

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Energy and Technology to which was referred House  
3 Bill No. 739 entitled “An act relating to energy productivity investments under  
4 the self-managed energy efficiency program” respectfully reports that it has  
5 considered the same and recommends that the bill be amended by striking out  
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 30 V.S.A. § 209 is amended to read:

8 § 209. JURISDICTION; GENERAL SCOPE

9 \* \* \*

10 (j) Self-managed energy efficiency programs.

11 (1) There shall be a class of self-managed energy efficiency programs  
12 for transmission and industrial electric ratepayers only.

13 (2) The Commission, by order, shall enact this class of programs.

14 (3) Entities approved to participate in the self-managed energy  
15 efficiency program class shall be exempt from all statewide charges under  
16 subdivision (d)(3) of this section that support energy efficiency programs  
17 performed by or on behalf of Vermont electric utilities. If an electric ratepayer  
18 approved to participate in this program class also is a customer of a natural gas  
19 utility, the ratepayer shall be exempt from all charges under subdivision (d)(3)  
20 of this section or contained within the rates charged by the natural gas utility to

1 the ratepayer that support energy efficiency programs performed by or on  
2 behalf of that utility, provided that the ratepayer complies with this subsection.

3 (4) All of the following shall apply to a class of programs under this  
4 subsection:

5 (A) A member of the transmission or industrial electric rate classes  
6 shall be eligible to apply to participate in the self-managed energy efficiency  
7 program class if the charges to the applicant, or to its predecessor in interest at  
8 the served property, under subdivision (d)(3) of this section were a  
9 minimum of:

10 (i) \$1.5 million during calendar year 2008; or

11 (ii) \$1.5 million during calendar year 2017.

12 (B) A cost-based fee to be determined by the Commission shall be  
13 charged to the applicant to cover the administrative costs, including savings  
14 verification, incurred by the Commission and Department. The Commission  
15 shall determine procedures for savings verification. Such procedures shall be  
16 consistent with savings verification procedures established for entities  
17 appointed under subdivision (d)(2) of this section.

18 (C) An applicant shall demonstrate to the Commission that it has a  
19 comprehensive energy management program with annual objectives.  
20 Achievement of certification of ISO standard 14001 shall be eligible to satisfy  
21 the requirements of having a comprehensive program.

1           (D) An applicant eligible pursuant to subdivision (A)(i) of this  
2 subdivision (j)(4) shall commit to an annual average ~~energy efficiency~~  
3 investment in energy efficiency and productivity programs and measures  
4 during each three-year period that the applicant participates in the program of  
5 ~~no~~ not less than \$1 million. An applicant eligible pursuant to subdivision  
6 (A)(ii) of this subdivision (j)(4) shall commit to an annual average investment  
7 in energy efficiency and productivity programs and measures during each  
8 three-year period that the applicant participates in the program of not less than  
9 \$500,000.00. To achieve the exemption from energy efficiency charges related  
10 to natural gas under subdivision (3) of this subsection (j), ~~the~~ an applicant shall  
11 make an additional annual energy efficiency investment in an amount not less  
12 than \$55,000.00. As used in this subsection (j), “productivity programs and  
13 measures” means investments that reduce the amount of energy required to  
14 produce a unit of product.

15           (E) Participation in the self-managed program includes efficiency and  
16 productivity programs and measures applicable to electric and other forms of  
17 energy. A participant may balance ~~efficiency~~ investments in such programs  
18 and measures across all types of energy or fuels without limitations.

19           (F) A participant shall provide to the Commission and Department  
20 annually an accounting of ~~energy~~ investments in energy efficiency and  
21 productivity programs and measures and the resultant energy savings in the

1 form prescribed by the Commission, which may conduct reasonable audits to  
2 ensure the accuracy of the data provided.

3 (G) The Commission shall report to the General Assembly annually  
4 ~~by~~ on or before April 30 concerning the prior calendar year's class of self-  
5 managed energy efficiency programs. The report shall include identification of  
6 participants, their annual investments, and resulting savings, and any actions  
7 taken to exclude entities from the program.

8 (H) Upon approval of an application by the Commission, the  
9 applicant shall be able to participate in the class of self-managed energy  
10 efficiency programs.

11 (I) On a determination that, for a given three-year period, a  
12 participant in the self-managed efficiency program class did not meet or has  
13 not met the commitment required by subdivision ~~(4)~~(D) of this ~~subsection~~  
14 subdivision (j)(4), the Commission shall terminate the participant's eligibility  
15 for the self-managed program class.

16 (i) On such termination, the former participant will be subject  
17 fully to the then existing charges applicable to its rate class without exemption  
18 under subdivision (3) of this subsection (j), and within 90 days ~~of~~ after such  
19 termination shall pay:

20 (I) the difference between the investment it made pursuant to  
21 the self-managed energy efficiency program during the three-year period of

1 noncompliance and the full amount of the charges and rates related to energy  
2 efficiency it would have incurred during that period absent exemption under  
3 subdivision (3) of this subsection (j); and

4 (II) the difference between the investment it made pursuant to  
5 the program within the current three-year period, if different from the period of  
6 noncompliance, and the full amount of the charges and rates related to energy  
7 efficiency it would have incurred during the current period absent exemption  
8 under subdivision (3) of this subsection (j).

9 (ii) Payments under subdivision ~~(4)(I)(i)~~ of this ~~subsection (j)~~  
10 subdivision (4)(I) shall be made to the entities to which the full amount of  
11 charges and rates would have been paid absent exemption under subdivision  
12 (3) of this subsection (j).

13 (iii) A former participant may not reapply for membership in the  
14 self-managed program after termination under this subdivision (4)(I).

15 (J) A participant in the self-managed program class may request  
16 confidentiality of data it reports to the Commission if the data would qualify  
17 for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is  
18 requested, the Commission shall disclose the data only in accordance with a  
19 protective agreement approved by the Commission and signed by the recipient  
20 of the data, unless a court orders otherwise.

1 (K) Any data not subject to a confidentiality request under  
2 subdivision ~~(4)~~(J) of this ~~subsection~~ subdivision (4) will be a public record.

3 (L) A participant in the self-managed program class may submit  
4 projects to the independent system operator of New England, including  
5 through recognized aggregators, for payments under that operator’s forward  
6 capacity market program, and shall invest such payments in electric or fuel  
7 efficiency.

8 (M) A participant in the self-managed program class may receive  
9 funding from an energy program administered by a government or other entity  
10 ~~which~~ that is not the participant ~~but~~ and may ~~not~~ count such funds received as  
11 part of the annual commitment to its self-managed energy efficiency program.

12 \* \* \*

13 Sec. 2. ENERGY SAVINGS ACCOUNT PARTNERSHIP PILOT

14 (a) Definitions. As used in this section:

15 (1) “ACCD” means the Agency of Commerce and Community

16 Development under 3 V.S.A. chapter 47.

17 (2) “Commission” means the Public Utility Commission under 30 V.S.A.

18 § 3.

19 (3) “Customer” means a commercial or industrial electric customer that

20 is located in a service territory in which Efficiency Vermont delivers energy

21 efficiency programs and measures and that does not qualify for SMEEP.

1           (4) “Customer EEC Funds” means a customer’s EEC payments during  
2           the period of the ESA partnership project.

3           (5) “Department” means the Department of Public Service under  
4           3 V.S.A. § 212 and 30 V.S.A. § 1.

5           (6) “EEC” means an energy efficiency charge on a customer’s retail  
6           electric bill under 30 V.S.A. § 209(d).

7           (7) “Efficiency Vermont” or “EVT” means the EEU whose appointment  
8           under 30 V.S.A § 209(d)(2) includes the delivery of programs and measures to  
9           customers of multiple electric distribution utilities.

10           (8) “Energy efficiency utility” or “EEU” means an entity appointed to  
11           deliver energy efficiency and conservation programs and measures under  
12           30 V.S.A. § 209(d)(2).

13           (9) “ESA” means an energy savings account under 30 V.S.A.  
14           § 209(d)(3)(B).

15           (10) “ESA Partnership Pilot” means the three-year pilot program  
16           established by this section.

17           (11) “Productivity measures” means investments that reduce the amount  
18           of energy required to produce a unit of product.

19           (12) “SMEEP” means the self-managed energy efficiency program  
20           established under 30 V.S.A. § 209(j).

1           (13) “Standing committees of jurisdiction” means the House Committee  
2           on Energy and Technology and the Senate Committees on Finance and on  
3           Natural Resources and Energy.

4           (14) “Unregulated fuel” shall have the same meaning as in 30 V.S.A.  
5           § 209(e).

6           (b) ESA Partnership Pilot; establishment. On or before January 1, 2019,  
7           the Commission by rule or order shall establish a three-year pilot program  
8           **commencing on July 1, 2019** for ~~up to 10~~ customers to self-direct the use of  
9           their Customer EEC Funds, working with EVT. The total amount of Customer  
10           EEC Funds available in the pilot program each year shall not exceed \$2  
11           million. The pilot program established under this section shall be an expansion  
12           of the ESA option under which:

13           (1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B),  
14           the customer shall be able to receive an amount equal to 100 percent of its  
15           Customer EEC Funds to pay for **the full cost of** projects that reduce the  
16           customer’s total energy costs in accordance with subdivision (3) of this  
17           subsection; **and** for technical assistance and other services from Efficiency  
18           Vermont; **and for evaluation, measurement, and verification activity**  
19           **conducted by the Department or EVT.**

20           (2) The customer may receive payments in advance **of project**  
21           **completion** from EVT based on the energy management plan submitted under

1 subsection (d) of this section, estimated project costs, and projected energy  
2 savings. However, a customer shall not receive advance payments from EVT  
3 that exceed the amount of Customer EEC Funds the customer has already paid.

4 (3) Notwithstanding any contrary provision of 30 V.S.A. § 209, the  
5 Customer EEC Funds may be used to reduce a customer's total energy costs  
6 through for one or more of the following: electric energy efficiency, thermal  
7 energy and process-fuel efficiency for unregulated fuels, productivity  
8 measures, demand management, and energy storage that

9 *Option 1:* **reduce a customer's peak demand and energy.**

10 *Option 2:* **provide benefits to the customer and its interconnecting**  
11 **utility.**

12 (c) Methodology for evaluation, measurement, and verification. In its rule  
13 or order under subsection (b) of this section, the Commission shall establish a  
14 methodology for evaluation, measurement, and verification of projects  
15 implemented under the pilot that is consistent with the requirements of  
16 30 V.S.A. § 218c and that includes cost-effectiveness screening that values  
17 energy savings across the customer's energy portfolio and non-energy benefits  
18 such as economic development. As used in this subsection, "economic  
19 development" includes job creation, job retention, payroll increase, and  
20 capital investment.

1           (1) This methodology may be considered for future establishment of  
2           EEU performance criteria under 30 V.S.A. § 209(d).

3           (2) **EVT and the Department** shall evaluate and verify the electricity  
4           savings of each project funded under the ESA Partnership Pilot with no less  
5           rigor than is required by the Independent System Operator of New England  
6           (ISO-NE) for the ISO-NE’s forward capacity market.

7           (c) Competitive solicitation. A customer shall apply to participate in the  
8           ESA Partnership Pilot through a competitive solicitation process conducted  
9           jointly by EVT, the Department, and ACCD.

10           (1) Promptly after the Commission’s rule or order under subsection (a)  
11           becomes effective, EVT, the Department, and ACCD shall establish criteria for  
12           customer selection that are consistent with that rule or order and that take into  
13           account energy efficiency and economic development.

14           (2) On establishment of the selection criteria, EVT, the Department, and  
15           ACCD jointly shall issue a request for proposals (RFP) from customers  
16           seeking to participate in the ESA Partnership Pilot.

17           (3) EVT, the Department, and ACCD jointly shall select **up to 10**  
18           customers to participate in the ESA Partnership Pilot from among the  
19           customers that timely submit proposals in response to the RFP and shall notify  
20           the Commission of the selected customers.

1           (4) If EVT, the Department, and ACCD are unable to resolve an issue  
2           arising under this subsection, they shall bring the issue to the Commission for  
3           resolution.

4           **(5) Customer selection under this subsection shall be completed**  
5           **before July 1, 2019.**

6           (d) Energy management plans. Working with EVT, each customer selected  
7           for the ESA Partnership Pilot shall develop an energy management plan for the  
8           three-year period of the pilot with projects to be implemented, energy savings  
9           targets, and a timeline for projects and investments. A copy of each plan shall  
10          be submitted to the Commission, the Department, and ACCD.

11          (e) Other EEU services. A customer that participates in the ESA  
12          Partnership Pilot shall not be eligible for other EEU services, except for an  
13          EEU appointed to deliver natural gas efficiency programs and measures.

14          (f) Other funding. A customer that participates in the ESA Partnership  
15          Pilot may receive funding from an energy program administered by a  
16          government or other person that is not the participant, including an EEU  
17          appointed to deliver natural gas efficiency services, but shall not count such  
18          funds as part of the investment commitment of the ESA Partnership Pilot.

19          (g) Unused funds. At the end of the ESA Partnership Pilot, any Customer  
20          EEC Funds that have not been expended **or committed** under the pilot shall  
21          revert to use for systemwide energy efficiency programs and measures.

1        (h) Annual reports. On or before each ~~April~~ **November 1** from 2020  
2        through 2022, the EVT and the selected customers jointly shall submit written  
3        progress reports to the Commission, the Department, and the standing  
4        committees of jurisdiction that include projects under the ESA Partnership  
5        Pilot and their associated energy and cost savings. A customer's projects  
6        under the pilot and the associated data and results shall be made public through  
7        this report. **However, a customer may request that the Commission order**  
8        **customer-specific data to be used in preparing a report under this**  
9        **subsection be kept confidential if the data would qualify for exemption**  
10       **from disclosure under 1 V.S.A. § 317. If the Commission issues such an**  
11       **order, the data subject to the order shall be disclosed only in accordance**  
12       **with a protective agreement approved by the Commission and signed by**  
13       **the recipient of the data, unless a court directs otherwise.**  
14       (i) ~~Audit Evaluation~~; recommendation. On completion of the ESA  
15       Partnership Pilot, the Commission shall conduct or shall have a third party  
16       conduct an independent evaluation of the ESA Partnership Pilot and, after  
17       considering the results of that evaluation, shall submit a written  
18       recommendation to the standing committees of jurisdiction on whether to  
19       continue the program conducted under this section and, if so, under what  
20       recommended conditions and revisions, if any. The Commission shall submit  
21       this recommendation on or before ~~November 15, 2022~~ **January 15, 2023.**

1       Sec. 3. EFFECTIVE DATE

2           This act shall take effect on July 1, 2018.

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5           (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

7

Representative \_\_\_\_\_

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FOR THE COMMITTEE