

1 S.174

2 Introduced by Senators Miller and Illuzzi

3 Referred to Committee on

4 Date:

5 Subject: Economic development; renewable energy; agriculture

6 Statement of purpose: This bill proposes to authorize the issuance of bonds to
7 create a capital source for renewable energy plants on farms and brownfields.

8 An act relating to establishing the better tomorrow bond program

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

10 Sec. 1. 6 V.S.A. chapter 213 is added to read:

11 CHAPTER 213. BETTER TOMORROW BOND PROGRAM

12 § 4771. DEFINITIONS

13 As used in this section:

14 (1) "Agricultural land" means any land, including any housesite located
15 on the land, in active use to grow hay or cultivated crops, pasture livestock, or
16 cultivate trees bearing edible fruit or produce an annual maple product, and
17 which is 25 acres or more in size except as provided in this section. There
18 shall be a presumption that the land is used for agricultural purposes if:

19 (A) it is owned by a farmer and is part of the overall farm unit; or

1 (B) it is used by a farmer as part of his or her farming operation
2 under written lease for at least three years; or

3 (C)(i) it has produced an annual gross income from the sale of farm
4 crops in one of two, or three of the five, calendar years preceding of at least:

5 (I) \$2,000.00 for parcels of up to 25 acres; and

6 (II) \$75.00 per acre for each acre over 25, with the total income
7 required not to exceed \$5,000.00;

8 (ii) exceptions to these income requirements may be made in cases
9 of orchard lands planted to fruit-producing trees, bushes, or vines that are not
10 yet of bearing age. For the purposes of this section, the term “farm crops” also
11 includes animal fiber, cider, wine, and cheese produced on the enrolled land or
12 on a housesite adjoining the enrolled land from agricultural products grown on
13 the enrolled land.

14 (2) “Authority” means the better bond authority created in section 4772
15 of this title.

16 (3) “Brownfield site” means real property, the expansion,
17 redevelopment, or reuse of which may be complicated by the release or
18 threatened release of a hazardous material. “Brownfield site” does not include
19 any of the following:

20 (A) A facility that is the subject of a planned or ongoing removal
21 action under CERCLA.

1 (B) A facility that is listed as a CERCLA site or is proposed for
2 listing.

3 (C) A facility that is the subject of any state or federal administrative
4 or court order under any of the following authorities:

5 (i) 42 U.S.C. § 9601 et seq. (CERCLA) or 10 V.S.A. § 6615 (state
6 hazardous materials remediation).

7 (ii) 42 U.S.C. § 6901 et seq. (Solid Waste Disposal Act) or
8 10 V.S.A chapter 159 (solid waste or hazardous waste).

9 (iii) 33 U.S.C. § 1251 et seq. (federal Water Pollution Control
10 Act) or 10 V.S.A. chapter 47 (water pollution control).

11 (iv) 15 U.S.C. § 2601 et seq. (Toxic Substances Control Act).

12 (v) 42 U.S.C. § 300f et seq. (Safe Drinking Water Act) or
13 10 V.S.A. chapter 56 (public water supply).

14 (D) A facility that is subject to either of the following:

15 (i) Corrective action under 42 U.S.C. § 6924(u) or 6928(h).

16 (ii) A corrective action permit or order issued or modified to
17 require the implementation of corrective measures.

18 (E) A land disposal unit in regard to which both of the following
19 apply:

20 (i) A closure notification under subtitle C of 42 U.S.C. § 6921 et
21 seq. has been submitted.

1 (ii) Closure requirements have been specified in a closure plan or
2 permit.

3 (F) A facility that is subject to the jurisdiction, custody, or control of
4 any instrumentality of the United States, except for land held in trust by the
5 United States for an Indian tribe.

6 (G) A portion of a facility to which both the following apply:

7 (i) A release of polychlorinated biphenyls has occurred.

8 (ii) Is subject to remediation under 15 U.S.C. § 2601 et seq.
9 (Toxic Substances Control Act).

10 (H) A portion of a facility for which assistance for response activity
11 has been obtained under subtitle I of 42 U.S.C. § 6991 et seq. (Solid Waste
12 Disposal Act) from the leaking underground storage tank trust fund established
13 under 26 V.S.A. § 9508.

14 (4) “Farm buildings” means all farm buildings and other farm
15 improvements which are actively used by a farmer as part of a farming
16 operation, are owned by a farmer or leased to a farmer under a written lease for
17 a term of three years or more, and are situated on land that is enrolled in a use
18 value appraisal program or on a housesite adjoining enrolled land. “Farm
19 buildings” shall include up to \$100,000.00 of the value of a farm facility
20 processing farm crops, a minimum of 75 percent of which are produced on the
21 farm and shall not include any dwelling other than a dwelling in use during the

1 preceding tax year exclusively to house one or more farm employees, as
2 defined in 9 V.S.A. § 4469, and their families, as a nonmonetary benefit of the
3 farm employment. This subdivision shall not affect the application of the
4 definition of “farming” in 10 V.S.A. § 6001(22) or the definition of “farm
5 structure” in 24 V.S.A. § 4413(d)(1).

6 (5) “Farmer” means a person:

7 (A) who earns at least one-half of the farmer’s annual gross income
8 from the business of farming as that term is defined in Regulation 1.175-3
9 issued under the Internal Revenue Code of 1986; or

10 (B)(i) who produces farm crops that are processed in a farm facility
11 situated on land enrolled by the farmer in a use value appraisal program or on a
12 housesite adjoining the enrolled land;

13 (ii) whose gross income from the sale of the processed farm
14 products pursuant to subdivision (i) of this subdivision (B), when added to
15 other gross income from the business of farming as used in subdivision (A) of
16 this subdivision (5), equals at least one-half of the farmer’s annual gross
17 income; and

18 (iii) who produces on the farm a minimum of 75 percent of the
19 farm crops processed in the farm facility;

20 (6) “Housesite” means the two acres of land surrounding any house,
21 mobile home, or dwelling.

1 (7) “Managed forestland” means:

2 (A) any land, including any house site located on the land, which is at
3 least 25 acres in size and which is under active long-term forest management
4 for the purpose of growing and harvesting repeated forest crops in accordance
5 with minimum acceptable standards for forest management; or

6 (B) any land, including any house site located on the land, which is:

7 (i) certified under 10 V.S.A. § 6306(b);

8 (ii) owned by an organization that was certified by the
9 commissioner of taxes as a qualified organization as defined in 10 V.S.A.
10 § 6301a and for at least five years preceding its certification was determined by
11 the Internal Revenue Service to qualify as a Section 501(c)(3) organization that
12 is not a private foundation as defined in Section 509(a) of the Internal Revenue
13 Code; and

14 (iii) under active conservation management in accord with
15 standards established by the commissioner of forests, parks and recreation.

16 (8) “Minimum acceptable standards for forest management” refer to
17 certain standards established by the commissioner of the department of forests,
18 parks and recreation.

19 (9) “Owner” means the person who is the owner of record of any land.
20 When enrolled land is mortgaged, the mortgagor shall be deemed the owner of
21 the land for the purposes of this subchapter, until the mortgagee takes

1 possession, either by voluntary act of the mortgagor or foreclosure, after which
2 the mortgagee shall be deemed the owner.

3 (10) "Plant" means any independent technical facility that generates
4 electricity from renewable energy. A group of newly constructed facilities,
5 such as wind turbines, shall be considered one plant if the group is part of the
6 same plant and uses common equipment and infrastructure such as roads,
7 control facilities, and connections to the electric grid.

8 (11) "Renewable energy" means energy produced using a technology
9 that relies on a resource that is being consumed at a harvest rate at or below its
10 natural regeneration rate.

11 (A) For purposes of this subdivision (11), methane gas and other
12 flammable gases produced by the decay of sewage treatment plant wastes or
13 landfill wastes and anaerobic digestion of agricultural products, byproducts, or
14 wastes shall be considered renewable energy resources, but no form of solid
15 waste, other than agricultural or silvicultural waste, shall be considered
16 renewable.

17 (B) For purposes of this subdivision (11), no form of nuclear fuel
18 shall be considered renewable.

19 (C) The only portion of electricity produced by a system of
20 generating resources that shall be considered renewable is that portion

1 generated by a technology that qualifies as renewable under this
2 subdivision (11).

3 (D) After conducting administrative proceedings, the public service
4 board may add technologies or technology categories to the definition of
5 “renewable energy,” provided that technologies using the following fuels shall
6 not be considered renewable energy supplies: coal, oil, propane,
7 and natural gas.

8 § 4772. BETTER TOMORROW BOND AUTHORITY

9 (a) There is hereby created and established as a body corporate and politic
10 and a public instrumentality of the state the better tomorrow bond authority.
11 The exercise by the authority of the powers conferred upon it in this chapter
12 constitutes the performance of essential governmental functions.

13 (b) The authority shall be governed by a board of directors, composed of
14 the following members:

15 (1) the secretary of agriculture, food and markets or his or her designee
16 who may be a member of the public or private sector;

17 (2) the state treasurer or his or her designee;

18 (3) one private sector member appointed by the speaker of the house of
19 representatives;

20 (4) one private sector member appointed by the president pro tempore of
21 the senate;

1 (5) one private sector member, who shall serve as chair, appointed by
2 the governor.

3 (c) The authority shall meet as frequently as is necessary to perform its
4 duties under this chapter. A member of the authority who is a member of the
5 general assembly and who is not an employee of the state shall be reimbursed
6 at the per diem rate set in 32 V.S.A. § 1010 and for his or her actual mileage
7 incurred to attend meetings. For attendance at meetings during adjournment of
8 the general assembly, a member of the authority who is a member of the
9 general assembly shall be entitled to compensation and reimbursement for
10 expenses as provided in 2 V.S.A. § 406.

11 (d) The authority may hire such staff or other personnel as it determines is
12 necessary to perform its duties under this chapter. The authority shall be
13 located within the agency of administration for purposes of administrative,
14 legal, and technical support.

15 (e) The authority shall have the following powers, which shall be exercised
16 to further the authority's purpose, and shall have all other powers necessary to
17 carry out the duties imposed on the authority by law:

18 (1) to enter into contracts and to provide financial, technical, and other
19 assistance to farmers and owners of agricultural lands, managed forestland, and
20 brownfield sites in the application and implementation of renewable energy
21 plants under this chapter;

1 (2) to provide financial assistance in the form of grants or, in accordance
2 with section 4774 of this title, to issue bonds backed by plant revenues, the
3 state or its political subdivisions, or both, for the purpose of financing eligible
4 renewable energy plants on agricultural land, managed forestland, and
5 brownfield sites;

6 (3) to consult, contract, or partner with the Vermont economic
7 development authority and the Vermont municipal bond bank to provide
8 financial assistance for purposes authorized by this chapter;

9 (4) to receive and accept grants, gifts, loans, or contributions from any
10 source subject to the provisions of 32 V.S.A. § 5;

11 (5) to incorporate one or more nonprofit corporations in Vermont to
12 fulfill the goals of this chapter. Such corporations shall be empowered to
13 borrow money and to receive and accept gifts, grants, or contributions from
14 any source, subject to the provisions of 32 V.S.A. § 5, subject to the limitations
15 imposed by law on the authority. The board of directors of any nonprofit
16 corporation created under this subsection shall be the board of directors of the
17 authority. The corporation shall be organized and operate under the nonprofit
18 corporation laws of the state of Vermont. The authority may contract with the
19 corporation to provide staff and management needs of the corporation;

1 (6) to provide technical, administrative, and legal assistance to aid
2 applicants to apply for and obtain required permits for the construction of
3 renewable energy plants;

4 (7) in collaboration with the agency of administration, to lead the
5 marketing of the program to encourage and expedite the implementation of the
6 program;

7 (8) to consult with agencies and departments on technical, legal,
8 financial, and policy issues arising in the implementation of the program;

9 (9) to sue and be sued in its own name and plead and be impleaded;

10 (10) to administer its own funds and to invest or deposit funds which are
11 not needed currently to meet the obligations of the authority;

12 (11) to borrow money and give other evidence of indebtedness or
13 obligations and security consistent with the authority's purpose and needs.

14 § 4773. BETTER TOMORROW BOND PROGRAM

15 (a) The authority, in cooperation with any public or private entities as the
16 authority determines is necessary or appropriate, shall implement the better
17 tomorrow bond program, the purpose of which shall be to issue bonds and seek
18 other available sources of capital to provide financing and investment in
19 renewable energy plants located on agricultural land, brownfield sites, and
20 managed forestland.

1 (b) The authority shall adopt an application process, eligibility criteria, and
2 program rules for the solicitation, review, and approval of applications for
3 renewable energy plants that will accomplish the following goals:

4 (1) to create incentives for the use of agricultural land, managed
5 forestland, and brownfield sites to preserve prime agricultural soils and
6 forestland, and to improve the quality and economic productivity of impaired
7 lands;

8 (2) to provide farmers and owners of brownfield sites an opportunity to
9 realize a sustainable source of revenue by enabling productive use of local
10 resources;

11 (3) to expand the type and number of renewable energy plants in the
12 state and to diversify the economic and environmental benefits of renewable
13 energy throughout more geographic areas and economic sectors
14 of Vermont; and

15 (4) to finance renewable energy plants that reliably demonstrate the
16 highest renewable energy production per dollar invested.

17 (c) For each approved plant, the authority shall establish through contract
18 with the plant owner the amount of expected revenue to be earned through
19 on-site renewable energy generation, the percentage of such revenue necessary
20 to be returned to the authority to satisfy its obligations to investors, the
21 percentage of such revenue to be returned to the plant owner, and such other

1 terms and conditions as the authority determines are necessary and appropriate
2 to ensure repayment of its obligations and its ability to provide investment to
3 future applicants.

4 § 4774. BONDS AND NOTES

5 (a)(1) The authority may issue negotiable notes and bonds in such principal
6 amount as the authority determines to be necessary to provide sufficient funds
7 for achieving any of its corporate purposes, including the payment of interest
8 on notes and bonds, of the authority, establishment of reserves to secure the
9 notes and bonds, including the reserve funds created under section 4775 of this
10 title, and all other expenditures of the authority incident to and necessary or
11 convenient to carry out its corporate purposes and powers; provided that the
12 bonds or notes of the authority outstanding at any one time shall not exceed
13 \$75,000,000.00.

14 (2) The authority shall have the power, from time to time, to issue bonds
15 and notes, to renew, defease, and refund notes and bonds to pay notes and
16 bonds, including the interest thereon, and, whenever it deems expedient, to
17 refund any bonds by the issuance of new bonds, whether the bonds and notes
18 to be refunded have or have not matured, and to issue bonds and notes partly to
19 refund bonds then outstanding and partly for any of its corporate purposes.

20 (3) Except as may otherwise be expressly provided by resolution of the
21 authority, every issue of its notes and bonds shall be general obligations of the

1 authority payable out of any revenues or moneys of the authority, subject only
2 to any agreements with the holders of particular notes or bonds pledging any
3 particular revenues.

4 (b) The notes and bonds shall be authorized by resolution or resolutions of
5 the authority, shall bear such date or dates and shall mature at such time or
6 times as the resolution or resolutions may provide, except that no bond shall
7 mature more than 30 years from the date of its issue. The bonds may be issued
8 as serial bonds or as term bonds or as a combination thereof. The notes and
9 bonds shall bear interest at such rate or rates or in the manner of determining
10 such rate or rates, as provided in 24 V.S.A. §§ 1881–1887, be in such
11 denominations, be in such form, carry such registration privileges, be executed
12 in such manner, be payable in such medium of payment, at such place or
13 places within or outside the state, and be subject to such terms of redemption
14 as the resolution or resolutions may provide; provided, however, that at the
15 time of the authorization of the issuance of such bonds or notes, the authority
16 determines in such resolution that the authority will derive receipts, revenues,
17 or other income from the facilities or plants to be financed with the proceeds of
18 such bonds or notes sufficient to provide, together with all other available
19 receipts, revenues, and income of the authority, for the payment of such bonds
20 or notes and the payment of all costs and expenses incurred by the authority
21 with respect to the program or purpose for which such bonds or notes are

1 issued and all other expenses of the authority incurred under this title. The
2 notes and bonds of the authority may be sold by the authority at public or
3 private sale, at such price or prices as the authority shall determine.

4 (c) Any resolution or resolutions authorizing any notes or bonds or any
5 issue thereof may contain provisions, which shall be a part of the contract or
6 contracts with the holders thereof, as to:

7 (1) pledging all or any part of the revenues of the authority to secure the
8 payment of the notes or bonds or of any issue thereof, subject to such
9 agreements with note holders or bondholders as may then exist;

10 (2) pledging all or any part of the assets of the authority to secure the
11 payment of the notes or bonds or of any issue of notes or bonds, subject to
12 such agreements with note holders or bondholders as may then exist;

13 (3) the use and disposition of the revenues of the authority and payments
14 upon other obligations held by the authority;

15 (4) the setting aside of reserves or sinking funds and the regulation and
16 disposition thereof;

17 (5) limitations on the purpose to which the proceeds of sale of notes or
18 bonds may be applied and pledging the proceeds to secure the payment of the
19 notes or bonds or of any issue thereof;

1 (6) limitations on the issuance of additional notes or bonds; the terms
2 upon which additional notes or bonds may be issued and secured; and the
3 refunding of outstanding or other notes or bonds;

4 (7) the procedure, if any, by which the terms of any contract with note
5 holders or bondholders may be amended or abrogated, the amount of notes or
6 bonds the holders of which must consent thereto, and the manner in which
7 consent may be given;

8 (8) limitations on the amount of moneys to be expended by the authority
9 for operating expenses of the authority;

10 (9) vesting in a trustee or trustees, within or outside the state, such
11 property, rights, powers, and duties in trust as the authority may determine,
12 which may include any or all of the rights, powers, and duties of the trustee
13 appointed by the bondholders pursuant to this chapter and limiting or
14 abrogating the right of the bondholders to appoint a trustee under this chapter
15 or limiting the rights, powers, and duties of the trustee;

16 (10) defining the acts or omissions to act that shall constitute a default in
17 the obligations and duties of the authority to the holders of the notes or bonds
18 and providing for the rights and remedies of the holders of the notes or bonds
19 in the event of such default, including as a matter of right the appointment of a
20 receiver; provided, however, that the rights and remedies shall not be

1 inconsistent with the general laws of the state and other provisions of this
2 chapter; and

3 (11) any other matters, of like or different character, which in any way
4 affect the security or protection of the holders of the notes or bonds.

5 (d) Any pledge made by the authority shall be valid and binding from the
6 time when the pledge is made; the revenues, moneys, or property so pledged
7 and thereafter received by the authority shall immediately be subject to the lien
8 of such pledge without any physical delivery thereof or further act; and such
9 pledge shall be valid and binding as against all parties having claims of any
10 kind in tort, contract, or otherwise against the authority, irrespective of whether
11 such parties have notice thereof.

12 (e) Bonds, notes, and other obligations authorized under this chapter may,
13 in the discretion of the authority, be issued with such terms as will cause the
14 interest thereon to be subject to federal income taxation. To the extent
15 required for the sale of the obligations, the authority may register such
16 obligations under applicable federal and state securities laws. No person
17 executing any bonds, notes, or other obligations issued by the authority or
18 others under authority of this chapter shall be subject to any personal liability
19 or accountability by reason of the issuance thereof. The authority shall
20 indemnify any person who shall have served as a member, officer, or employee
21 of the authority against financial loss or litigation expense arising out of or in

1 connection with any claim or suit involving allegations that pecuniary harm
2 has been sustained as a result of any transaction authorized by this chapter,
3 unless such person is found by a final judicial determination not to have acted
4 in good faith and for a purpose that the person reasonably believed to be lawful
5 and in the best interest of the authority.

6 (f) The authority, subject to such agreements with note holders or
7 bondholders as may then exist, shall have power out of any funds available
8 therefore to purchase notes or bonds of the authority, which shall thereupon be
9 cancelled, at a price not exceeding:

10 (1) if the notes or bonds are then redeemable, the redemption price then
11 applicable plus accrued interest to the next interest payment thereon; or

12 (2) if the notes or bonds are not then redeemable, the redemption price
13 applicable on the first date after such purchase upon which the notes or bonds
14 become subject to redemption plus accrued interest to such date.

15 (g) In the discretion of the authority, the notes or bonds may be secured by
16 a trust indenture by and between the authority and a corporate trustee, which
17 may be any trust company or bank having the power of a trust company within
18 or without the state. The trust indenture may contain such provisions for
19 protecting and enforcing the rights and remedies of the note holders or
20 bondholders as may be reasonable and proper and not in violation of law,
21 including covenants setting forth the duties of the authority in relation to the

1 exercise of its corporate powers and the custody, safeguarding, and application
2 of all moneys. The authority may provide by such trust indenture for the
3 payment of the proceeds of the notes or bonds and the revenues to the trustee
4 under such trust indenture or other depository and for the method of
5 disbursement thereof, with such safeguards and restrictions as it may
6 determine. All expenses incurred in carrying out the trust indenture may be
7 treated as a part of the operating expenses of the authority. If the notes or
8 bonds shall be secured by a trust indenture, the note holders and bondholders
9 shall have no authority to appoint a separate trustee to represent them.

10 (h) Any law to the contrary notwithstanding, a bond or note issued under
11 this chapter is fully negotiable for all purposes of 9A V.S.A. §§ 1-101 et seq.,
12 and each holder or owner of a bond or note or of any coupon appurtenant
13 thereto, by accepting the bond or note or coupon, shall be conclusively deemed
14 to have agreed that the bond, note, or coupon is fully negotiable for those
15 purposes.

16 (i) Any provision of this chapter or of any other law or any recitals in any
17 bonds or notes issued under this chapter to the contrary notwithstanding, all
18 bonds, notes, and interest coupons appertaining thereto issued by the authority
19 shall have and are hereby declared to have all the qualities and incidents,
20 including negotiability, of investment securities under 9A V.S.A. §§ 1-101 et
21 seq., but no provision of those sections respecting the filing of a financing

1 statement to perfect a security interest shall be applicable to any security
2 interest created in connection with the issuance of the bonds, notes, or
3 coupons.

4 (j) In case any of the members, executive director, or officers of the
5 authority whose signatures appear on any notes or bonds or coupons shall
6 cease to be members, executive director, or officers before the delivery of such
7 notes or bonds, the signatures shall, nevertheless, be valid and sufficient for all
8 purposes the same as if such members, executive director, or officers had
9 remained in office until such delivery.

10 (k) The authority may enter into one or more agreements for the exchange
11 of interest rates, cash flows, or payments to reduce net borrowing costs to
12 achieve desirable net effective interest rates in connection with its issuance and
13 sale of debt obligations and to provide for an efficient means of debt
14 management.

15 § 4775. RESERVE FUNDS

16 (a) The authority may create and establish one or more special funds,
17 herein referred to as “debt service reserve funds,” and shall pay into each such
18 debt service reserve fund:

19 (1) any moneys appropriated and made available by the state for the
20 purpose of such fund;

1 (2) any proceeds of the sale of notes or bonds to the extent provided in
2 the resolution or resolutions of the authority authorizing the issuance thereof;
3 and

4 (3) any other moneys which may be made available to the authority for
5 the purpose of such fund from any other source or sources.

6 (b) All moneys held in any debt service reserve fund, except as hereinafter
7 provided, shall be used, as required, solely for the payment of the principal of
8 bonds secured in whole or in part by such fund or of the sinking fund payments
9 hereinafter mentioned with respect to such bonds, the purchase or redemption
10 of such bonds, the payment of interest on such bonds, or the payment of any
11 redemption premium required to be paid when such bonds are redeemed prior
12 to maturity; provided, however, that moneys in any such fund shall not be
13 withdrawn therefrom at any time in such amount as would reduce the amount
14 of such fund to less than the debt service reserve requirement established by
15 resolution of the authority for such fund as hereafter provided except for the
16 purpose of making with respect to bonds secured in whole or in part by such
17 fund payments, when due, principal, interest, redemption premiums, and the
18 sinking fund payments hereinafter mentioned for the payment of which other
19 moneys of the authority are not available. Any income or interest earned by or
20 increment to any debt service reserve fund due to the investment thereof may
21 be transferred by the authority to other funds or accounts of the authority to the

1 extent it does not reduce the amount of such debt service reserve fund below
2 the debt service reserve requirement for such fund.

3 (c) The authority shall not at any time issue bonds or notes secured in
4 whole or in part by a debt service reserve fund if upon the issuance of such
5 bonds or notes the amount in such debt service reserve fund will be less than
6 the debt service reserve requirement established by resolution of the authority
7 for such fund unless the authority at the time of issuance of such bonds shall
8 deposit in such fund from the proceeds of the bonds or notes so to be issued or
9 from other sources an amount that, together with the amount then in such fund,
10 will not be less than the debt service reserve requirement established for such
11 fund. The debt service reserve requirement for any debt service reserve fund
12 shall be established by resolution of the authority prior to the issuance of any
13 bonds or notes secured in whole or in part by such fund and shall not be
14 required to exceed “maximum debt service.” For the purposes of this section,
15 the term “maximum debt service” shall mean, as of any particular date of
16 computation, an amount of money equal to the greatest of the respective
17 amounts, for the then-current or any future fiscal year of the authority, of
18 annual debt service on the bonds of the authority secured or to be secured in
19 whole or in part by such debt service reserve fund, such annual debt service for
20 any fiscal year being the amount of money equal to the aggregate of:

1 (1) all interest payable during such fiscal year on all bonds secured in
2 whole or in part by such debt service reserve fund outstanding on the date of
3 computation; plus

4 (2) the principal amount of all such bonds outstanding on such date of
5 computation that mature during such fiscal year; plus

6 (3) all amounts specified in any resolution of the authority authorizing
7 such bonds as payable during such fiscal year as a sinking fund payment with
8 respect to any of such bonds that mature after such fiscal year.

9 (d) In computing the amount of the debt service reserve funds for the
10 purpose of this section, securities in which all or a portion of such funds shall
11 be invested shall be valued at par if purchased at par or at amortized value, as
12 such term is defined by resolution of the authority, if purchased at other
13 than par.

14 (e) In order to assure the maintenance of the debt service reserve
15 requirement in each debt service reserve fund established by the authority,
16 there may be appropriated annually and paid to the authority for deposit in
17 each such fund such sum as shall be certified by the chair of the authority to
18 the governor, the president of the senate, and the speaker of the house as is
19 necessary to restore each such debt service reserve fund to an amount equal to
20 the debt service reserve requirement for such fund. The chair shall annually,
21 on or about February 1, make and deliver to the governor, the president of the

1 senate, and the speaker of the house his or her certificate stating the sum
2 required to restore each such debt service reserve fund to the amount aforesaid,
3 and the sum so certified may be appropriated and, if appropriated, shall be paid
4 to the authority during the then-current state fiscal year. The principal amount
5 of bonds or notes outstanding at any one time and secured in whole or in part
6 by a debt service reserve fund to which state funds may be appropriated
7 pursuant to this subsection shall not exceed \$75,000,000.00, provided that the
8 foregoing shall not impair the obligation of any contract or contracts entered
9 into by the authority in contravention of the Constitution of the United States
10 of America.

11 (f) The authority shall create and establish such other fund or funds as may
12 be necessary or desirable for its corporate purposes.

13 § 4776. REFUNDING OBLIGATIONS; ISSUANCE AND SALE

14 (a) The authority may provide for the issuance of refunding obligations for
15 the purpose of refunding any obligations then outstanding that have been
16 issued under the provisions of this chapter, including the payment of any
17 redemption premium thereon and any interest accrued or to accrue to the date
18 of redemption of such obligations and for any corporate purpose of the
19 authority. The issuance of such obligations, the maturities and other details
20 thereof, the rights of the holders thereof, and the rights, duties, and obligations
21 of the authority in respect of the same shall be governed by the provisions of

1 this chapter that relate to the issuance of obligations, insofar as those
2 provisions may be appropriate.

3 (b) Refunding obligations issued as provided in this section may be sold or
4 exchanged for outstanding obligations issued under this chapter and, if sold,
5 the proceeds thereof may be applied, in addition to any other authorized
6 purposes, to the purchase, redemption, or payment of such outstanding
7 obligations. Pending the application of the proceeds of any refunding
8 obligations with any other available funds to the payment of the principal,
9 accrued interest, and any redemption premium on the obligations being
10 refunded and, if so provided or permitted in the resolution authorizing the
11 issuance of such refunding obligations or in the trust agreement securing them,
12 to the payment of any interest on such refunding obligations and any expenses
13 in connection with such refunding, such proceeds may be invested in direct
14 obligations of or obligations the principal of and the interest on which are
15 unconditionally guaranteed by the United States of America and which shall
16 mature or which shall be subject to redemption by the holders thereof, at the
17 option of such holders, not later than the respective dates when the proceeds,
18 together with the interest accruing thereon will be required for the purposes
19 intended.

1 § 4777. REMEDIES OF BONDHOLDERS AND NOTE HOLDERS

2 (a) In the event that the authority defaults in the payment of principal or of
3 interest on any bonds or notes issued under this chapter after they become due,
4 whether at maturity or upon call for redemption, and the default continues for a
5 period of 30 days or in the event that the authority fails or refuses to comply
6 with the provisions of this chapter or defaults in any agreement made with the
7 holders of an issue of bonds or notes of the authority, the holders of 25 percent
8 in aggregate principal amount of the bonds or notes of such issue then
9 outstanding, by instrument or instruments filed in the office of the secretary of
10 state and proved or acknowledged in the same manner as a deed to be
11 recorded, may appoint a trustee to represent the holders of such bonds or notes
12 for the purposes herein provided.

13 (b) A trustee appointed pursuant to subsection (a) of this section may and
14 upon written request of the holders of 25 percent in principal amount of such
15 bonds or notes then outstanding shall in his or her or its own name:

16 (1) enforce all rights of the bondholders or note holders, including the
17 right to require the authority to carry out any agreements with the holders of
18 such bonds or notes and to perform its duties under this chapter;

19 (2) enforce all rights of the bondholders or note holders, including the
20 right to collect and enforce the payment of amounts due to the authority, so as
21 to carry out any contract as to or pledge of revenues and to require the

1 authority to carry out and perform the terms of any contract with the holders of
2 such bonds or notes or its duties under this chapter;

3 (3) bring suit upon all or any part of such bonds or notes;

4 (4) by action or suit, require the authority to account as if it were the
5 trustee of an express trust for the holders of such bonds or notes;

6 (5) by action or suit, enjoin any acts or things that may be unlawful or in
7 violation of the rights of the holders of such bonds or notes;

8 (6) declare all such bonds or notes due and payable and, if all defaults
9 shall be made good, with the consent of the holders of 25 percent of the
10 principal amount of such bonds or notes then outstanding to annul the
11 declaration and its consequences.

12 (c) The trustee shall in addition to the foregoing have and possess all the
13 powers necessary or appropriate for the exercise of any functions specifically
14 set forth herein or incident to the general representation of bondholders or note
15 holders in the enforcement and protection of their rights.

16 (d) Before declaring the principal of bonds or notes due and payable, the
17 trustee shall first give 30 days' notice in writing to the governor, to the
18 authority, and to the attorney general of the state.

19 (e) The superior courts or courts with equity jurisdiction shall have
20 jurisdiction of any suit, action, or proceeding by the trustee on behalf of
21 bondholders or note holders.

1 § 4778. PLEDGE OF THE STATE; SOVEREIGN IMMUNITY; FULL
2 FAITH AND CREDIT; NOTES AND BONDS AS LEGAL
3 INVESTMENTS

4 (a) The state does hereby pledge to and agree with the holders of the notes
5 and bonds issued under this chapter that the state will not limit or restrict the
6 rights hereby vested in the authority to perform its obligations and to fulfill the
7 terms of any agreement made with the holders of its bonds or notes or in any
8 way impair the rights and remedies of the holders until the notes and bonds,
9 together with interest thereon and interest on any unpaid installments of
10 interest, are fully met, paid, and discharged. The authority is authorized to
11 execute this pledge and agreement of the state in any agreement with the
12 holders of the notes or bonds.

13 (b) The authority shall have the benefit of sovereign immunity to the same
14 extent as the state of Vermont. Members, officers, employees, and the
15 executive director of the authority shall be deemed employees of the state for
16 purposes of 12 V.S.A. chapter 189 (tort claims against state) and 3 V.S.A.
17 chapter 29 (claims against state employees).

18 (c) Obligations issued under the provisions of this chapter not to exceed
19 \$75,000,000.00 shall be deemed to constitute a pledge of the full faith and
20 credit of the state.

1 (d) Notwithstanding any other law, the state and all public officers,
2 governmental units, and agencies thereof; all banks, trust companies, savings
3 banks and institutions, building and loan associations, savings and loan
4 associations, investment companies, and other persons carrying on a banking
5 business; all insurance companies, insurance associations, and other persons
6 carrying on an insurance business; all credit unions; and all executors,
7 administrators, guardians, trustees, and other fiduciaries may legally invest any
8 sinking funds, moneys, or other funds belonging to them or within their control
9 in any bonds or notes issued under this chapter, and the bonds or notes are
10 authorized security for any and all public deposits.

11 § 4779. QUARTERLY AND ANNUAL REPORTS; AUDIT

12 (a) On or before the last day of January of each calendar year, the authority
13 shall submit a report of its activities for the preceding fiscal year to the
14 governor and to the general assembly. Each report shall set forth a complete
15 operating and financial statement covering its operations during the year. The
16 authority shall cause an audit of its books and accounts to be made at least
17 once in each year by certified public accountants; the cost shall be considered
18 an expense of the authority and a copy shall be filed with the state treasurer.
19 Audits performed by a public accountant under this section shall be conducted
20 in accordance with generally accepted government auditing standards,

1 including the issuance of a report on internal control over financial reporting
2 that shall be provided to recipients of the financial statements.

3 (b) The auditor of accounts of the state and his or her duly authorized
4 representatives may at any time examine the accounts and books of the
5 authority including its receipts, disbursements, contracts, sinking funds,
6 investments, and any other matters relating to its financial statements.

7 (c) Quarterly Reports. Within 30 days of the end of each quarter, the
8 authority shall, in addition to any other reports required under this section,
9 submit a report of its activities for the preceding quarter to the secretary of
10 administration which shall include the following:

11 (1) A description of all authority activities to develop or facilitate
12 development of telecommunications infrastructure that furthers the objectives
13 of this chapter.

14 (2) Financial statements of the authority, a summary of expenditures by
15 the authority since inception, and a forecast of expenditures.

16 (3) A summary of any financial commitments made by the authority.

17 (4) A list and summary of all contracts and agreements entered into by
18 the authority and a list and summary of any rail right-of-way agreements
19 entered into by the authority, including any waivers of charges for comparable
20 value to the state granted under 19 V.S.A. § 26a.

1 (5) A current business plan for the authority, including an explanation of
2 significant changes subsequent to the most recent previous report.

3 (6) Identification of the impact of its activity on existing business
4 providers.

5 (d) The authority shall include in the annual report required under
6 subsection (a) of this section a summary of all the information quarterly
7 reported to the secretary of administration under subsection (c) of this section
8 as well as a summary of any and all instances in which service providers that
9 have entered into contracts or binding commitments with the authority have
10 materially defaulted, have been unable to fulfill their commitments, or have
11 requested or been granted relief from contractual or binding commitments.

12 Sec. 2. 30 V.S.A. § 8010 is added to read:

13 § 8010. RENEWABLE ENERGY PLANTS; BETTER TOMORROW BOND
14 PROGRAM

15 In addition to the other requirements of this chapter, the electricity supplied
16 by each Vermont retail electricity provider to its customers shall include the
17 electricity generated by renewable energy plants in the provider's service
18 territory that receive financial support from the better tomorrow bond program
19 established under 6 V.S.A. chapter 213. Each provider shall purchase
20 electricity from these renewable energy plants on a first-come, first-served
21 basis until the cumulative energy output of the electricity received by the

1 provider from all such plants reaches 10 percent of the provider's retail sales
2 during 2012 or the most recent calendar year, whichever is greater.

3 Sec. 3. FINANCIAL SUMMIT

4 On or before June 15, 2012, the secretary of agriculture, food and markets,
5 the secretary of commerce and community development, and the commissioner
6 of public service shall convene a financial summit to address steps to
7 transforming energy and food production into locally based economic drivers
8 through effective public-private partnerships, including:

9 (1) funding and financing the state energy plan to meet the state's 2020
10 energy production, efficiency, and weatherization goals;

11 (2) effective use of public-private partnerships to move from a
12 grant-centric to a market-centric approach to expanding the opportunities to
13 use leveraged funds for public investments;

14 (3) effective means of establishing a capital pool with multiple, diverse
15 sources of funding and committed stakeholders;

16 (4) establishment of a portfolio of investment vehicles and tools for
17 providing both sector-appropriate and complementary cross-sector resources to
18 build a sustainable economic system;

19 (5) examination of successful models from other states and provinces,
20 including on-bill financing in Oregon and New Hampshire and Manitoba,

1 Canada; Pennsylvania's Keystone Help; Virginia's Commonwealth Loan
2 Program; Connecticut's green bank, and others.

3 (6) providing ways for Vermonters to invest in local energy solution that
4 benefit their own communities.

5 Sec. 4. 32 V.S.A. § 5836(k) is added to read:

6 (k) A taxpayer shall be entitled to a credit against the tax imposed under
7 this section of 24 percent of the Vermont property portion of the investment
8 tax credit allowed against the taxpayer's federal income tax.

9 Sec. 5. 32 V.S.A. § 8551 is amended to read:

10 § 8551. IMPOSITION, RATE AND BASIS OF TAX

11 (a) A domestic or foreign insurance company, association or society, other
12 than life, or a surety or guaranty company, doing business in this state, shall
13 pay a tax to the state, which is hereby assessed at the rate of two percent per
14 annum on the gross amount of premiums and assessments written on its
15 business in this state, but not including premiums received for reinsurance. A
16 domestic or foreign life insurance company, doing business in this state, shall
17 pay a tax to the state, which is hereby assessed at the rate of two percent per
18 annum on the gross amount of premiums and assessments collected on its
19 business in this state, but not including premiums received for reinsurance.

1 (b) A taxpayer shall be entitled to a credit against the tax imposed under
2 this section of 24 percent of the Vermont property portion of the investment
3 tax credit allowed against the taxpayer's federal income tax.

4 Sec. 6. EFFECTIVE DATE

5 This act shall take effect on passage.