

1       Sec. 1. VERMONT HYDROELECTRIC POWER ACQUISITION

2                       WORKING GROUP

3           (a) Creation. There is created the Vermont Hydroelectric Power  
4           Acquisition Working Group to prepare due diligence and feasibility studies  
5           regarding the purchase of hydroelectric dams and related assets currently  
6           owned by TransCanada Hydro on the Connecticut and Deerfield Rivers (the  
7           “dam facilities”).

8           (b) Membership. The Working Group shall be composed of the following  
9           seven members:

10                   (1) the Secretary of Administration or designee who shall serve as chair;

11                   (2) the State Treasurer or designee;

12                   (3) the Commissioner of Public Service or designee;

13                   (4) two persons chosen by the Governor;

14                   (5) one person chosen by the Speaker of the House; and

15                   (6) one person chosen by the Senate Committee on Committees.

16           (c) Powers and duties. The Working Group shall:

17                   (1) Review and study the principal policy, economic, environmental,  
18           and engineering issues involved in a purchase of the dam facilities, including:

19                       (A) the administrative and structural options for the ownership of the  
20           dam facilities and the sale and distribution of their power output, including  
21           ownership through the creation of a limited purpose State public power

1 authority, the Vermont Public Power Supply Authority, by one or more  
2 Vermont utilities, or by a public-private partnership; and

3 (B) the alternatives for disposition of the power output of the dam  
4 facilities, including wholesale and retail sales within and outside the State and  
5 use of the power within a portfolio to support advanced and renewable energy  
6 technologies, and the impacts of these alternatives on the credit-worthiness of  
7 the State and the ability of Vermont utilities to access investment capital on  
8 reasonable commercial terms.

9 (2) Prepare recommendations on the purchase of the dam facilities.

10 (d) Assistance. The Working Group may consult with other State,  
11 municipal, or private entities, including representatives of the State Treasurer;  
12 the Vermont Agency of Natural Resources; the Vermont Municipal Bond  
13 Bank; representatives of existing municipal, cooperative, and investor-owned  
14 utilities; the Vermont Department of Public Service; and, where appropriate,  
15 the Public Service Board. Reasonable administrative support for the Working  
16 Group shall be provided upon request by the Department of Public Service and  
17 the Office of Legislative Council. The Working Group may retain professional  
18 assistance to undertake the duties required herein.

19 (e) Reimbursement. Legislative members of the Working Group shall  
20 receive per diem and expenses pursuant to 2 V.S.A. § 406, and members of the

1 Working Group who are not State employees may be compensated by their  
2 appointing authorities.

3 (f) Public records. Commercial and financial information of a proprietary  
4 nature produced or acquired by the Working Group shall be exempt from  
5 public inspection and copying under the Public Records Act if public release of  
6 the information could jeopardize the position of the State of Vermont and its  
7 agents in negotiations or in the purchase of the facilities on advantageous  
8 terms.

9 (g) Meetings. The members of the Working Group shall be appointed not  
10 later than 13 days following passage of this act and the Secretary of  
11 Administration shall convene the Working Group not later than 15 days after  
12 the effective date of this act.

13 (h) Appropriation. The Secretary of Administration is authorized to expend  
14 up to \$250,000.00 from general funds appropriated to the Executive Branch in  
15 the FY 2017 Appropriations Act for the study required in this section;  
16 provided, however, that the Secretary shall make an offsetting reduction or  
17 funds transfer for the amount expended. If the Working Group determines that  
18 additional expenditures are necessary to preserve options on behalf of the  
19 State, the Working Group is authorized to seek further funding from the  
20 Emergency Board.

1        (i) Report. On or before August 1, 2016, the Working Group shall submit a  
2        report on the study and recommendation described in subsection (c) of this  
3        section to the Senate Committees on Finance and on Natural Resources and  
4        Energy, and the House Committees on Commerce and Economic Development  
5        and on Natural Resources and Energy.

6        Sec. 2. 30 V.S.A. chapter 90 is added to read:

7        CHAPTER 90. VERMONT HYDROELECTRIC POWER AUTHORITY

8                    Subchapter 1. General Provisions

9        § 8040. FINDINGS, PURPOSE, AND GOALS

10        (a) The General Assembly of the State of Vermont finds that potential  
11        exists to purchase an interest in hydroelectric power stations along the  
12        Connecticut and Deerfield Rivers located in Vermont, New Hampshire, and  
13        Massachusetts.

14        (b) Therefore, it is the purpose of this chapter to create an entity with the  
15        authority to finance, purchase, own, operate, or manage any interest in the  
16        hydroelectric power facilities along the Connecticut and Deerfield Rivers  
17        located in Vermont, New Hampshire and Massachusetts, and to sell the electric  
18        energy under the control of the Authority from those facilities at wholesale to  
19        authorized wholesale purchasers. The purchase and operation of an interest  
20        shall be pursued with the following goals:

21            (1) to promote the general good of the State;

1           (2) to stimulate the development of the Vermont economy;

2           (3) to increase the degree to which Vermont’s energy needs are met  
3 through environmentally-sound sustainable and renewable in-state energy  
4 sources;

5           (4) to lessen electricity price risk and volatility for Vermont ratepayers  
6 and to increase system reliability;

7           (5) to not compete with Vermont utilities;

8           (6) to ensure that the credit rating of the State will not be adversely  
9 affected and Vermont taxpayers will not be liable should the purchase of the  
10 facilities fail because of the failure to produce sufficient revenue to service the  
11 debt, the failure of a partner, or for any other reason; and

12           (7) to cause the facilities to be operated in an environmentally sound  
13 manner consistent with federal licenses and purposes.

14 § 8041. DEFINITIONS

15           As used in this chapter:

16           (1) “Authority” means the Vermont Hydroelectric Power Authority  
17 established by this chapter.

18           (2) “Facilities” means the hydroelectric power stations and related assets  
19 along the Connecticut and Deerfield Rivers located in Vermont, New  
20 Hampshire, and Massachusetts in which the Authority has acquired an equity  
21 interest.

1     § 8042. ESTABLISHMENT

2             There is created a body corporate and politic to be known as the Vermont  
3     Hydroelectric Power Authority. The Authority is an instrumentality of the  
4     State exercising public and essential governmental functions, and the exercise  
5     by the Authority of the powers conferred upon it by this chapter constitutes the  
6     performance of essential governmental functions.

7     § 8043. BOARD OF DIRECTORS

8             (a) Directors. The powers of the Authority shall be exercised by seven  
9     directors appointed as follows:

10            (1) Five directors shall be appointed by the Governor, at least one of  
11     whom shall represent retail customers. No director appointed by the Governor,  
12     while serving as a director, shall be an employee, board member, or director, or  
13     have a substantial ownership interest in an electric company regulated by the  
14     Public Service Board or the Department of Public Service under this title;

15            (2) The State Treasurer, who shall serve ex officio; and

16            (3) One director shall be a representative of the Department of Public  
17     Service, appointed by the Commissioner, who shall serve at the pleasure of the  
18     Commissioner.

19            (b) Terms and vacancies. The directors appointed by the Governor shall be  
20     appointed for terms of five years and until their successors are appointed and  
21     confirmed, except that the first directors shall be appointed in the following

1 manner: one for a term of two years, two for a term of three years, and two for  
2 a term of five years. The Governor for cause may remove a director appointed  
3 by a Governor. The Governor may fill any vacancy occurring among the  
4 directors appointed by a Governor for the balance of the unexpired term. A  
5 director may be reappointed.

6 (c) Officers. The Authority shall elect a chair, a vice chair, and a treasurer  
7 from among its directors.

8 (d) Quorum. A quorum shall consist of four directors. No action of the  
9 Authority shall be considered valid unless the action is supported by a majority  
10 vote of the directors present and voting and then only if at least four directors  
11 vote in favor of the action.

12 (e) Compensation. Directors shall be compensated for necessary expenses  
13 incurred in the performance of their duties in the manner provided by  
14 32 V.S.A. § 1010(b).

15 (f) Bylaws. The Authority's board of directors shall adopt bylaws or other  
16 rules and regulations for the management of the affairs of the Authority and  
17 carrying out the purposes of this chapter.

18 (g) Conflicts. Despite any law or charter provision to the contrary, a  
19 director or officer of the Authority who is also an officer, employee, or  
20 member of a legislative body of a municipality or other public body or of the

1 State shall not thereby be precluded from voting or acting on behalf of the  
2 Authority on a matter involving the municipality or public body or the State.

3 § 8044. MANAGER

4 (a) Manager. The Authority shall employ and compensate a manager who  
5 shall serve under a contract for a specific term or at the pleasure of the  
6 Authority. The Authority, with the Governor's approval, shall fix the  
7 manager's compensation. The manager shall be the chief executive officer of  
8 the Authority and shall administer, manage, and direct the affairs and business  
9 of the Authority, subject to the policies, control, and direction of the directors.

10 (b) Interim manager. The Governor or the Governor's designee shall have  
11 the power to appoint an interim manager upon enactment of this chapter, who  
12 shall serve at the Governor's pleasure, under the Governor's direction, and for  
13 compensation established by the Governor. The interim manager, with the  
14 approval of the Governor or the Governor's designee, shall have full authority  
15 to take all actions authorized under this chapter to protect and advance the  
16 interests of the State of Vermont until such time as a manager employed  
17 pursuant to subsection (a) of this section has assumed office.

18 § 8045. TERMINATION

19 (a) The Authority shall continue so long as it shall have any obligations or  
20 indebtedness outstanding and until its existence is terminated by law. Upon  
21 termination of the Authority, title to all of the property owned by the Authority

1 shall vest in the State. The State reserves the right to change or terminate the  
2 Authority and any structure, organization, program, or activity of the  
3 Authority, subject to constitutional limitations.

4 (b) The net earnings of the Authority, beyond those necessary for  
5 retirement of its notes, bonds, or other obligations or indebtedness or to  
6 implement the public purposes and programs authorized in this chapter, shall  
7 not inure to the benefit of any person other than the State.

8 Subchapter 2. Powers and Prohibitions

9 § 8046. GENERAL POWERS

10 The Authority has the following powers as are necessary to carry out the  
11 purposes of this chapter:

12 (1) To borrow money and to issue negotiable bonds, notes, and  
13 commercial paper, and give other evidences of indebtedness or obligations,  
14 and to provide for and secure the payment thereof, and to provide for the rights  
15 of the holders thereof, to purchase, hold, and dispose of any of its bonds, notes,  
16 or commercial paper, and to resell or retire any such evidences of indebtedness  
17 or obligations prior to the stated maturity thereof.

18 (2) To enter into all contracts, leases, agreements, and arrangements,  
19 including such agreements with other persons as the Authority deems  
20 necessary or appropriate in connection with the issuance, sale, and resale of  
21 evidences of indebtedness or obligations, including trust indentures, bond

1 purchase agreements, disclosure agreements, remarketing agreements,  
2 agreements providing liquidity or credit facilities, bond insurance, or other  
3 credit enhancements in connection with such evidences of indebtedness or  
4 obligations.

5 (3) To acquire by purchase, lease, gift, or otherwise, or to obtain options  
6 for the acquisition of property necessary to carry out the purposes of this  
7 chapter, real or personal, improved or unimproved, tangible or intangible,  
8 including an interest in land of less than fee.

9 (4) To pledge or assign any money, fees, charges, or other revenues of  
10 the Authority and any proceeds derived by the Authority from the sale of  
11 property or from insurance or condemnation awards.

12 (5) To employ personnel who, in the discretion of the Authority, may be  
13 in the classified system under 3 V.S.A. chapter 13, and to employ or contract  
14 with agents, consultants, legal advisors, and other persons and entities as may  
15 be necessary or desirable for its purposes, upon such terms as the Authority  
16 may determine.

17 (6) To apply and contract for and to expend assistance from the United  
18 States or other sources, whatever the form.

19 (7) To administer its own funds and to invest or deposit funds which are  
20 not needed currently to meet the obligations of the Authority.

1           (8) To apply to the appropriate agencies of the State, other states, the  
2           United States, and to any other proper agency for permits, licenses, certificates,  
3           or approvals which may be necessary, and to construct, maintain, and operate  
4           the facilities in accordance with these licenses, permits, certificates, or  
5           approvals;

6           (9) To contract with respect to the purchase, sale, delivery, exchange,  
7           interchange, wheeling, pooling, transmission, or use of project electric power  
8           and energy and to otherwise participate in intrastate, interstate, and  
9           international wholesale arrangements with respect to those matters.

10           (10) To contract for the use of transmission and distribution facilities  
11           owned by others solely for the purpose of engaging in wholesale transactions.

12           (11) Alone or jointly, to plan, finance, acquire, construct, improve,  
13           purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of, or  
14           otherwise participate in the facilities or portions of the facilities, the product or  
15           service from them, securities or obligations issued or incurred in connection  
16           with the financing of them, or research and development relating to them,  
17           within or outside the state.

18           (12) To sell electric power at wholesale within or outside the State.

19           (13) To undertake a joint financing of the facilities.

1           (14) To accept and expend with respect to a facility, project, or program  
2           any gifts or grants received from any source in accordance with the terms of  
3           the gifts or grants.

4           (15) To exercise all powers necessary or incidental to affect any or all of  
5           the purposes for which the Authority is created.

6           § 8047. PROHIBITIONS

7           The Authority shall take no action to cause, nor shall any provision of this  
8           chapter be construed to impose, any obligation upon the State as a result of the  
9           insolvency of a partner.

10          § 8048. OBLIGATIONS NOT OBLIGATIONS OF THE STATE

11          (a) The Authority shall have the benefit of sovereign immunity to the same  
12          extent as the State of Vermont.

13          (b) Notwithstanding subsection (a) of this section:

14               (1) obligations of the Authority under a contract authorized by this  
15               chapter shall not be deemed to constitute an obligation, indebtedness, or a  
16               lending of credit of the State; and

17               (2) no financing or security document, bond, or other instrument issued  
18               or entered into in the name and on behalf of the Authority under this chapter  
19               shall in any way obligate the State to raise any money by taxation or use other  
20               funds for any purpose to pay any debt or meet any financial obligation to any

1 person at any time in relation to a facility, project, or program financed in  
2 whole or in part by the issue of the Authority's bonds under this chapter.

3 § 8049. RECORDS; ANNUAL REPORT; AUDIT

4 (a) The Authority shall keep an accurate account of all its activities and of  
5 all its receipts and expenditures.

6 (b) Each year, prior to February 1, the Authority shall submit a report of its  
7 activities for the preceding fiscal year to the Governor and to the General  
8 Assembly. The report shall set forth a complete operating and financial  
9 statement covering its operations during the year. The Authority shall cause an  
10 audit of its books and accounts to be made at least once in each year by a  
11 certified public accountant. The cost of the audit shall be considered an  
12 expense of the Authority, and a copy of the audit shall be filed with the State  
13 Treasurer.

14 Subchapter 3. Form and Nature of Bonds; Approval

15 § 8050. BONDS

16 (a) Issue. The Authority may issue bonds to pay the costs of purchasing  
17 the facilities, or property related to such facilities; to pay the costs of repairs,  
18 replacements, or expansions of the facilities; or to pay capitalized interest and  
19 costs of issuance, which have been approved by the Authority or to refund  
20 bonds previously issued.

1       (b) Form. Bonds issued under this section shall bear the manual or  
2       facsimile signature of the manager of the Authority and the manual or  
3       facsimile signature of the Chair or Vice Chair of the Authority. Bonds shall be  
4       sold by the signing officers at public or private sale, and the proceeds thereof  
5       shall be paid to the trustee under the security document that secures the bonds.  
6       Such evidences of indebtedness or obligations shall be in such form and  
7       denominations, and with such terms and provisions, including the maturity  
8       date or dates, redemption provisions, and other provisions necessary or  
9       desirable. Such evidences of indebtedness or obligations shall be either  
10       taxable or tax-exempt and shall be noninterest bearing, or bear interest at such  
11       rate or rates, which may be fixed or variable, as may be sufficient or necessary  
12       to effect the issuance and sale or resale thereof.

13       (c) Trustee. A state or national chartered bank, Vermont bank, or Vermont  
14       trust company may serve as trustee for the benefit of bondholders under a  
15       security document, and the trustee may at any time own all or any part of the  
16       bonds issued under that security document, unless otherwise provided therein.  
17       All monies received or held by the Authority or by a trustee pursuant to a  
18       financing or security document, other than funds received or held by the  
19       Authority for its own use, shall be deemed to be trust funds and shall be held  
20       and applied solely in accordance with the applicable document.

1        (d) Enforcement. Except as provided in any financing or security  
2        document entered into or any bond issued under this chapter, each of the  
3        parties to the financing or security document or any bondholder may enforce  
4        the obligation of any other person to the party or bondholder under the bond or  
5        instrument by appropriate legal proceedings.

6        (e) Legal investments. Bonds issued under this chapter shall be legal  
7        investments for all persons without limit as to the amount held, regardless of  
8        whether they are acting for their own account or in a fiduciary capacity. Such  
9        bonds shall likewise be legal investments for all public officials authorized to  
10       invest public funds.

11       § 8051. BONDS; APPROVAL

12       No indebtedness shall be issued by the Authority without the written  
13       approval of the Governor and the State Treasurer, provided at least 30 days  
14       prior to any issuance. The State Treasurer shall give approval if he or she  
15       certifies that:

16            (1) none of the nationally recognized credit rating agencies that rate  
17            general obligation debt of the State of Vermont has concluded that such  
18            indebtedness will be included as part of the State of Vermont's net  
19            tax-supported debt computation, as prepared by such rating agencies; or

20            (2) the financing structure and flow of funds for such indebtedness will  
21            not result in such indebtedness being counted as net tax-supported debt, or its

1 equivalent, on the State of Vermont's debt statement, as prepared by any of the  
2 nationally recognized credit rating agencies that rate general obligation debt of  
3 the State of Vermont.

4 Subchapter 4. Reserve Funds

5 § 8052. RESERVE FUND.

6 (a) The Vermont Hydroelectric Power Authority Reserve Fund is hereby  
7 created. The Fund shall be administrated by the Authority and shall comprise  
8 State appropriations, proceeds of bonds required to be deposited therein by  
9 terms of any contract between the Authority and its bondholders or any  
10 resolution of the Authority with respect to the proceeds of bonds, and any other  
11 monies which the Authority determines to deposit therein.

12 (b) Monies in the Fund shall be held and applied solely to:

13 (1) the payment of the interest on and principal of presently outstanding  
14 bonds of the Authority and any bonds issued on a parity therewith;

15 (2) any bonds issued to refund such bonds, all as they become due and  
16 payable; and

17 (3) the retirement of bonds.

18 (c) Money may not be withdrawn from the Fund if it reduces the amount in  
19 the Fund to an amount less than the required debt service reserve, except for:

20 (1) the payment of interest then due and payable on bonds and the  
21 principal of bonds then maturing and payable; and

1           (2) the retirement of bonds in accordance with the terms of any contract  
2           between the Authority and its bondholders and for which other monies of the  
3           Authority are not then available.

4           (c) As used in this subsection:

5           (1) “Maximum debt service” means, as of any date of computation, the  
6           largest amount of money required by the terms of all contracts between the  
7           Authority and its bondholders to be raised in any succeeding calendar year for  
8           the payment of interest on and maturing principal of outstanding bonds and  
9           payments required by the terms of any contracts to sinking funds established  
10           for the payment or redemption of bonds, all calculated on the assumption that  
11           the bonds will cease to be outstanding after date of the computation by reason  
12           of the payment of the bonds at their respective maturities and the payments of  
13           the required monies to sinking funds and the application thereof in accordance  
14           with the terms of all contracts to the retirement of bonds.

15           (2) “Required debt service reserve” means, as of any date of  
16           computation, the amount or amounts required to be on deposit in the Fund, as  
17           provided by resolution of the Authority. “Required debt service reserve” shall  
18           not be required by resolution of the Authority to exceed maximum debt  
19           service.

1 Sec. 3. VERMONT HYDROELECTRIC POWER AUTHORITY;  
2 TRANSITIONAL PROVISION; APPOINTMENT; TERMINATION  
3 (a) The Governor shall appoint the directors of the Authority within 14  
4 days following the request of the Vermont Hydroelectric Power Acquisition  
5 Working Group.  
6 (b) Sec. 2 of this act, creating 30 V.S.A. chapter 90, shall terminate on  
7 January 15, 2017 if at that time the State has not purchased or commenced  
8 negotiations to purchase, the dam facilities, as determined by the Secretary of  
9 Administration.