

No. 78. An act relating to the Vermont recovery and reinvestment act of 2010.

(S.288)

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

* * * VRRRA 2010 Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to supplement and support the programs and policies established in No. 54 (H.313) of the Acts of 2009, the Vermont Recovery and Reinvestment Act of 2009, and to provide other economic incentives.

(b) The provisions of this act provide short-term economic stimulus to certain sectors of the Vermont economy, and invest in long-term strategies that are consistent with the four principal goals of economic development identified by the commission on the future of economic development and codified in 10 V.S.A. § 3(b) as follows:

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

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

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

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

* * * SFSF General Services Fund Appropriations * * *

Sec. 2. STATE FISCAL STABILIZATION FUND; GENERAL SERVICES
FUND; APPROPRIATIONS

(a) In fiscal year 2010, \$8,665,000.00 from the state fiscal stabilization fund general services fund that remains available to Vermont under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, shall be appropriated to the secretary of administration, who is directed to transfer the funds to the department of public safety for the costs of the state police. The secretary of administration is further directed to reduce the general fund appropriation for the state police by \$8,665,000.00. From the general fund, the amount of \$8,665,000.00 is hereby appropriated as prescribed in Secs. 3–10d of this act. The Vermont office of economic stimulus and recovery is directed to track these general fund appropriations as if they were ARRA funds.

(b) It is the intent of the general assembly that, unless otherwise stated, the appropriations of SFSF funds made pursuant to this act are expended as quickly as possible so as to have an immediate stimulative impact on Vermont's economy. However, to the extent it is not feasible or prudent for a program to expend all funds in fiscal year 2010, the funds may be carried forward to fiscal year 2011 and otherwise expended in accordance with the provisions of this act.

(c) It is the intent of the general assembly that any program receiving SFSF funds pursuant to this act make all reasonable and practicable efforts to ensure that such funds are evenly and equitably distributed throughout the entire state of Vermont.

Sec. 3. ENTREPRENEURS' SEED CAPITAL FUND

(a) The amount of \$750,000.00 is appropriated to the entrepreneurs' seed capital fund established under chapter 14A of Title 10.

(b) This appropriation will supplement the \$1,000,000.00 of ARRA funds in the clean energy development fund transferred to the seed capital fund pursuant to Sec. 10f of this act as well as the \$2,150,000.00 appropriated to the fund under No. 54 of the Acts of 2009 and the \$1,000,000.00 in federal funds received by the fund manager, Vermont Center for Emerging Technologies, Inc. (VCET), from the economic development initiative of the United States Department of Housing and Urban Development and pledged as

a match to the seed fund. In addition, H.789 of the 2010 legislative session (the big bill) contains an appropriation to VCET; however, these big-bill funds are intended to cover the operational costs of VCET in lieu of funding which will no longer be provided by the University of Vermont.

(c) Equity capital is a major basis upon which lenders make loan decisions. Unfortunately, early stage equity capital remains a vital financing gap for Vermont entrepreneurs, preventing job creation and new tax revenue generation. To accelerate job growth by helping emerging firms get across this funding gap, the entrepreneurs' seed capital fund was initiated last year. The fund manager has already identified 38 firms across Vermont in sectors such as life sciences, agriculture, energy, software, and manufacturing who are now seeking over \$45,000,000.00 in early-stage equity capital with an estimated three-year job creation of nearly 700 jobs. In order to attract high-potential firms and maximize this revolving fund's ability and competitiveness to leverage dollars both from newly available federal and from private sources, the size of the fund must be at least \$5,000,000.00.

(d) Vermont's capitalization of the entrepreneurs' seed capital fund represents a one-time investment in financial infrastructure that will revolve for at least 10 years. The seed fund does not require an annual state subsidy.

Sec. 4. RURAL BROADBAND; VTA

(a) The amount of \$2,850,000.00 is appropriated to the Vermont

telecommunications authority (VTA) for the purpose of making broadband services available to at least 10,000 households or businesses in locations where such services are not currently available, as provided in 30 V.S.A. § 8079 as established in Sec. 11 of this act. Of the appropriation made in this subsection, up to \$500,000.00 may be used for upgrades in underserved business districts, as specified in 30 V.S.A. § 8079(f).

(b) No portion of the appropriation made in subsection (a) of this section shall be encumbered or disbursed until a detailed itemization of the specific manner in which the funds shall be spent is presented to and approved by the joint fiscal committee, after obtaining input from the senate committee on finance and the house committee on commerce and economic development.

(c) The appropriation provided in subsection (a) of this section is in addition to the proposed appropriation to the VTA in the fiscal year 2011 capital bill, intended to allow VTA to construct telecommunications infrastructure (towers and fiber-optic cable). Together, these funds will allow the VTA to leverage access to moral obligation bonding as authorized under No. 79 of the Acts of 2007.

(d) Access to telecommunications and broadband services is this era's equivalent to rural electrification in the 1930s. It was viewed at that time as uneconomical, and private electric companies were unwilling to operate lines and distribute electricity in rural areas. Under the authority of the Rural

Electrification Act of 1936, the United States Department of Agriculture began making direct loans and loan guarantees to electric utilities to serve customers in rural areas. Rural electrification is now viewed as an achievement that has been a tremendous force for positive social change and social equality in rural areas.

Sec. 5. VERMONT EMPLOYMENT TRAINING PROGRAM

(a) The amount of \$950,000.00 is appropriated to the department of economic, housing, and community development for grants for the Vermont employment training program established under 10 V.S.A. § 531.

(b) The appropriation provided in subsection (a) of this section, when combined with the proposed fiscal year 2011 \$1,700,000.00 appropriation, will add up to historic high funding for the training program. In fiscal year 2010, \$1,900,000.00 was appropriated to the training program.

(c) The Vermont training program works with businesses and educational institutions to develop programs targeting the manufacturing, health care, information technology, telecommunications, and environmental engineering sectors and can cover up to 50 percent of the cost of training.

Sec. 6. TOURISM AND MARKETING; MEDIA ADVERTISING

(a) The amount of \$300,000.00 is appropriated to the department of tourism and marketing to supplement the fiscal year 2010 \$1,950,000.00 appropriation (later subject to a rescission of \$181,000.00) to increase the

frequency of and expand the media buys in the state's key regional markets for Vermont's recreation and hospitality operations. The additional media advertising is aimed at increasing the number of visitors that will decide to visit Vermont. Should circumstances require, a portion of the appropriation will be spent to supplement the planned \$600,000.00 spring and summer media advertising campaigns. The \$300,000.00 appropriation made in this subsection also supplements the \$100,000.00 appropriated to the Vermont Convention Bureau, which is attached to the Lake Champlain Regional Chamber of Commerce, in No. 54 of the Acts of 2009.

(b) Particularly during the current recession and at a time when other states, such as Connecticut, are curtailing their travel advertising, Vermont should continue to invest in marketing and tourism and optimize the opportunities to have a positive impact on our hospitality businesses.

(c) The funds appropriated in this section shall be expended in calendar year 2010 with the goal of increasing the number of visitors throughout all regions of the state this year.

Sec. 6a. AGRICULTURE; VERMONT FARMERS

(a) The amount of \$1,000,000.00 is appropriated to the Vermont economic development authority (VEDA) to be used by the Vermont agricultural credit corporation for the Vermont agricultural credit program established under 10 V.S.A. § 374a to assist Vermont farmers with capital to meet operating and

related needs. With this appropriation, the agricultural debt consolidation program is expected to leverage \$21,000,000.00 in loan activity.

(b) This appropriation is intended to supplement the \$1,000,000.00 general fund appropriation to VEDA contained in No. 4 of the Acts of 2009 (the budget adjustment act), which was aimed at helping farmers meet spring 2009 operating expenses.

(c) Vermont lost more than 100 farms in the last two years alone and thousands in previous years. From January to July, 2009, 33 farms ceased operations. With every working farm that shuts down, Vermont suffers economically, environmentally, and socially.

(d) Based on numbers provided in the Northeast Dairy Herd summary prepared by the Farm Credit System for New England, the cost of dairy production at present exceeds the price farmers are paid for milk. The national dairy crisis in 2009 was caused by a decline in demand for dairy products on the national and international markets due to the global economic crisis. The imbalance in supply and demand caused the price paid to dairy farmers to decline by over 40 percent from 2008. The decline in milk prices has caused Vermont dairy farmers to either go out of business or go severely into debt and has created a great deal of hardship for dairy farmers and related businesses.

(e) From the amount appropriated in this section, the sum of \$50,000.00 shall be transferred from the Vermont economic development authority to the

agency of agriculture, food and markets for use by the secretary to develop and implement a third party verification or audit process to enable the Vermont seal of quality program to be resumed with strict quality review and approval standards.

Sec. 6b. 6 V.S.A. § 2964 is amended to read:

§ 2964. VERMONT AGRICULTURAL PRODUCTS; IDENTIFICATION
AND DEFINITION; SEAL OF QUALITY

(a) A producer or packer of agricultural products produced in Vermont annually may apply to the secretary for an identification label which may be applied to his or her products to indicate that they have been produced in Vermont and have met standards of quality as have been or may be established by the secretary. The person requesting the labels shall annually pay a fee established by the secretary by rule. ~~based on the volume of sales for each category of products in the previous year according to the following fee schedule: \$25.00 for a prior annual sales volume less than \$25,000.00; \$50.00 for a prior annual sales volume from \$25,000.00 to under \$100,000.00; \$100.00 for a prior annual sales volume from \$100,000.00 to \$250,000.00; and \$500.00 for a prior annual sales volume greater than \$250,000.00.~~ The applicant shall also pay for the cost of all labels requested.

* * *

(g) Third Party Verification. The secretary may adopt rules to design and implement a third party verification process under which a qualified, independent person or entity shall verify that an agricultural product has been produced or processed in Vermont in compliance with this section and rules adopted by the secretary pursuant to this section, and that the product meets the standards of quality established by the secretary for the product. The secretary shall determine who is responsible for the cost of the required verification.

Sec. 6c. 6 V.S.A. § 2965 is amended to read:

§ 2965. MISUSE OF LABELS; PENALTY

~~A person who fraudulently utilizes the labels issued as provided in section 2964 of this title, who willingly allows another to fraudulently use the labels or who applies the labels to products which do not meet quality standards as have been or may be established by the secretary shall be fined no more than \$500.00 for each offense.~~

(a) No person shall use, nor allow another person to use, an identification label designed and issued by the secretary under section 2964 of this title without authorization of the secretary.

(b) A person who violates this section commits a civil violation and shall be assessed a penalty of not less than \$500.

(c) In addition to the penalties set forth in this section, the secretary may take any action authorized under 6 V.S.A. Chapter 1 to enforce the

requirements of section 2964 of this title and the rules adopted pursuant to that section.

Sec. 6d. 4 V.S.A. § 1102(19) is added to read:

(19) Violations of 6 V.S.A. § 2965 relating to the misuse of identification labels for agricultural products produced in Vermont and meeting standards of quality established by the secretary of agriculture, food and markets.

Sec. 6e. INTERIM ADMINISTRATION OF THE VERMONT SEAL OF
QUALITY PROGRAM

(a) Pending adoption of a third party verification process pursuant to 6 V.S.A. § 2964(g), the secretary of the agency of agriculture, food and markets shall adopt by rule or by emergency rule, which notwithstanding any provision of law to the contrary shall remain in effect until repealed, an interim process and an appropriate fee structure for administering the authorization and use of identification labels pursuant to 6 V.S.A. § 2964.

(b) Identification labels issued during the interim administration of the identification label program shall be limited to maple and dairy products that:

(1) meet the current quality standards under rules adopted by the secretary for those products pursuant to 6 V.S.A. § 2964; and

(2) meet the requirements of the “Vermont origin rule,” Vt. Code R. 06 031 021, Rule CF 120 (Representations of Vermont Origin).

(c) Certification during the interim period shall be made pursuant to self-certification on forms issued by the secretary for that purpose.

(d) It shall be an unfair and deceptive act in trade in violation of 9 V.S.A. § 2453 for any person to use an identification label without authorization of the secretary during the period of the interim administration of the identification label program.

(e) This section shall be repealed on June 30, 2011.

(f) The secretary shall resume administration of the seal of quality program not later than July 1, 2011.

Sec. 7. AGRICULTURE; VERMONT FARMERS

(a) The amount of \$100,000.00 is appropriated to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330, as provided in Sec. 13 of this act. This appropriation supplements the \$100,000.00 appropriation made to the program pursuant to No. 54 of the Acts of 2009.

(b) The amount of \$122,000.00 is appropriated to the secretary of agriculture, food and markets to be transferred as follows:

(1) \$75,000.00 to the farm-to-school program established under 6 V.S.A. § 4721.

(2) \$22,000.00 to Vermont agricultural fairs.

(3) \$25,000.00 to the Vermont Association of Conservation Districts.

Sec. 7a. FARM-TO-INSTITUTION PARTNERSHIPS

(a) The amount of \$100,000.00 is appropriated to the secretary of agriculture, food and markets for the purpose of providing grants for capital upgrades or the development of programs to support farm-to-institution partnerships which can be used as models for similar partnerships throughout Vermont.

(b) The purpose of the farm-to-institution initiatives is to increase institutional purchases of fresh, locally grown food. The participation of institutional buyers such as hospitals, schools, and businesses will play an important role in stimulating greater local food production and keeping more money in the local economy and will further sustain the key role that agriculture plays in the vibrant past and future of Vermont's economy.

(c) Another significant outcome of farm-to-institution programs is that as small farmers are able to secure contracts with large institutional purchasers, they are more likely to have access to financing. This is particularly true for nondairy farmers who generally do not have as many assets as dairy farmers have, such as land, machinery, and equipment, which can be used as collateral.

Sec. 8. CHAMPLAIN BRIDGE CLOSURE

(a) The amount of \$800,000.00 is appropriated to the Addison County economic development corporation (ACEDC) to provide loans to persons

negatively affected by the closure of the Lake Champlain bridge at Crown Point as provided in subsections (b) and (c) of this section.

(b) Priority for Funds. Until October 31, 2010, persons that have incurred economic losses as a direct result of the closure of the Lake Champlain bridge at Crown Point may apply to ACEDC for loans to assist with maintaining payroll, ordering inventory, and covering operational expenses, including increased expenses resulting from increased travel costs. ACEDC shall make the loans subject to the following requirements:

(1) The minimum loan issue shall be \$1,000.00; the maximum \$25,000.00.

(2) All applicants must have been in business and operational prior to October 16, 2009.

(3) Interest rates shall be established by ACEDC and may be zero.

(c) With respect to loans made under subsection (b) of this section, ACEDC shall establish underwriting criteria and standards to ensure that: eligible persons are credit-worthy but for the three-month closure of the Lake Champlain bridge at Crown Point; term limits are based upon individual business circumstances; criteria are established for determining which economic losses qualify as the direct result of the bridge closure; and shall establish any other terms and conditions it deems appropriate and necessary to accomplish the purposes of this section.

(d) On November 1, 2010, all unexpended funds shall be transferred to the Vermont economic development authority (VEDA). In addition, all loan repayments shall be transferred to VEDA. Any funds received by VEDA pursuant to this subsection shall be transferred to the entrepreneurs' seed capital fund established under chapter 14A of Title 10. ACEDC may retain any interest.

(e) Unless other funds for administrative costs become available, the ACEDC may use up to 0.5 percent of each loan issued under this section to cover administrative costs.

Sec. 9. VEDA; VERMONT JOBS FUND

(a) The amount of \$1,000,000.00 is appropriated to the Vermont economic development authority to provide interest-rate subsidies on loans approved under the Vermont jobs fund established in 10 V.S.A. § 234.

(b) The appropriation made in subsection (a) of this section supplements the \$1,000,000.00 appropriation made to the Vermont jobs fund pursuant to No. 54 of the Acts of 2009. To date, with \$1,400,000.00 in subsidy funding (both state and ARRA funds), VEDA has been able to buy down the interest rate on commercial loans in the aggregate amount of approximately \$17,600,000.00. The proceeds of those loans have generated approximately \$58,000,000.00 of economic activity and from that amount have had a stimulative economic effect of \$28,000,000.00.

Sec. 10. COMMUNITY CAPITAL OF VERMONT; JOB START LOAN
FUND; INDIVIDUAL DEVELOPMENT ACCOUNTS

(a) The amount of \$100,000.00 is appropriated to community capital of Vermont for the job start loan fund to support low- and moderate-income business owners who do not have access to conventional bank loans. Community Capital of Vermont, Inc. is a community-based 501(c)(3) nonprofit serving the entire state of Vermont. Administration of the Vermont job start loan program was transferred from the Vermont economic development authority to Community Capital of Vermont as of May 1, 2008. In addition to financing, Community Capital of Vermont provides postloan technical assistance grants for specialized consulting services in the areas of marketing, financial management, inventory management, and human resources.

(b) The amount of \$73,000.00 is appropriated to the office of economic opportunity within the Vermont department for children and families to be transferred to the individual development account (IDA) program established in 33 V.S.A. § 1123.

(c) The amount of \$100,000.00 is appropriated to the office of economic opportunity within the Vermont department for children and families to be transferred to the micro-business development program.

Sec. 10a. DOWNTOWN TAX CREDIT PROGRAM

(a) The amount of \$100,000.00 shall be transferred to the general fund in fiscal year 2011 to cover the costs of allocating \$100,000.00 worth of tax credits in calendar year 2010 under the downtown and village center program pursuant to 32 V.S.A. § 5930ee, which amount is in addition to the statutory cap of \$1,700,000.00.

(b) Based on the past performance of the downtown tax credit program, the additional \$100,000.00 in tax credits authorized by this act will leverage an estimated \$1,500,000.00 in downtown rehabilitation, as well as enhance Vermont's downtowns and villages.

(c) In the Vermont Statutes Annotated, the annotations under 32 V.S.A. § 5930ee shall reflect the additional \$100,000.00 worth of tax credits authorized in calendar year 2010 pursuant to this section.

Sec. 10b. BTV; AVIATION TECHNICAL TRAINING CENTER

(a) The amount of \$150,000.00 is appropriated to the Burlington International Airport (BTV) to continue the process of planning and designing a new aviation technical training center.

(b) This appropriation supplements the \$1,000,000.00 grant in 2009 to BTV from the National Aeronautics and Space Administration (NASA) for the aviation technology training program, and a contemplated \$1,500,000.00 grant, also from NASA. NASA grants cannot be used for facility construction or

planning.

(c) Tenants of the new building will include the technical training center, the Vermont Flight Academy, and the Vermont Technical College, which will support training and education leading to FAA certificates for up to 100 students annually. The current training program can only accommodate about six graduates per year.

(d) BTV shall consult with career centers and adult education directors from all regions of Vermont to develop a plan that ensures the aviation training program is available to students from all geographic regions in Vermont.

Sec. 10c. VERMONT FILM CORPORATION

(a) The amount of \$100,000.00 is appropriated to the Vermont film corporation to continue its work of creating jobs and growing the state's new media and film economy, as described in chapter 26 of Title 10. It is anticipated that the corporation will solicit funds from private sources pursuant to its authority under 10 V.S.A. § 645(3) to cover the remaining balance of its operational and other business expenses.

(b) On or before January 15, 2011, the secretary of commerce and community development, the board of the Vermont arts council, and the board of directors of the Vermont film corporation shall submit a recommendation to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development as to

whether the work now done by the film corporation should be assumed by the department of tourism and marketing within the agency of commerce and community development or should remain with the film corporation or whether the film corporation should enter into a partnership with the Vermont arts council.

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

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

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

(f) Vermont is home to at least seven institutions of higher education that provide one or more degrees or certificate programs in media or film sectors, including Burlington College's cinema studies and film production program; Champlain College's communications and creative media division; the

University of Vermont's film and television studies program; Marlboro College's undergraduate programs in media, visual, and performing arts; the Johnson State College program which has produced five films to date exploring the history of various Vermont counties; the Lyndon State College film program; the Bennington College film program; and Castleton State College's concentrations in communication, mass media, and digital media.

(g) Considering these substantial resources, it is the goal of the general assembly to encourage and promote the development of a strong and dynamic media and film sector within Vermont's creative economy, but no longer to support with general fund dollars the operation of a stand-alone film corporation in and after fiscal year 2012.

Sec. 10d. VTC; PARAMEDIC-LEVEL TRAINING PROGRAM

(a) The amount of \$70,000.00 is appropriated to the Vermont Technical College for the purpose of contributing to the development of a stand-alone statewide paramedic-level training program.

(b) This appropriation will supplement the generous and substantial funds already committed to the program by Essex Rescue and EMS District 3, and the combined amounts will enable the grant recipients to leverage additional federal funds from the Federal Emergency Management Agency.

(c) Vermont is currently the only state without a statewide paramedic training program. The funds appropriated in this section will bring about

essential training under a regional program for 15 students and also will contribute to the development of Vermont's first statewide paramedic certification program.

Sec. 10e. 18 V.S.A. § 906 is amended to read:

§ 906. EMERGENCY MEDICAL SERVICES DIVISION;

RESPONSIBILITIES

To implement the policy of section 901, the department of health shall be responsible for:

* * *

(8) Establishing, by rule, levels of individual certification and application forms for advanced emergency medical care. The commissioner may use the guidelines established by the National Highway Transportation Safety Administration as a standard or other comparable standards, except that a felony conviction shall not necessarily disqualify an applicant. The rules shall also provide that:

(A) An individual may apply for and obtain one or more additional certifications, including certification as an advanced emergency medical technician or as a paramedic.

(B) An individual certified by the commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic shall be able to practice fully within the statewide scope of practice for such

level of certification as established by the commissioner by rule, which shall be adopted and implemented on a statewide basis no later than January 1, 2011, provided that such person is affiliated with a rescue service, fire department, or licensed ambulance service, or other state licensed medical facility.

(C) An individual seeking any level of certification shall be required to pass an examination approved by the commissioner for that level of certification.

(D) If there is a hardship imposed on any applicant for a certification under this section because of unusual circumstances, the applicant may apply to the commissioner for a temporary or permanent waiver of one or more of the certification requirements, which the commissioner may waive for good cause. An applicant who has served as an advanced emergency medical technician, such as a hospital corpsman or a medic in the United States Armed Forces, or who is licensed as a registered nurse or a physician's assistant shall be granted a permanent waiver of the training requirements to become a certified emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes the applicable examination approved by the commissioner for that level of certification.

(E) No advanced certification shall be required for a trainee in established advanced training programs leading to certification as an advanced emergency medical technician, provided that the trainee is supervised by an

individual holding a level of certification for which the trainee is training and the student is enrolled in an approved certification program.

Sec. 10f. CEDF; ARRA FUNDS; VERMONT SMALL-SCALE LOAN PROGRAM; ENTREPRENEURS' SEED CAPITAL FUND

(a) The general assembly finds that the Vermont small-scale renewable energy loan program currently administered by the clean energy development fund is expected to receive \$1,000,000.00 in funding in 2010 under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, and the clean energy development fund established under 10 V.S.A. § 6523. Notwithstanding any other provision of law, the general assembly directs that this \$1,000,000.00 in funds be reallocated to the entrepreneurs' seed capital fund created under 10 V.S.A. § 291 to conduct ARRA-eligible activities related to "clean energy resources" or "emerging energy-efficient technologies" as those terms are defined under 10 V.S.A. § 6523(b)(1) and (4), respectively.

(b) The commissioner of public service, in conjunction with the Vermont office of economic stimulus and recovery, shall seek and obtain from the United States Department of Energy express authorization for the reallocation of funds pursuant to subsection (a) of this section within four months of the effective date of this act.

(c) The funds appropriated under this section, and any return on the state's investment, shall remain in the entrepreneurs' seed capital fund and may be re-invested in Vermont firms consistent with the purposes of the fund.

* * * VTA Broadband Infrastructure * * *

Sec. 11. 30 V.S.A. § 8079 is added to read:

§ 8079. BROADBAND INFRASTRUCTURE; INVESTMENT

(a) To achieve the goals established in subsection 8060(b) of this title, the authority is authorized to invest in broadband infrastructure or contract with retail providers for the purpose of making services available to at least 10,000 households or businesses in target communities where such services are currently unavailable or to upgrade services in underserved business districts, as determined by the authority. For the purposes of this section, target communities shall not be considered unserved if a broadband provider has a legally binding commitment to provide service to those locations or a provider has received a broadband stimulus grant to provide service to those locations.

(b) To accomplish the purpose of this section, the authority shall publish a request for proposals for any or all of the following options for the purpose of providing broadband coverage to 100 percent of Vermont households and businesses within target communities: (1) the construction of physical broadband infrastructure, to be owned by the authority; (2) initiatives by public-private partnerships or retail vendors; or (3) programs that provide

financial incentives to consumers, in the form of rebates for up to 18 months, for example, to ensure that providers have a sufficient number of subscribers. Before publication, a copy of all requests for proposals shall be provided to the senate committee on finance and the house committee on commerce and economic development, and shall be approved by the joint fiscal committee.

(c) Criteria. In developing the criteria which will govern the requests for proposals regarding the expenditure of the appropriations contained in S.288 and H. 790 as enacted in the 2010 legislative session, and to the extent consistent with the objectives set forth in subsection (a) of this section, the authority shall strive to achieve the following:

(1) Require the use of current generation infrastructure, such as fiber optic cable where cable is used, or otherwise appropriate, and technology which is considered state of the art by the telecommunications industry.

(2) Require that any infrastructure owned and leased by the authority shall be available for use by as many telecommunication providers as the technology will permit to avoid the state from establishing a monopoly service territory for one provider.

(d) The authority shall review proposals and award contracts based upon the price, quality of services offered, positive experience with infrastructure maintenance, retail service delivery, and other factors determined to be in the public interest by the authority. In selecting target communities, the authority

shall consider to the extent possible:

(1) the proportion of homes and businesses in those communities without access to broadband service and without access to broadband service meeting the minimum technical service characteristic objectives established under section 8077 of this title;

(2) the level of adoption of broadband service by residential and business users within the community;

(3) opportunities to leverage or support other sources of federal, state, or local funding for the expansion or adoption of broadband service;

(4) the number of potential new subscribers in each community and the total level of funding available for the program;

(5) the geographic location of selected communities and whether new target communities would further the goal of bringing broadband service to all regions of the state; and

(6) pending grant and loan applications for the expansion of broadband service filed with the U.S. Department of Commerce and with the broadband initiatives program under the Rural Utilities Service of the U.S. Department of Agriculture, which will be awarded no later than October 1, 2010.

(e) To the extent any funds appropriated by the general assembly are rendered unnecessary for the purpose of reaching unserved Vermonters due to a successful application to the broadband initiatives program under the Rural

Utilities Service of the U.S. Department of Agriculture, such funds shall be placed in reserve by the authority to be used first to achieve 100-percent coverage pursuant to chapter 91 of Title 30 and, once that is achieved, to then deliver fiber-quality service to Vermont's public facilities, regional business hubs, and anchor businesses and institutions.

(f) Beginning July 1, 2010, the authority may invest up to \$500,000.00 for upgrades in broadband services in underserved business districts, as defined by the authority.

* * * Agreements Pertaining to Telecommunications Facilities * * *

Sec. 12. 30 V.S.A. § 8080 is added to read:

§ 8080. AGREEMENTS; TELECOMMUNICATIONS FACILITIES

In awarding loans or grants to entities as permitted under subdivision § 8062(a)(6) of this title, the authority shall develop terms and conditions applicable to agreements covering telecommunications infrastructure that ensure payments accrue in reasonable installments and at reasonable intervals, particularly with respect to the time period commencing after an agreement is entered into but before the telecommunications facility that is the subject of the agreement is ready for commercial use.

* * * Farm-to-Plate Investment Program * * *

Sec. 13. FARM-TO-PLATE INVESTMENT PROGRAM

The funds received pursuant to Sec. 7(a) of this act shall be used to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330 and support entities that will enhance the production, storage, processing, and distribution infrastructure of the Vermont food system. The funds shall be competitively awarded by the program director, in consultation with the secretary of agriculture, food and markets and the Vermont sustainable agriculture council, in the form of grants to nonprofit farmers' markets and like entities that are ready to implement their business plans or expand their existing operations to provide additional capacity and services within the food system. The funds also may be used for the coordination and implementation of the recommendations contained in the strategic plan of the farm-to-plate investment program.

Sec. 13a. 10 V.S.A. § 330(c)(4) is added to read:

(4) The farm-to-plate investment program strategic plan shall also include recommendations regarding measurable outcomes that shall be tracked over the ten-year life of the plan; methods for the ongoing collection of data necessary to track those outcomes; plans for updating the plan as needed; and appropriate methods to track the ongoing economic contribution of the farm and food sector to the Vermont economy.

* * * Audit Strategy for Job Creation * * *

Sec. 14. AUDIT STRATEGY; JOB CREATION

On or before January 1, 2011, the state auditor of accounts shall develop and recommend to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs an audit strategy designed to comprehensively validate job-creation programs in Vermont. The audit strategy shall seek to incorporate design elements that take into account possible “job inflation” caused by multiple economic development programs claiming creation of the same job.

Sec. 14a. 10 V.S.A. § 531(i) is added to read:

(i)(1) Program Outcomes. The joint fiscal office shall prepare a training program performance report based on the following information submitted to it by the Vermont training program, which is to be collected from each participating employer and then aggregated:

(A) The number of full-time employees six months prior to the training and six months after its completion.

(B) For all existing employees, the median hourly wages prior to and after the training.

(C) The number of “new hires,” “upgrades,” and “crossovers” deemed eligible for the waivers authorized by statute and the median wages paid to employees in each category upon completion.

(D) A list and description of the benefits required under subdivision (c)(3) of this section for all affected employees, including the number of employees that receive each type of benefit.

(E) The number of employers allowed to pay reduced wages in high unemployment areas of the state, along with the number of affected workers and their median wage.

(2) Upon request by the secretary of commerce and community development, participating employers shall provide the information necessary to conduct the performance report required by this subsection. The secretary, in turn, shall provide such information to the joint fiscal office in a manner agreed upon by the secretary and the joint fiscal office. The secretary and the joint fiscal office shall take measures to ensure that company-specific data and information remain confidential and are not publicly disclosed except in aggregate form. The secretary shall submit to the joint fiscal office any program outcomes, measurement standards, or other evaluative approaches in use by the training program.

(3) The joint fiscal office shall review the information collected pursuant to subdivisions (1) and (2) of this subsection and prepare a training program performance report with recommendations relative to the program. The joint fiscal office shall submit its first training program performance report on or before January 15, 2011, to the senate committee on economic

development, housing and general affairs and the house committee on commerce and economic development. A second performance report shall be submitted on or before January 15, 2016. In addition to the information evaluated pursuant to subdivision (1) of this subsection, the second report shall include recommendations as to the following:

(A) whether the outcomes achieved by the program are sufficient to warrant its continued existence.

(B) whether training program outcomes can be improved by legislative or administrative changes.

(C) whether continued program performance reports are warranted and, if so, at what frequency and at what level of review.

(4) The joint fiscal office may contract with a consultant to conduct the performance reports required by this subsection. Costs incurred in preparing each report shall be reimbursed from the training program fund up to \$15,000.00.

* * * Increased Moral Obligation for Vermont Jobs Fund * * *

Sec. 15. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the authority, there may be appropriated annually and paid to the authority for deposit in each such fund, such sum as shall be certified by the chair of the authority, to

the governor or the governor-elect, the president of the senate, and the speaker of the house, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor or the governor-elect, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the authority during the then current state fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~\$70,000,000.00~~ \$100,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the authority in contravention of the Constitution of the United States.

* * * VEDA: Increased Flexibility for Inter-Fund Lending Transfers * * *

Sec. 16. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

* * *

(c) Monies in the fund may be loaned to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the authority to

establish a line of credit in an amount not to exceed ~~\$30,000,000.00~~
\$60,000,000.00 to be advanced to the Vermont agricultural credit program to
support its lending operations as established in chapter 16A of this title.

(d) Monies in the fund may be loaned to the Vermont small business
development corporation to support its lending operations as established
pursuant to subdivision 216(14) of this title at interest rates and on terms and
conditions to be set by the authority ~~to establish a line of credit in an amount
not to exceed \$3,000,000.00 to be advanced to the Vermont small business
development corporation to support its lending operations as established
pursuant to subdivision 216(14) of this title.~~

(e) Monies in the fund may be loaned to the Vermont 504 corporation to
support its lending operations as established pursuant to subdivision 216(13) of
this title at interest rates and on terms and conditions to be set by the authority.

* * * VEDA: Extension of Time for Economic Recovery and
Opportunity Program * * *

Sec. 17. Sec. 5.507 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) shall
be amended to read:

Sec. 5.507. VEDA – ECONOMIC RECOVERY AND OPPORTUNITY
PROGRAM

(a) The state treasurer in consultation with the secretary of administration shall negotiate an agreement to advance up to \$1,250,000 to the Vermont economic development authority (“VEDA”) in fiscal year 2009.

~~(b) In fiscal 2009, a write-down of the advance in the amount of \$257,000 shall be made as an estimate of subsidy costs to be incurred by VEDA in 2009. Any difference between the actual subsidy costs incurred by VEDA in any fiscal year 2009 through 2013 shall be adjusted in the following year’s write-down amount.~~

~~(c)~~ VEDA shall submit the advance agreement to the state treasurer and secretary of administration; said agreement shall include the following:

~~(1) The agreement shall be structured to allow~~ a structure that allows VEDA flexibility to use the subsidy funds in the most effective way to generate new loan volume as quickly as possible to act as a stimulant to the Vermont economy; and

~~(2) Terms~~ terms of repayment or write-down of the advance ~~in years 2010 through 2013 shall be contingent on VEDA’s demonstrated use of the advance proceeds, and any interest earned thereon, to offset the revenue lost by VEDA over the same period as a result of subsidies made by VEDA to its~~ borrowers.

~~(3) The subsidies to VEDA borrowers will be for a maximum of three years from the date of closing of each enrolled loan.~~

~~(4) A maximum of \$18 million in VEDA loans can be made under the program over a 24 month period commencing on the effective date of the legislation.~~

~~(5) The program will terminate when all VEDA borrowers enrolled in the program have completed their respective three-year subsidy periods.~~

~~(d)(c)~~ Upon termination of the program any amount of the advance, or the interest earned thereon, not used for the subsidy program shall be repaid by VEDA to the state.

* * * Recovery Zone Facility Bond (RZFB) Program * * *

Sec. 18. RZFB PROGRAM; PUBLIC OUTREACH

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, allocates authority for the issuance of \$135,000,000.00 of recovery zone facility (private activity) bonds to Vermont, which must be issued before the end of calendar year 2010.

(b) The federal government issued the bonding authorizations to 11 of Vermont's 14 counties; however, in the opinion of the Vermont attorney general, Vermont counties do not have the necessary authority to issue or authorize others to issue facility bonds. ARRA allows the counties to waive their allocations to state government, which they did. In October 2009, the emergency board approved a plan designating the Vermont economic development authority (VEDA) as the entity responsible for issuing the bonds.

(c) The recovery zone facility bond (RZFB) program is designed to aid certain businesses through the issuance of tax-exempt bonds. Tax-exempt bonds traditionally carry lower interest rates than conventional bank loans because income earned by purchasers of these bonds is exempt from federal and, in some cases, state tax. VEDA is encouraged to take any steps necessary to increase public awareness of the RZFB program.

(d) VEDA is authorized to increase the current \$25,000,000.00 cap per project to \$50,000,000.00.

* * * Recovery Zone Economic Development Bond (RZEDB) Program * * *

Sec. 19. RZEDB; PUBLIC OUTREACH

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, allocates authority for the issuance of \$90,000,000.00 of recovery economic development bonds to Vermont. The Vermont municipal bond bank is responsible for issuing the bonds, which must be issued before the end of calendar year 2010.

(b) The recovery zone economic development bonds (RZEDBs) are a category of Build America Bonds (BABs), and sometimes referred to as “super BABs.” They reduce by 45 percent the cost of the kind of tax-exempt bonding normally done by towns, counties, school districts, and the state. They may be used to fund capital expenditures for real and personal property; public

infrastructure and facilities; and expenditures for job training and education programs.

(c) The Vermont municipal bond bank, in consultation with the Vermont League of Cities and Towns, shall make all reasonable efforts to inform public entities in Vermont about the availability, terms, and conditions of RZEDB to ensure that Vermont, as a whole, is able to maximize the use of these favorable instruments of economic development.

* * * Legislative Priorities for ARRA Funds * * *

Sec. 20. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

With respect to federal funds potentially available to the state of Vermont as competitive funds under the ARRA and in addition to any other legislatively identified priorities established with regard to ARRA funds, the general assembly establishes the following equal priorities as outlined in this section.

(1) Railroad projects determined by the Vermont office of economic stimulus and recovery as being consistent with Vermont's transportation plan.

(2) With respect to passenger rail funds requested by the state, funds for making upgrades to passenger rail service along the western corridor, such as the Ethan Allen Express improvements and extension corridor program. This corridor program consists of track and crossing improvements and a bridge project along the existing Ethan Allen Express Amtrak route as well as an extension of that service from Hoosick, NY to Bennington, from Bennington

to Rutland and from Rutland to Burlington. The program will serve to support intercity passenger rail service through the most populous area of the state and further connect vital economic regions of the state to each other and to the state of New York.

(3) Telecommunications projects determined by Vermont's chief technology officer as being consistent with the goals and policies established under chapter 91 of Title 30.

Sec. 21. REPEAL; PRIORITIES FOR MUNICIPAL
TELECOMMUNICATIONS

Sec. 17(d) of No. 54 of the Acts of 2009 (municipal priorities for municipal communications services) is repealed.

Sec. 22. COORDINATION OF FARM-TO-PLATE, FARM-TO-SCHOOL,
AND FARM-TO-INSTITUTIONS PROGRAMS

For the purposes of avoiding duplication of administration and better coordinating resources, the Vermont farm-to-plate investment program, in consultation with the secretary of agriculture, shall include in its strategic plan for agricultural economic development required by 10 V.S.A. § 330(c)(1), a recommendation for the oversight and coordination of the farm-to-plate investment program established under 10 V.S.A. § 330, the farm-to-school program established under 6 V.S.A. § 4721, and any other farm-to-institutions

partnerships designed to increase institutional purchases of fresh, locally grown food.

* * * Public Service Board: Smart Grid; Notice * * *

Sec. 23. 30 V.S.A. § 218(b)(3) is added to read:

(3) Smart Grid. Notwithstanding any provision of law to the contrary, an applicant may propose and the board may approve or require an applicant to adopt a rate design that includes dynamic pricing, such as real-time pricing rates. Under such circumstances, the board may alter or waive the notice and filing provisions that would apply otherwise under section 225 of this title, provided the applicant ensures that each customer receives sufficient advance notice of the time-of-day usage rates.

Sec. 24. STUDY ON STATE PURCHASE OF LOCAL GOODS AND SERVICES

The commissioner of buildings and general services, in consultation with interested parties including Vermont business groups, shall conduct a study to evaluate the opportunities and feasibility of increasing the volume of state purchases of both goods and services from local suppliers. The study shall include a presentation of the contracting obstacles to securing state contracts by locally owned businesses and may include recommendations for creating tools that would quantify the tangible and intangible benefits to the state for purchasing from Vermont-owned businesses. The commissioner shall report

his or her findings to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs on or before January 15, 2011.

* * * Digital Nonprofit Corporations * * *

Sec. 25. 11B V.S.A. § 1.20 is amended to read:

§ 1.20 FILING REQUIREMENTS

* * *

(c) The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form or in an electronic format prescribed by the secretary of state.

* * *

(g) If the secretary of state has prescribed a mandatory form or electronic format for a document under section 1.21 of this title, the document must be in or on the prescribed form.

* * *

Sec. 26. 11B V.S.A. § 1.21(a) is amended to read:

(a) The secretary of state may prescribe the form or electronic format of and furnish on request, forms or specifications for formats for:

- (1) an application for a certificate of existence;

(2) a foreign corporation's application for a certificate of authority to transact business in this state;

(3) a foreign corporation's application for a certificate of withdrawal; and

(4) the biennial report.

Sec. 27. 11B V.S.A. § 1.23 is amended to read:

§ 1.23. EFFECTIVE DATE OF DOCUMENT

(a) Except as provided in subsection (b) of this section, ~~section~~ subsection 1.24(c) of this title, and section 2.03 of this title, a document is effective:

(1) at the time of filing on the date it is filed, as evidenced by ~~the secretary of state's endorsement on the original document~~ any means the secretary of state may use for the purpose of recording the date and time of filing; or

(2) at the time specified in the document as its effective time on the date it is filed.

* * *

Sec. 28. 11B V.S.A. § 1.24(a) is amended to read:

(a) A domestic or foreign corporation may correct a document filed by the secretary of state if the document:

(1) contains an incorrect statement; or

(2) was defectively executed, attested, sealed, verified, or acknowledged; or

(3) was undeliverable because the electronic transmission was defective.

Sec. 29. 11B V.S.A. § 1.25(b) is amended to read:

(b) The secretary of state files a document by ~~stamping or otherwise endorsing recording it as~~ “Filed,” together with the secretary of state’s name and official title ~~and on~~ on the date and the time of receipt, on both the ~~original and copy of the~~ document and on the record of the receipt for the filing fee. After filing a document, except as provided in sections 5.03 and 15.10 of this title, the secretary of state shall deliver a copy of the document ~~copy~~ to the domestic or foreign corporation or its representative.

Sec. 30. 11B V.S.A. § 1.27 is amended to read:

§ 1.27. EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT

~~(a) A certificate attached to a copy of a document bearing the secretary of state’s signature (which may be in facsimile) and the seal of this state or a certificate as to the nonexistence of records relating to a corporation is conclusive evidence as to whether or not the original is on file with the secretary of state.~~

~~(b) A certificate by the secretary of state that a diligent search has failed to locate documents claimed to be filed with the secretary of state shall be taken and received in all courts, public offices, and official bodies as prima facie~~

~~evidence of the existence or nonexistence of the records in the custody of the secretary of state.~~

~~(c) The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.~~

A certificate from the secretary of state delivered with a copy of a document filed with the secretary of state is conclusive evidence that the document is on file with the secretary of state.

Sec. 31. 11B V.S.A. § 1.40 is amended to read:

§ 1.40. DEFINITIONS

* * *

(4) "Bylaws" means the code or codes of rules (other than the articles) adopted pursuant to this title for the regulation or management of the affairs of the corporation, stored or depicted in any tangible or electronic medium, and irrespective of the name or names by which such rules are designated.

* * *

(8) "Deliver" ~~includes mail~~ or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission.

* * *

(35) “Electronic transmission” or “electronically transmitted” means a process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(36) “Meeting” means any structured communications conducted by participants in person or through the use of an electronic or telecommunications medium permitting simultaneous or sequentially structured communications.

(37) “Sign” or “signature” includes any manual, facsimile, conformed, or electronic signature.

Sec. 32. 11B V.S.A. § 1.41(b) and (c) are amended to read:

(b) Notice may be communicated in person; by telephone, voice mail, telegraph, teletype, facsimile, or other form of wire ~~or~~, wireless, or electronic communication; or by mail or private carrier, or other method of delivery. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(c) Notice to members. Written notice by a domestic or foreign corporation to its members, if in a comprehensible form, is effective when:

(1) mailed first class postpaid and correctly addressed to the members address as shown in the corporation’s current record of members; or

(2) electronically transmitted to the member in a manner authorized by the member.

Sec. 33. 11B V.S.A. § 7.01(f) is amended to read:

(f) An annual or regular meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conferencing telecommunication.

Sec. 34. 11B V.S.A. § 7.02(f) is amended to read:

(f) A special meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conferencing telecommunication.

Sec. 35. 11B V.S.A. § 7.04(e) is added to read:

(e) For purposes of this section, written consent may be evidenced by an electronic communication or an electronic record.

Sec. 36. 11B V.S.A. § 8.20(c) is amended to read:

(c) Unless the articles of incorporation or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously ~~hear~~ communicate with each other during the

meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 37. 11B V.S.A. § 16.01(d) and (e) are amended to read:

(d) A corporation shall maintain its records in written form or in another form, including electronic form, capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office (or, if none in this state, then the registered office):

* * *

(5) all written or electronic communications to members generally within the past three years, including the financial statements furnished for the past three years under section 16.20 of this title;

* * *

Sec. 38. 11A V.S.A. § 2.06(b) is amended to read:

(b) The bylaws of a corporation may contain any provisions for managing the business and regulating the affairs of the corporation that are not inconsistent with law or the articles of incorporation, and may be stored or depicted in any tangible or electronic medium.

* * * Vermont Public Power Supply Authority * * *

Sec. 39. 30 V.S.A. § 5012 is amended to read:

§ 5012. GENERAL POWERS AND DUTIES

The authority shall have all of the powers necessary and convenient to carry out this chapter, including without limitation those general powers provided a business corporation by section 1852 of Title 11, and including, without limiting the generality of the foregoing, the power:

* * *

(12) ~~jointly or~~ jointly with utilities or on its own to plan, finance, acquire, construct, improve, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of, or otherwise participate in projects or portions of projects, the product or service from them, securities or obligations issued or incurred in connection with the financing of them, or research and development relating to them, within or outside the state. It may also enter into and perform contracts with any person with respect to the foregoing. If the authority acquires or owns an interest as a tenant in common with others in any projects within the state, the surrender or waiver by the other property owner of its right to partition the property for a period not exceeding the period for which the property is used or useful for electric utility purposes shall not be invalid and unenforceable by reason of length of the period, or as unduly restricting the alienation of such property;

* * *

(17) to make and execute all contracts and agreements and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter; ~~and~~

(18) to enter into contracts determined by the authority to be useful for the prudent management of its assets, purchases, funds, debts, or fuels, including interest rate or other swaps, option contracts, future contracts, forward purchase contracts, hedging contracts, and leases or other risk management instruments to the full extent that a business corporation is authorized to enter into such contracts;

(19) to acquire stock, shares, securities, membership units, or other equity or participation interests in entities that directly or indirectly construct, own, or operate electric generation or transmission facilities within or outside the state to the full extent that a business corporation is authorized to acquire such interests; and

~~(18)~~(20) to do all things necessary, convenient or desirable to carry out the purposes of this chapter or the powers expressly granted or necessarily implied in this chapter.

Sec. 40. 30 V.S.A. § 5013 is amended to read:

§ 5013. SPECIAL POWERS

* * *

(c) A municipality or cooperative shall be obligated to fix, revise and collect fees and charges for electric power and energy and other services, facilities and commodities furnished or supplied through its electric ~~department~~ ~~or~~ system at least sufficient to provide revenues adequate to meet its obligations under any such output and capacity contract and to pay all other amounts payable from or constituting a charge and lien upon those revenues.

* * *

(e) The authority and any member municipality or cooperative or other utility (whether or not such utility is a member of the authority) that is acting pursuant to a contract with the authority may expend its funds, including without limitation the proceeds of its notes, bonds, or other obligations, for the purposes of modifying demand for electric capacity or energy through conservation or load management by participation in such facilities, projects, and programs as the board of the authority or the legislative body or other governing body or the governing board of the member municipality or cooperative or other utility, as the case may be, determines will effectively accomplish such purposes. Such facilities, projects, and programs may include, but shall not be limited to, providing or financing facilities or projects for conservation or load management, which may be: (i) owned or operated by the authority or any member municipality or cooperative or other utility or by others; (ii) leased or licensed by the authority or any member municipality or

cooperative or other utility to others, or financed by ~~laens~~ loans by the authority or any member municipality or cooperative or other utility to others, in either case on such terms and conditions as the board of the authority or the legislative body or other governing body or the governing board of the member municipality or cooperative or other utility, as the case may be, may determine. Any member municipality or cooperative or other utility may issue its notes, bonds or other obligations pursuant to any statutory authority conferring such power for carrying out the purposes of this subsection.

Sec. 41. 30 V.S.A. § 5017 is amended to read:

§ 5017. POWERS OF MUNICIPALITIES

~~A municipality, after an affirmative vote of the qualified voters at any duly warned annual or special meeting to be held for that purpose, may by resolution of its legislative body enter into contracts with the authority for the purchase, sale, exchange, or transmission of electric energy and other services, on such terms and for such period of time as the resolution may provide. A municipality may by resolution of its legislative body enter into a contract with the authority related to the issuance of bonds and notes as authorized by section 5031 of this title only after an affirmative vote of the qualified voters at any duly warned annual or special meeting held for that purpose. The required vote may either approve a specific contract with the authority or it may approve generally the right for the municipality to enter into all such contracts~~

with the authority by resolution of its legislative body. A municipality may appropriate electricity-derived revenues received in any year to make payments due during that year under any contract made by the municipality with the authority. Nothing in this section shall be construed to repeal any charter provision or law requiring an election or other condition precedent to the establishment of a municipal electric plant.

Sec. 42. 30 V.S.A. § 5031 is amended to read:

§ 5031. BONDS AND NOTES

(a)(1) The authority may issue its negotiable notes and bonds in such principal amount as the authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the authority, establishment of reserves to secure the notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Without limiting the generality of the foregoing, such bonds and notes may be issued for project costs, or the authority's share of costs of projects which may include:

* * *

(5) The notes and bonds shall be authorized by resolution or resolutions of the authority, shall bear such date or dates and shall mature at such time or times as the resolution or resolutions may provide. The bonds may be issued

as serial bonds payable in annual installments or as term bonds or as a combination of them. The resolution or resolutions may provide that the notes and bonds bear interest at a given rate or rates, be in certain denominations, be in temporary, coupon or registered form, carry certain registration privileges, be executed in a given manner, be payable in a given medium of payment, at a place or places within or without the state, and be subject to specified terms of redemption. The authority may participate in any state or federally created or supported bond programs. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine.

* * *

* * * International Trade Agreements: Prior Approval * * *

Sec. 43. 9 V.S.A. chapter 111A is added to read:

CHAPTER 111A. APPROVAL OF INTERNATIONAL TRADE
AGREEMENTS

§ 4125. FINDINGS AND PURPOSE

The general assembly makes the following findings of fact:

(1) Today's international trade agreements have impacts which extend significantly beyond the bounds of traditional trade matters such as tariffs and quotas. Restrictive government procurement rules, for example, may undermine state purchasing laws and preferences that are designed to promote

good jobs and a healthy environment.

(2) As the subject matters contained within trade agreements expand, these agreements may impact on areas traditionally governed by the states, including economic development, financial investment, environmental policies, pharmaceutical policy, recreational services, utilities and energy distribution, and agricultural subsidies. The subject matter addressed by trade agreements is constantly evolving into new areas and becomes more likely over time to infringe on state law or policy.

(3) Specific examples in one area important to Vermont—state economic development and environmental policies—that might be constrained by government procurement provisions in international trade agreements include buy-local laws, electronic waste recycling laws, and renewable energy purchasing requirements. Measures that conflict with obligations in one or more international trade agreements could be challenged as potential barriers to trade.

(4) Input from states has been essential to the Office of the United States Trade Representative's understanding of state practices that may be impacted by policies in trade agreements. For example, after states protested that language in the Australia-United States trade agreement was ambiguous and created uncertainty as to whether it applied to Medicaid preferred drug lists, the United States specifically clarified in the Korea-United States trade

agreement that similar pharmaceutical policies did not apply to Medicaid.

(5) Currently, the Office of the United States Trade Representative asks state governors, without input from state legislatures, whether they will commit state purchasing to trade rules. States, through their governors, may opt into or out of trade rules dealing with government procurement.

(6) Historically, the general assembly and the governor have worked together to adopt and implement state procurement policies. The decision to consent to the coverage of Vermont under procurement provisions of international trade agreements should also include consultation with and agreement by the legislative branch.

(7) If future trade rules permit states to opt into or out of trade rules dealing with investment and services, in addition to procurement, then the general assembly intends for the procedures in this chapter to apply to those provisions as well.

(8) It is important for the state to provide information and recommendations to Congress and the United States trade representative about the possible impacts of proposed trade agreements on state law and policy.

§ 4126. DEFINITIONS

As used in this chapter:

(1) “Commission” means the commission on international trade and state sovereignty established in 3 V.S.A. § 23.

(2) “International trade agreement” or “trade agreement” means a trade agreement between the federal government and a foreign country. It does not include a trade agreement between the state and a foreign country to which the federal government is not a party.

§ 4127. APPROVAL OF TRADE AGREEMENTS

(a) Options for binding the state. If the United States government provides the state of Vermont with the opportunity to consent to or reject binding the state to a trade agreement or to a provision within a trade agreement, then the governor may bind the state or give consent to the United States government to bind the state only after consultation with the commission as provided for in subsection (c) of this section.

(b) Recommendations to Congress and the United States Trade Representative. In all other circumstances in which the United States government provides the state with information about a proposed trade agreement, the commission shall make a recommendation to Vermont’s delegation to Congress and to the Office of the United States Trade Representative within the time frame requested by the Office of the United States Trade Representative.

(c)(1) Consultation process. When a communication from the United States trade representative regarding a proposed trade agreement is received by the state, the person who receives the communication shall submit a copy of

the communication and any proposed trade agreement or relevant provisions of the trade agreement to the chairs of the commission. The chairs may disseminate the information to the chairs of the relevant legislative standing committees of jurisdiction.

(2) The commission shall review and analyze the trade agreement and issue a recommendation on the potential impact of the trade agreement to the appropriate party as described in subsections (a) and (b) of this section within a time frame that will afford Vermont's recommendations due consideration.

Sec. 44. 3 V.S.A. § 23 is amended to read:

§ 23. THE COMMISSION ON INTERNATIONAL TRADE

* * *

(b) Membership. There is created a commission on international trade and state sovereignty consisting of:

* * *

(7) a representative of an exporting Vermont business, appointed by the governor; ~~and~~

(8) a representative of a Vermont business actively involved in international trade, appointed by the governor;

(9) the secretary of agriculture, food and markets or his or her designee;
and

(10) a representative of a Vermont chamber of commerce, appointed by

the governor.

(c) Powers and duties.

* * *

(4) ~~In response to a request from the governor or the general assembly, or on its own initiative~~ As provided for in 9 V.S.A. chapter 111A, the ~~committee~~ commission shall consider and develop formal recommendations with respect to how the state should best respond to challenges and opportunities posed by a particular international agreement. ~~Formal recommendations on the specific international agreement shall be submitted to the governor and the house and senate committees on judiciary, on government operations, and on natural resources and energy, and to the house committee on commerce and the senate committees on finance and on economic development, housing and general affairs.~~

* * *

Sec. 44a. VERMONT REDEVELOPMENT AUTHORITY; STUDY

(a) The Brattleboro Development Credit Corporation, in consultation with the other regional development corporations in Vermont, may develop a proposal for enabling legislation that permits a municipality to form an economic development authority.

(b) The proposal, if developed, shall include recommendations regarding the following:

(1) the powers that an economic development authority may exercise with respect to: permitting; access to bonding; access to lending through state authorities such as VEDA; property acquisition; and infrastructure investment; and

(2) the goals of an economic development authority, such as increasing the grand list; increasing occupancy and rent levels; increasing employment opportunities; as well as benchmarks and indicators for measuring an authority's success with meeting those goals.

(c) The Brattleboro Development Credit Corporation is invited to submit its proposal to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs by January 15, 2011.

Sec. 44b. 11 V.S.A. § 3022(d) is added to read:

(d) The secretary of state shall maintain a separate record of the number of limited liability companies that deliver articles of organization to the secretary for filing by electronic transmission.

Sec. 44c. 11A V.S.A. § 2.03(c) is added to read:

(c) The secretary of state shall maintain a separate record of the number of corporations that deliver articles of incorporation to the secretary for filing by electronic transmission.

Sec. 44d. 11B V.S.A. § 2.03(c) is added to read:

(c) The secretary of state shall maintain a separate record of the number of corporations that deliver articles of incorporation to the secretary for filing by electronic transmission.

* * * Effective Date * * *

Sec. 45. EFFECTIVE DATE

This act shall take effect on passage.

Approved: April 15, 2010