House Calendar

Monday, April 12, 2010

98th DAY OF ADJOURNED SESSION

House Convenes at 2:00 P.M.

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H. 589

An act relating to nuclear energy generation and the institution of trusts for greenfield restoration and spent fuel management

Rep. Krawczyk of Bennington, for the Committee on **Natural Resources and Energy,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

(a) The general assembly finds that it is necessary to take action to ensure that once the state's sole nuclear generation plant ceases to produce electricity, sufficient funding exists for all postclosure activities to occur at the plant, including funding decommissioning, management of spent fuel, and restoration of the plant site to a greenfield condition.

(b) In this regard, the general assembly finds:

(1) The Vermont Yankee Nuclear Power Station and its owners.

(A) Vermont currently has one nuclear generation plant, the Vermont Yankee Nuclear Power Station (VYNPS or the station), located in the town of Vernon, Vermont.

(B) Entergy Nuclear Vermont Yankee, LLC (ENVY) is the owner of the station. ENVY is a limited liability corporation with three primary assets: the VYNPS**,** any associated power contracts, and the ability to access, for the purpose of decommissioning, a decommissioning trust fund established for the station.

(C) Entergy Nuclear Operations, Inc. (ENO) is the operator of the station. ENO operates five other nuclear plants, with one located in Massachusetts, three in New York, and one in Michigan**,** and provides operations and management services to other nuclear plants that it does not operate directly.

(D) ENVY and ENO are indirect, wholly owned subsidiaries of Entergy Corporation (Entergy Corp.), which has its principal offices in New Orleans, Louisiana. Entergy Corp., through various intermediaries and subsidiaries, owns and operates 11 nuclear plants in the United States with

10,125 MW of capacity. Entergy Corp.'s total generating capacity is approximately 27,000 MW. It is the second largest nuclear generating company in the United States. In 2009, Entergy Corp. had operating revenues of $10.7 billion and a net profit of $1.25 billion. During that year, Entergy Corp. received a net income of $631 million total from its nonutility nuclear plants, including the VYNPS.

(2) Scheduled closure of the VYNPS on March 21, 2012.

(A) In 2002, ENVY and ENO became the coholders of facility operating license DPR-28, a federal license to operate the VYNPS that expires at midnight on March 21, 2012. ENVY and ENO have applied to the Nuclear Regulatory Commission (NRC) for renewal of that license for a period of 20 years, extending the expiration date to midnight on March 21, 2032.

(B) The NRC recognizes that the decision on whether a nuclear generation plant should continue in operation past its initial license expiration ultimately is up to non-NRC decision-makers, including the state in which the plant is located. In its 2007 supplemental environmental impact statement (EIS) on relicensing the VYNPS, the NRC stated:

> Once an [NRC operating license] is renewed, State regulatory agencies and the owners of the plant will ultimately decide whether the plant will continue to operate based on factors such as the need for power or other matters within the State's jurisdiction or the purview of the owners. . . .
>
> NRC does not have a role in the energy-planning decisions of State regulators and utility officials as to whether a particular nuclear power plant should continue to operate.

NRC, Generic EIS for License Renewal of Nuclear Plant: Supplement 30, Vermont Yankee Nuclear Power Station at 1-8, 1-9 (Aug. 2007).

(C) These statements are based on the NRC's prior recognition of the decision-making role of other entities, including the states, in whether a nuclear plant will continue to operate. In adopting its environmental impact statement process and decision standard in 1996 regarding reactor license renewal, the NRC stated:

> After the NRC makes its decision based on the safety and environmental considerations, the final decision on whether or not to continue operating the nuclear plant will be made by the utility, State, and Federal (non-NRC) decisionmakers. This final decision will be based on economics, energy reliability goals, and other objectives over which the other entities may have jurisdiction. The

> NRC has no authority or regulatory control over the ultimate selection of future energy alternatives . . .
>
> Because the objectives of the utility and State decisionmakers will ultimately be the determining factors in whether a nuclear power plant will continue to operate, NRC's proposed decision standard is appropriate.

NRC, Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 61 Fed. Reg. 28467, 28473 (June 5, 1996).

(D) In 2002, in docket number 6545, the Vermont public service board (PSB or the board) issued a certificate of public good (CPG) (the PSB Order) to ENVY and ENO, allowing them under state law to operate the station through March 21, 2012. In issuing the CPG, the PSB relied on an agreement by ENVY and ENO that the board has jurisdiction over whether the station can continue to operate beyond that date.

(E) Pursuant to 30 V.S.A. § 248(e)(2), in order to continue operation beyond March 21, 2012, the VYNPS must obtain the general assembly's approval and determination that continued operation of the station will promote the general welfare and subsequently must obtain a certificate of public good from the board. Pursuant to Sec. 1(a) of No. 160 of the Acts of the 2005 Adj. Sess. (2006), the general assembly's approval and determination must be "expressed in law." ENVY and ENO have filed a petition stating that they seek "such approvals from [the] Board and the Vermont General Assembly as may be required to operate the Vermont Yankee Nuclear Power Station ('VY Station') after March 21, 2012."

(F) Pursuant to Sec. 1(f) of No. 160 of the Acts of the 2005 Adj. Sess. (2006) and chapter 157 of Title 10, the general assembly is to consider, concurrently with the question of continued operation, whether to approve the storage of spent nuclear fuel derived from the operation of the VYNPS after March 21, 2012.

(G) On February 24, 2010, the Vermont senate voted on S.289, a bill that proposed to approve until March 21, 2032, the continued operation of the VYNPS and associated storage of spent fuel derived from that operation. The bill did not pass. Four senators voted yea and 26 voted nay.

(H) Therefore, under existing law, the VYNPS shall close on or before March 21, 2012. Yet there remain significant unresolved issues relating to funding postclosure activities at the station.

(3) Postclosure funding.

(A) Postclosure activities at the VYNPS will include decommissioning (radiological decontamination) in accordance with NRC requirements, management of spent fuel that has not been delivered to the U.S. Department of Energy (DOE), and restoration of the plant site to a greenfield condition.

(B) In a February 3, 2009, evaluation regarding the VYNPS, the NRC stated that ENVY and ENO had provided the following cost estimates for postclosure activities:

(i) $656.1 million for decommissioning (radiological decontamination), in 2007 dollars, assuming decommissioning commences in 2067 and is completed by 2072.

(ii) $219 million for spent fuel management, in 2007 dollars, assuming that the federal government begins picking up spent fuel in 2042.

(iii) $40 million for site restoration to a greenfield condition, in 2006 dollars.

(4) Funding decommissioning.

(A) The $656.1 million estimate of decommissioning costs by ENVY and ENO is not based on a detailed site characterization. Actual costs of decommissioning can vary significantly once site-specific conditions are included. Discovery of tritium and other radioactive material in the soil and groundwater at the Connecticut Yankee nuclear plant resulted in substantial increases in decommissioning costs at that facility, with estimates of that increase ranging from the tens of millions of dollars to $481 million.

(B) In January 2010, ENVY disclosed that underground pipes at the VYNPS were leaking tritium, despite its officials having testified previously, under oath, that no such pipes existed.

(C) In 2009, in response to NRC concerns about a potential shortfall between funding and decommissioning costs, Entergy agreed to establish a parent company guarantee of $40 million.

(D) As of February 28, 2010, the market value of the decommissioning trust fund accounts for the VYNPS was approximately $435 million.

(5) Funding spent fuel management.

(A) Currently there are no funds specifically set aside for long-term management of spent fuel at the VYNPS. Operating revenue will be unavailable for such funding once the plant closes. The decommissioning trust

is an irrevocable trust that states it is to be used for the purpose of decommissioning.

(B) The $219 million estimate of spent fuel management costs by ENVY and ENO may understate the costs. ENVY and ENO have produced other estimates for such costs as high as $384 million in 2006 dollars, assuming that the federal government begins removing spent fuel in 2057 and completes removal in 2082.

(C) ENVY and ENO's spent fuel management plan relies on receiving money from the federal government for that portion of the spent fuel management costs related to storage of spent fuels since 1998, the year in which the DOE was contractually obligated to begin removing spent fuel from the VYNPS to a permanent storage facility. Although a federal court has held DOE liable, DOE has still not removed any spent fuel from the site, does not plan to remove any spent fuel in the foreseeable future, and will not pay any money to ENVY or ENO until after ENVY or ENO makes expenditures for managing spent fuel.

(D) ENVY and ENO also have proposed to fund spent fuel management from the decommissioning trust fund. The NRC has stated that ENVY must file for an exemption to use money from the decommissioning trust fund to pay for spent fuel management.

(E) The use of decommissioning trust fund moneys to manage spent fuel would mean that fewer funds are available to cover the costs of decommissioning, thus threatening to delay the time at which decommissioning will occur.

(6) Funding greenfield restoration.

(A) ENVY and ENO have committed and are required by the PSB order to decommission the plant to a "greenfield" condition once the VYNPS site is no longer used for nuclear purposes or nonnuclear commercial, industrial, or similar uses. In issuing a CPG to ENVY and ENO, the PSB stated that restoration to a greenfield condition means that once radioactive decontamination is completed, "the site will be restored by removal of all structures and, if appropriate, regrading and reseeding the land."

(B) Currently there are no funds specifically set aside to restore the site of the station to a greenfield condition.

(C) ENVY and ENO's $40 million (2006 dollars) estimate for restoration of the site to greenfield status was not based on a detailed site characterization. Therefore, such costs could vary significantly from the estimate.

(7) Responsibility to fund decommissioning.

(A) Under the PSB order, ENVY is responsible for the cost of decommissioning and other postclosure activities and bears the risk of any shortfall in the funds available for those activities.

(B) ENO has stated in a filing to the PSB that, as a colicensee with ENVY, it likely would be jointly and severally liable should the resources of ENVY be inadequate to fulfill its financial responsibilities.

(C) Entergy Corp. has acknowledged in its SEC filings that "the liability to decommission the plant, as well as related decommissioning trust funds" was "transferred" to Entergy Corp. when the station was purchased in 2002.

(8) Entergy Corp., ENVY, and ENO have proposed a corporate restructuring under which ENVY would no longer be a subsidiary of Entergy Corp. and instead would be owned by ENEXUS Energy Corp., a highly debt-leveraged company. Other restructuring scenarios are possible and may be proposed, especially since the New York public service commission recently ruled against the proposed corporate restructuring. A corporate restructuring in which the chain of plant ownership relies heavily on debt increases the risk of insufficient funds for postclosure activities.

(9) The VYNPS is located near the Connecticut River, with ready access to high voltage transmission lines, a railroad, and highways. Its location is well suited for an energy generation plant or other commercial or industrial use. A lack of funding for postclosure activities at the station raises economic, energy planning, and land use issues for the state, including:

(A) Delay in the return of the plant site to productive use, including particularly use for electric generation.

(B) Lost opportunities for economic benefits from such productive use, including jobs, taxes, and economic multiplier effects.

(C) A risk of adverse claims against taxpayers, ratepayers, or retail electric utilities for costs associated with postclosure activities.

Sec. 2. 30 V.S.A. chapter 5, subchapter 2 is added to read:

Subchapter 2. Postclosure Funding; Nuclear Generation Plants

§ 270. PURPOSE

The purposes of this subchapter include each of the following:

(1) To encourage the productive use of a site once a nuclear plant on the site ceases to generate electricity.

(2) To diminish any negative impacts to the economy of the state, to government revenues, and to electric consumers from having unavailable for long periods a site that is well-suited and -situated for electric generation and transmission.

(3) To reduce the risk that taxpayers, ratepayers, or retail electric utilities will experience adverse claims or costs resulting from a shortage of available funds for postclosure activities at a nuclear generation plant.

§ 271. DEFINITIONS

When used in this subchapter:

(1)(A) "Affiliated entity" means any person or business organization that, on or after January 1, 2010:

(i) owned or controlled or owns or controls an interest, directly or indirectly, in the owner or operator of a nuclear generation plant; or

(ii) was or is a corporation that, directly or indirectly, was or is a parent of the owner or operator of a nuclear generation plant.

(B) For the purpose of this subdivision (1):

(i) "Business organization" includes a parent or subsidiary corporation, a jointly owned or jointly controlled corporation, a limited liability corporation, a joint venture, a partnership, or any other legal or commercial entity.

(ii) "Interest" excludes a right or obligation of a Vermont company, utility, or electric department that arises because the company, utility, or electric department is only a purchaser, user, transmitter, distributor, or reseller of power produced by the nuclear generation plant.

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

(3) "Decommission" or "decommissioning" means removal of a nuclear generation plant safely from service and radiological decontamination in accordance with the regulations of the Nuclear Regulatory Commission (NRC). The term includes reduction of residual radioactivity to a level that permits release of the property for unrestricted use.

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

(5) "Existing nuclear generation plant" means a nuclear generation plant in existence as of January 1, 2010.

(6) "Greenfield condition" means removal of all above- and below-ground structures, equipment, and foundations from a site and, if

appropriate, regrading and reseeding the land. The term excludes radiological decontamination and refers instead to activities that occur following permanent cessation of a site's use for generating electricity from nuclear energy and decommissioning of the site's nuclear generation plant. The board may authorize that some or all of the activities needed to achieve a greenfield condition may occur once a site is no longer utilized for nonnuclear commercial, industrial, or other uses consistent with the orderly development of a property.

(7) "Managing spent fuel," "management of spent fuel," or "spent fuel management" means the control and supervision of uranium fuel that has been used in and removed from the reactor of a nuclear generation plant until such time as the fuel is removed from Vermont and placed in a federally certified long-term storage facility. The term includes the storage of such fuel at the site of a nuclear energy generation plant and all associated operations, security, and maintenance. The term excludes decommissioning of a nuclear generation plant and restoration of the site of such a plant to a greenfield condition.

(8) "Nuclear generation plant" means a facility located in Vermont that produces or has produced electricity using an atomic reaction as an energy source for heat to provide steam to a turbine generator. The term includes a nuclear generation plant that has ceased producing electricity.

(9) "Operator" means a person or entity that, on or after January 1, 2010, operated or operates a nuclear generation plant or held or holds a certificate under this title allowing the person or entity to operate a nuclear generation plant.

(10) "Owner" means a person or entity that, on or after January 1, 2010, owned or owns a nuclear generation plant or held or holds a certificate under this title consenting to the purchase of such a plant by the person or entity.

(11) "Postclosure activities" means all activities and monitoring that occur or are required to occur once a nuclear generation plant permanently ceases generating electricity, including decommissioning, spent fuel management, and restoration to greenfield condition.

§ 272. OBLIGATION; POLICY; DEPARTMENT OF PUBLIC SERVICE TO ENFORCE

(a) Each owner and operator of a nuclear generation plant is and shall be independently liable for the full cost of postclosure activities at the plant.

(b) It is the law and policy of the state that, in the event that the combined assets of an owner and operator of a nuclear generation plant are insufficient to fund the full cost of all postclosure activities at the plant, the assets of an

affiliated entity that benefited from the generation of electricity at the plant shall be available to fund such full cost.

(c) The department of public service shall enforce this subchapter, including subsections (a) and (b) of this section, through all available legal means.

§ 273. DECOMMISSIONING; WHEN IT OCCURS

(a) To achieve the purposes stated in section 270 of this title, it is the law and policy of this state that, to the extent consistent with federal law, the owner and operator of a nuclear generation plant shall complete decommissioning as soon as technically possible after either of the following, whichever is earlier: permanent cessation of the plant's use for generating electricity or a date set by the board in a certificate under this title applicable to the owner or operator for cessation of authority to operate the plant.

(b) In the event that the combined assets of the owner and operator are insufficient to fund the full cost of decommissioning a nuclear generation plant in accordance with subsection (a) of this section, decommissioning of the plant may be delayed provided that decommissioning commences as soon as possible following the availability of sufficient funds, including funds made available by or obtained from an affiliated entity pursuant to subsection 272(b) or (c) of this title.

§ 274. EXISTING NUCLEAR GENERATION PLANT; ACQUISITION; DECOMMISSIONING TRUST

To achieve the purposes stated in section 270 of this title, it is the law and policy of this state that a person or entity that, on or after April 1, 2010, acquires an existing nuclear generation plant or a controlling interest as defined in section 107 of this title in the owner or operator of such a plant shall have in place, upon acquisition of such plant or interest, a trust for the purpose of decommissioning the plant that is adequate at the time of acquisition to fund the full projected cost of decommissioning without reliance on long-term storage of the plant for later decommissioning and shall be obligated to ensure at least on an annual basis that this trust is adequate for such purpose at all times during the future operation of the plant. For the purpose of this section, the full projected cost of decommissioning shall, at a minimum, be the amount determined in accordance with the regulations of the NRC at 10 C.F.R. § 50.75(c) (table of minimum amounts), as amended.

§ 275. SPENT FUEL MANAGEMENT FUNDING TRUST

(a) To achieve the purposes set out in section 270 of this title, it is the law and policy of this state that, on and after March 22, 2012, the owner and

operator of a nuclear generation plant shall have in place a trust for the purpose of funding the management of spent fuel associated with the plant that the board has determined to be adequate to fund the full projected cost of such spent fuel management.

(b) In determining whether a trust is adequate under this section, the board:

(1) May allow periodic additions of funds to the trust rather than requiring that the full projected amount be in place on March 22, 2012, provided that the trust is fully funded by March 22, 2032.

(2) Shall not:

(A) Assume or account for any payment by the federal government for managing spent fuel associated with the plant unless and until such payment is made and placed into the trust.

(B) Assume that moneys from a decommissioning trust fund required by the NRC for the plant are available for managing spent fuel unless and until the NRC has affirmatively approved a request by the plant owner for such use.

(c) The owner and operator of an existing nuclear generation plant shall petition the board no later than January 31, 2011, for a determination that its proposed trust under this section meets the requirements of this subchapter, and the board shall render its decision on such petition on or before December 31, 2011.

§ 276. GREENFIELD RESTORATION TRUST

(a) On and after March 22, 2011, the owner and operator of a nuclear generation plant shall have in place a trust in accordance with this section for the purpose of restoring the site of the plant to a greenfield condition.

(1) If the trust pertains to a nuclear generation plant that is not an existing nuclear generation plant, the trust shall be one that the board has determined to be adequate to fund the full projected cost of restoring the site of the plant to a greenfield condition.

(2) If the trust pertains to an existing nuclear generation plant:

(A) No later than March 22, 2011, the owner and operator of the plant shall place into the trust at least $10 million.

(B) No later than March 22, 2017, the owner and operator of the plant shall place into the trust at least $10 million. This amount shall be in addition to the amount required under subdivision (A) of this subdivision (2).

(C) No later than March 22, 2032, the owner and operator shall place into the trust the additional amount, if any, that is necessary to fund the full

projected cost of restoring the site of the plant to a greenfield condition. For the purpose of this subdivision (C), "additional amount" means an amount of funding that is in addition to the amounts required under subdivisions (A) and (B) of this subdivision (2).

(b) The owner and operator of an existing nuclear generation plant shall petition the board no later than March 22, 2031, for a determination that its proposed additional amount meets the requirements of subdivision (a)(2)(C) of this section. The board shall render its decision on such petition on or before December 31, 2031.

§ 277. TRUSTS; COMMON PROVISIONS

(a) In determining that a trust is adequate under this subchapter, the board shall find that the trust conforms to the requirements of this subchapter and may include such conditions and requirements as it deems necessary to protect the public good.

(b) Section 275 (spent fuel management funding trust) or 276 (greenfield restoration trust) of this title does not require the inclusion in a trust of funds necessary for decommissioning. A trust under section 275 or 276 of this title shall be separate from any decommissioning trust required for a plant.

(c) A trust under this subchapter and any included funds and financial instruments shall be subject to the laws of Vermont, shall be usable by the beneficiary only for the purpose of the trust, and shall include a spendthrift provision sufficient under Vermont law to restrain both voluntary and involuntary transfers of the beneficiary's interest.

(d) A trust under this subchapter shall be funded by cash, letter of credit held by and payable to the trustee, or surety bond held by and payable to the trustee that is executed by a surety company authorized to do business in this state. Any such letter of credit or surety bond shall be subject to the board's approval.

(e) The trustee of a trust under this subchapter shall be independent of the owner, operator, and any affiliated entity.

(f) With respect to a trust established under this subchapter, the board shall provide for periodic monitoring of the trust, the timely addition to the trust of additional funds if needed to achieve the purpose of the trust, and the return of any excess funds once the purpose of the trust is achieved.

Sec. 3. 30 V.S.A. § 109 is amended to read:

§ 109. SALES AND LEASES; HEARINGS

* * *

(b) ~~No company owning or operating~~ With respect to an electric generating plant in this state with a capacity of 80 megawatts, or greater~~,~~:

(1) No company owning or operating such a plant in this state may sell or lease any real property or transmission facilities located at that plant that are required or may be required to generate electricity, interconnect generation facilities with electric transmission facilities, or transmit electricity from the plant, without first obtaining a certificate of consent from the public service board.

(2) Any company owning or operating such a plant that has, in the course of obtaining a certificate from the board under this title, provided evidence that the assets, cash flow, financial resources, skill, experience, or other resources of an affiliated entity may be available or called or relied upon, in any circumstance, to satisfy, support, or mitigate its liabilities or responsibilities, shall provide no less than 180 days' prior notice to the board of any sale or lease within any 12-month period of 25 percent or more of the assets of such affiliated entity and shall provide all further information concerning such sale or lease as the board may require, within the period specified by the board. The board shall have authority to open an investigation into any such sale or lease and issue any order that it finds necessary or appropriate to promote or protect the general good of the state. For the purpose of this subsection, "affiliated entity" means any person or business organization that, on or after January 1, 2010:

(A) owned or controlled or owns or controls an interest, directly or indirectly, in a company that owns or operates a plant that is subject to this subsection; or

(B) was or is a corporation that, directly or indirectly, was or is a parent of the owner or operator of a plant subject to this subsection.

(3) For the purpose of subdivision (2) of this subsection:

(A) "Business organization" includes a parent or subsidiary corporation, a jointly owned or jointly controlled corporation, a limited liability corporation, a joint venture, a partnership, or any other legal or commercial entity.

(B) "Interest" excludes a right or obligation of a Vermont company, utility, or electric department that arises because the company, utility, or electric department is only a purchaser, user, transmitter, distributor, or reseller of power produced by a plant subject to this subsection.

* * *

Sec. 4. SEVERABILITY

The provisions of this act are severable. If any provision of this act is invalid or if any application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Third Reading

H. 532

An act relating to the domestic violence fatality review commission

H. 788

An act relating to approval of amendments to the charter of the town of Berlin

S. 264

An act relating to stop and hauling charges

S. 282

An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles

Favorable with amendment

S. 239

An act relating to retiring outdoor wood-fired boilers that do not meet the 2008 emission standard for particulate matter

Rep. Weston of Burlington, for the Committee on **Natural Resources and Energy,** recommends the bill be amended as follows:

First: In Sec. 2, 10 V.S.A. § 584, in subdivision (e)(1), after "another" by striking "type of"

Second: In Sec. 2, 10 V.S.A. § 584, in subsection (g), after "health" by adding "care" and in the phrase "and has resulted or results" by striking "and" and inserting in lieu thereof "or"

Third: In Sec. 2, 10 V.S.A. § 584, in subsection (i), in the first sentence, in the phrase "closer than 100 feet" by striking "100 feet" and inserting in lieu thereof "the setback distance"

(Committee Vote: 11-0-0)

Favorable

S. 293

An act relating to state standards for boilers and pressure vessels

Rep. Mitchell of Barnard, for the Committee on **Natural Resources and Energy,** recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Action Under Rule 52

J.R.S. 60

Joint resolution honoring women veterans and requesting that state and federal officials work cooperatively to assure that women veterans receive the recognition, the health care services, and other support services they need and deserve

(For text see House Journal 4/9/10)

Action Postponed Until May 28, 2010

Governors Veto

H. 436

An act relating to decommissioning funds of nuclear energy generation plants.

Pending Question: Shall the House sustain the Governor's veto?

NOTICE CALENDAR

Senate Proposal of Amendment

S. 288

An act relating to the Vermont recovery and reinvestment act of 2010

The Senate has concurred in the House proposal of amendment with the following proposal of amendments thereto:

First: In Sec. 1, by striking out subsection (c) (relating to Challenges for Change steps and outcomes) in its entirety.

Second: In Sec. 2, by striking out subsection (a) in its entirety and by inserting in lieu thereof the following:

(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.

Third: In Sec. 2, by striking out subsection (b) (permitting the secretary of administration to swap general fund funds with SFSF funds) in its entirety and by relettering the remaining subsections accordingly.

Fourth: By striking out Sec. 3 in its entirety and by inserting in lieu thereof the following:

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.

Fifth: By striking out Sec. 4 (relating to the broadband adoption program) in its entirety and by inserting in lieu thereof the following:

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.

Sixth: By striking out Sec. 5 (relating to the employment training program) in its entirety and by inserting in lieu thereof the following:

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.

Seventh: By striking out Sec. 6 in its entirety and by inserting in lieu thereof the following:

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.

Eighth: By adding Sec. 6a to read as follows:

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.

Ninth: By adding a Sec. 6b to read as follows:

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.

Tenth: By adding a Sec. 6c to read as follows:

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.

Eleventh: By adding a Sec. 6d to read as follows:

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.

Twelfth: By adding a Sec. 6e to read as follows:

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.

Thirteenth: In Sec. 7, by striking out subsection (a) (relating to the Vermont agricultural credit corporation) in its entirety and, in subsection (b) (relating to the farm-to-plate investment program), by adding a second sentence to read as follows: "This appropriation supplements the $100,000.00 appropriation made to the program pursuant to No. 54 of the Acts of 2009."

and by relettering the remaining subsections accordingly

Fourteenth: By adding Sec. 7a to read as follows:

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.

Fifteenth: By striking out Sec. 8 in its entirety and by inserting in lieu thereof the following:

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 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.

Sixteenth: By striking out Sec. 9 (relating to the Vermont jobs fund) in its entirety and by inserting in lieu thereof the following:

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.

Seventeenth: By striking out Sec. 10 (relating to microbusiness programs) in its entirety and by inserting in lieu thereof the following:

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.

Eighteenth: By adding Sec. 10a to read as follows:

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.

Nineteenth: By adding Sec. 10b to read as follows:

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.

Twentieth: By adding Sec. 10c to read as follows:

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 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.

Twenty-one: By adding Sec. 10d to read as follows:

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.

Twenty-two: By adding Sec. 10e to read as follows:

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.

Twenty-three: By adding Sec. 10f to read as follows:

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.

Twenty-fourth: By striking out Sec. 11 (relating to the broadband adoption program) in its entirety and by inserting in lieu thereof the following:

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; and

(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.

(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.

Twenty-fifth: In Sec. 13 (relating to the farm-to-plate investment program), in the first sentence, by striking out the reference to "Sec. 7(b)" and by inserting in lieu thereof "Sec. 7(a)"

Twenty-sixth: By adding Sec. 14a to read as follows:

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.

Twenty-seventh: In Sec. 16 (relating to VEDA's inter-funding lending), by striking out subsection (c) in its entirety and by inserting in lieu thereof the following:

(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.

Twenthy-eighth: By striking out Sec. 23 in its entirety and by inserting in lieu thereof the following:

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.

Thirty-ninth: By striking out Sec. 24 in its entirety and by inserting in lieu thereof the following:

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.

Thirtieth: By striking out Sec. 43 (relating to the process for international trade agreement recommendations) in its entirety and by inserting in lieu thereof the following:

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 with 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.

Thirty-first: By striking out Sec. 44 (relating to membership on the international trade commission) in its entirety and by inserting in lieu thereof the following:

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 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.~~

* * *

Thirty-two: By adding Sec. 44a to read as follows:

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.

Thirty-three: By adding Sec. 44b to read as follows:

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.

Thirty-fourth: By adding Sec. 44c to read as follows:

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.

Thirty-fifth: By adding Sec. 44d to read as follows:

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.

(For text see House Journal 3/18/10, 2010)

Ordered to Lie
H.R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

Pending Question: Shall the House adopt the resolution?

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 307

House concurrent resolution recognizing the role of registered nurses in the delivery of health care in Vermont

H.C.R. 308

House concurrent resolution designating April as Fair Housing Month in Vermont

H.C.R. 309

House concurrent resolution congratulating the Woodford SnoBusters snowmobile club on its silver anniversary

H.C.R. 310

House concurrent resolution in memory of Jane Rinck of Pawlet

H.C.R. 311

House concurrent resolution congratulating the 2010 Stafford Technical Center "Act Out Loud" contest team as one of the 20 national competition finalists

H.C.R. 312

House concurrent resolution congratulating the 2010 Woodstock Union High School Wasps Division II championship boys' Nordic ski team

H.C.R. 313

House concurrent resolution welcoming the 2010 National Tree Farmer Convention to Vermont

H.C.R. 314

House concurrent resolution congratulating the 2010 University of Vermont

Catamounts America East Conference championship men's basketball team

H.C.R. 315

House concurrent resolution congratulating the 2010 University of Vermont Catamounts on their second consecutive America East Conference women's basketball championship and historic first NCAA tournament win

H.C.R. 316

House concurrent resolution congratulating the 2010 University of Vermont Catamounts men's ice hockey team on its performances in the Hockey East and NCAA tournaments

S.C.R. 48

Senate concurrent resolution honoring Patricia Kenworthy Nuckol of Manchester on being presented a Congressional Gold Medal for her extraordinary military service as a member of the World War II Women Airforce Service Pilots (WASP)