtarrant@plasmapowerllc.com)>  
**To:** "Miller, Elizabeth" <[Elizabeth.Miller@state.vt.us](mailto:Elizabeth.Miller@state.vt.us)>, "Markowitz, Deb" <[Deb.Markowitz@state.vt.us](mailto:Deb.Markowitz@state.vt.us)>  
**Sent:** Sat, Feb 25, 2012 16:13:09 GMT+00:00  
**Subject:** MSW as renewable

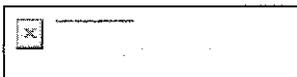
Liz/Deb,

The attachment contains 3 documents pertaining to MSW as renewable energy. The first is President Obama's proposed tax reform released the other day; the second is the tax section referred to in the document; and the third contains excerpts from his previous[2009] executive order re sustainability. For you convenience I have highlighted the pertinent info [two minute read].

Given the recent pushback from legislators on your stated renewable energy goals, I believe the surest way to meet those goals is by defining MSW as renewable. President Obama tax proposal gives all the support necessary for you to enact such legislation. I would be willing to testify to aid such an effort.

Regards,

**Rich Tarrant**  
**Chairman**



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## Obama Administration Releases Framework for Business Tax Reforms

**O**n February 22, 2012, the White House and the Department of the Treasury

jointly released “The President’s Framework for Business Tax Reform” (the Framework), which includes ideas for reforming the federal income tax on business income.<sup>1</sup> In support of its proposals, the Framework describes the current rules as “uncompetitive,” “inefficient” and “too complicated” and states that those rules distort business-making decisions and fail to sufficiently encourage job creation and investment in the United States. Among other things, the Framework would significantly revise the corporate income tax system by reducing corporate income tax rates and eliminating many existing tax preference items, potentially expand the reach of the corporate income tax to large partnerships and other passthrough entities, and reinforce the existing worldwide system of taxation with a new minimum tax on foreign earnings. The Framework sets forth principles and high-level explanations for how these proposals might be drafted but leaves many of the details for further development through the legislative process.<sup>2</sup> Some of the more notable proposals in the Framework are discussed below.

### Corporate Income Tax Reform

The Framework proposes to reduce the corporate income tax rate from 35 percent to 28 percent, stating that this reduced rate would be in line with other advanced countries. For manufacturing companies, the effective tax rate would be further reduced through the existing Internal Revenue Code (IRC) Section 199 domestic production activities deduction. Under the proposal, most domestic manufacturers would have an effective tax rate of 25 percent, and those involved in certain advanced manufacturing activities would enjoy even lower rates.

To offset the revenue loss attributable to the reduced corporate income tax rate, the Framework would eliminate “dozens of business tax loopholes and tax expenditures” and reform the corporate tax base. Some of the provisions were previously announced in the FY2013 Budget, including the proposals to (i) repeal the use of the “last-in, first-out” method of accounting for inventories, (ii) eliminate various oil and gas tax preferences, such as percentage depletion and the expensing of intangible drilling costs, and (iii) tax “carried interests” in partnerships at ordinary income rates. The newer and more significant proposals are those that would:

- eliminate the accelerated depreciation of business assets,
- limit the deductibility of corporate interest expense, and
- subject large passthrough entities (such as partnerships) to the corporate income tax.

<sup>1</sup> The Framework is available at <http://www.treasury.gov/resource-center/tax-policy/Documents/The-Presidents-Framework-for-Business-Tax-Reform-02-22-2012.pdf>.

<sup>2</sup> Many aspects of the Framework were previously announced in the Obama administration’s proposed budget for fiscal year 2013 (the FY2013 Budget). A brief overview of the tax proposals contained in the FY2013 Budget is available at [http://www.skadden.com/newsletters/Obama\\_Administration\\_Proposes\\_Significant\\_Tax\\_Changes.pdf](http://www.skadden.com/newsletters/Obama_Administration_Proposes_Significant_Tax_Changes.pdf).

*If you have any questions regarding the matters discussed in this*

*memorandum, please contact the following attorneys or call your regular Skadden contact.*

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February 24, 2012

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2

The proposed change in the tax treatment of large passthrough entities could have significant effects on numerous sectors, including publicly traded master limited partnerships and many privately held enterprises that presently are organized as partnerships or subchapter S corporations. If this proposal were enacted, income that otherwise would be taxed at the top ordinary rate of 39.6 percent in 2013 would instead be subject to a corporate income tax of 28 percent *plus* a dividend tax of approximately 44 percent on earnings distributed to partners or shareholders.<sup>3</sup> Due to the limited details provided in the Framework, it is not clear whether exceptions would be provided for certain passthrough entities that would otherwise be subject to corporate income taxation under the Framework's proposal. For example,

the 2005 report of President George W. Bush's Advisory Panel on Federal Tax Reform suggested that if large partnerships and S corporations were subjected to an entity-level tax, exceptions should be provided for regulated investment companies (*i.e.*, mutual funds or RICs) and real estate investment trusts (REITs).<sup>4</sup> If exceptions are provided for RICs and REITs, and perhaps for master-limited partnerships,

it is not clear how much of an impact the proposal really would make. Moreover, for businesses

that historically distribute most of their earnings, as is the case with many service partnerships, for example,

it is not clear whether the entity-level tax would have much effect because the entity presumably would deduct salaries paid to its owners, who would then pay tax on their salaries at the individual tax rates. Of course, if the entity-level tax is not adopted for large passthroughs, but the corporate rate is reduced as proposed, such that the differential between the corporate income tax rate and the top individual

income rate exceeds 10 percentage points, then many passthrough entities and unincorporated businesses may need to assess whether that differential is significant enough to warrant converting to corporate form, thereby permitting them to take advantage of deferral opportunities.

Importantly, and despite the Framework's seeming focus on removing tax expenditures from the U.S. tax system, the Framework proposes to expand and/or make permanent a few tax expenditures. For example, the Framework proposes to make the IRC Section 41 simplified research and experimentation credit permanent and to increase the rate of that credit from 14 percent to 17 percent. The Framework also proposes to make permanent the IRC Section 45 tax credit for the production of electricity from renewable resources such as wind and solar. Also, as proposed in the FY2013 Budget, the existing Treasury grant program would not be extended, but the production tax credit would become refundable. It appears that other incentives, however, such as the investment tax credit for certain energy projects, would be allowed to expire under the Framework.

The Framework also suggests that in order to increase transparency, corporate tax reform should reduce disconformities between financial accounting and tax reporting and could involve requiring greater disclosure of annual corporate income tax payments. Unless full conformity between financial accounting and tax reporting is required, however, it is difficult to understand how the disclosure of annual corporation income tax payments would assist investors in understanding a company's financial position because the investors would not have the additional information (such as the amount of the corporation's taxable income, the source of its income, the amount of any tax attributes utilized, etc.) necessary to properly understand the import of the corporate income tax payment.

<sup>3</sup> Under current law, the top tax rate applicable to ordinary income earned by individuals will increase to 39.6 percent on January 1, 2013, and the phase-outs of personal exemptions and itemized deductions will be reinstated. When factoring in these changes and the new 3.8 percent surtax on certain investment income that also takes effect on January 1, 2013, dividends received by individuals in the top bracket will be subject to federal income tax at an effective rate of approximately 44 percent.

<sup>4</sup> The August 2010 report on tax reform options approved by President Obama's Economic Recovery Advisory Board discussed a similar proposal to subject some passthrough entities to corporate income taxation, but did not make a specific recommendation regarding possible exceptions.

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### International Tax Reform

Very generally, the primary goals of the Framework's international tax proposals are to maximize investment in the United States and to minimize the erosion of the U.S. tax base. In this vein, the Framework seeks to move the United States international tax system to a more pure worldwide system as it proposes to prevent the deferral of U.S. income tax on the foreign income of U.S. multinational corporations by imposing a minimum tax rate on such foreign income; foreign tax credits would be allowed for income taxes paid on such foreign income to the foreign host country. The Framework thus makes clear that the President has determined that it is not appropriate for the United States to implement a territorial tax system. This is particularly interesting as many other advanced countries have implemented territorial tax systems. That is, if it is appropriate to reduce the U.S. corporate income tax rate to be in line with the majority of the OECD member nations (as the Framework proposes to do), it seems unusual then to take the position that the United States should tax foreign income in almost the exact opposite manner of those very same countries.

Other international tax proposals in the Framework include proposals to (i) disallow deductions for the expenses of moving operations outside the United States, (ii) provide a 20 percent income tax credit for the expenses of moving operations into the United States, (iii) tax currently excess profits

associated with shifting intangible assets abroad, and (iv) disallow interest expense deductions attributable

to overseas investment until the related income is taxed in the United States. Each of these proposals was previously announced in the FY2013 Budget, and the Framework does not set forth significant additional detail on how these proposals might be drafted.

#### **Small Business Tax Reform**

The Framework includes a number of proposals that are intended to benefit small businesses. For example,

the Framework proposes to (i) expand IRC Section 179 to permit small business, on a permanent basis, to expense up to \$1 million per year in qualified investments, and (ii) modify IRC Section 448 to permit small businesses with up to \$10 million in gross receipts to use the cash method of accounting. Separately, as noted above, the Framework proposes to subject certain large partnerships and other passthrough entities to the corporate income tax. While the Framework states that the Administration does not intend to subject small businesses to that change, the definition of “small business” for this purpose will be very important, and this change may be of concern to growing or expanding businesses.

#### **Concluding Observations**

With the release of the Framework, the President has advanced the debate on corporate tax reform, adding another approach to those that have been discussed over the past few years. The proposal to reduce the corporate income tax rate to 28 percent or less will be welcomed by many, but funding the cost of that rate reduction (*i.e.*, the reduction or elimination of tax preferences currently available) will be subject to considerable debate. The proposals to subject large partnerships and other passthrough entities to the corporate income tax and to expand the worldwide taxation of foreign income are likely to receive the most serious scrutiny as the debate on corporate tax reform moves forward.

As we observed when the FY2013 Budget was released earlier this month, with the upcoming elections and the continued debate in Washington over the size of government and the need to address deficit reduction without harming the economic recovery, it is uncertain at best if any of these proposals will be enacted in the near term. It is likely that a “lame duck” session of Congress after the November elections will attempt to extend at least some of the expiring Bush tax cuts, as well as some

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of the corporate preference items, such as the research credit and the renewable energy production tax credit. Although we anticipate the tax-writing committees in Congress will devote time to the ideas set forth in the Framework, as well as those set forth in other reform proposals, over the next few months, it is not likely that there will be sufficient time during a “lame duck” session for Congress to make progress on larger reform like that proposed in the Framework. Accordingly, the Framework might best be viewed as the latest salvo in what appears to be a very long march towards tax reform

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## **26 USC § 45 - ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES, ETC.**

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**(a) General rule**

For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

(1) 1.5 cents, multiplied by

(2) the kilowatt hours of electricity—

(A) produced by the taxpayer—

(i) from qualified energy resources, and

(ii) at a qualified facility during the 10-year period beginning on the date the facility was originally placed in service, and

(B) sold by the taxpayer to an unrelated person during the taxable year.

**(b) Limitations and adjustments**

**(1) Phaseout of credit**

The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

(B) 3 cents.

**(2) Credit and phaseout adjustment based on inflation**

The 1.5 cent amount in subsection (a), the 8 cent amount in paragraph (1), the \$4.375 amount in subsection (e)(8)(A), the \$3 amount in subsection (e)(8)(D)(ii)(I), and in subsection (e)(8)(B)(i) the reference price of fuel used as a feedstock (within the meaning of subsection (c)(7)(A)) in 2002 shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

**(3) Credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits**

The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and the lesser of 1/2 or a fraction—

(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

(iii) the aggregate amount of subsidized energy financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the project, and  
(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year. This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).

#### **(4) Credit rate and period for electricity produced and sold from certain facilities**

##### **(A) Credit rate**

In the case of electricity produced and sold in any calendar year after 2003 at any qualified facility described in paragraph (3), (5), (6), (7), (9), or (11) of subsection (d), the amount in effect under subsection (a)(1) for such calendar year (determined before the application of the last sentence of paragraph (2) of this subsection) shall be reduced by one-half.

##### **(B) Credit period**

(i) In general Except as provided in clause (ii) or clause (iii), in the case of any facility described in paragraph (3), (4), (5), (6), or (7) of subsection (d), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

(ii) Certain open-loop biomass facilities In the case of any facility described in subsection (d)(3)(A)(ii) placed in service before the date of the enactment of this paragraph, the 5-year period beginning on January 1, 2005, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

(iii) Termination Clause (i) shall not apply to any facility placed in service after the date of the enactment of this clause.

##### **(c) Resources**

For purposes of this section:

###### **(1) In general**

The term "qualified energy resources" means—

- (A) wind,
- (B) closed-loop biomass,
- (C) open-loop biomass,
- (D) geothermal energy,
- (E) solar energy,
- (F) small irrigation power,
- (G) municipal solid waste,
- (H) qualified hydropower production, and
- (I) marine and hydrokinetic renewable energy

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THE WHITE HOUSE Office of the Press Secretary  
For Immediate Release October 5, 2009

EXECUTIVE ORDER

FEDERAL LEADERSHIP IN ENVIRONMENTAL, ENERGY, AND ECONOMIC PERFORMANCE

(e) promote pollution prevention and eliminate waste by;

diverting at least 50 percent of non-hazardous solid waste, excluding construction and demolition debris, by the end of fiscal year 2015;

(j) "renewable energy" means energy produced by solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project;

**London, Sarah**

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**From:** MacLean, Alex  
**Sent:** Monday, March 05, 2012 4:18 PM  
**To:** London, Sarah  
**Subject:** Fwd: RPS - SO support update

Sent from my iPhone

Begin forwarded message:

**From:** "Perchlik, Andrew" <[Andrew.Perchlik@state.vt.us](mailto:Andrew.Perchlik@state.vt.us)>  
**Date:** February 27, 2012 7:26:55 PM MST  
**To:** "Miller, Elizabeth" <[Elizabeth.Miller@state.vt.us](mailto:Elizabeth.Miller@state.vt.us)>, "MacLean, Alex" <[Alex.MacLean@state.vt.us](mailto:Alex.MacLean@state.vt.us)>  
**Subject:** RPS - SO support update

Here is where the three groups I've had dialogue stand:

VNRC – just traded VM with Joey, didn't talk with her. They are basically supportive but want to advocate for some language around biomass energy. I think some study language. They also will likely support a larger SO.

VPIRG – least happy of the bunch, but likely will be supportive but with stronger push for more aggressive RPS requirements and stronger SO, want to see some sort of promise on CEDF funding.

REV – focused on the package and a stronger SO. Will be supportive of the bill but want to advocate for a larger SO and want more leadership on delivering the full monty: RPS, SO, property tax, net metering and (top priority) CEDF funding for the incentive program.

REV and VPIRG wanted to know where the line was of being supportive of the proposal/bill but still being able to advocate for changes.

Ciao,  
andrew perchlik  
VT Department of Public Service  
Clean Energy Development Fund  
802\_828\_4017