

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Agriculture and Forestry to which was referred Senate
3 Bill No. 276 entitled “An act relating to rural economic development”
4 respectfully reports that it has considered the same and recommends that the
5 House propose to the Senate that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 * * * Rural Economic Development Initiative * * *

8 Sec. 1. 10 V.S.A. § 325m is amended to read:

9 § 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

10 (a) Definitions. As used in this subchapter:

11 (1) ~~“Industrial park” means an area of land permitted as an industrial~~
12 ~~park under chapter 151 of this title or under 24 V.S.A. chapter 117, or under~~
13 ~~both.~~

14 (2) “Rural area” means a county of the State designated as “rural” or
15 “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

16 (3)(2) “Small town” means a town in the State with a population of less
17 than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

18 (b) Establishment. There is created ~~within the Vermont Housing and~~
19 ~~Conservation Board~~ a the Rural Economic Development Initiative to promote
20 and facilitate to be administered by the Vermont Housing and Conservation
21 Board for the purpose of promoting and facilitating community economic

1 development in the small towns and rural areas of the State. The Rural
2 Economic Development Initiative shall collaborate with municipalities,
3 businesses, ~~industrial parks~~, regional development corporations, regional
4 planning commissions, and other appropriate entities to access funding and
5 other assistance available to small towns and businesses in rural areas of the
6 State when existing State resources or staffing assistance is not available.

7 (c) Services; access to funding.

8 (4) The Rural Economic Development Initiative shall provide the
9 following services to small towns and businesses in rural areas:

10 (A)(1) identification of grant or other funding opportunities ~~available~~
11 ~~to small towns, businesses in rural areas, and industrial parks in small towns~~
12 ~~and rural areas~~ that facilitate business development, ~~siting of businesses,~~
13 ~~workforce development, broadband deployment,~~ infrastructure development,
14 or other economic development opportunities;

15 (B)(2) technical assistance ~~to small towns, businesses in rural areas,~~
16 ~~and industrial parks in small towns and rural areas~~ in writing grants, accessing
17 ~~and completing the application process for identified grants or other funding~~
18 ~~opportunities, including writing applications for grants or other funding,~~
19 coordination with providers of grants or other funding, strategic planning for
20 the implementation or timing of activities funded by grants or other funding,

1 and compliance with the requirements of grant awards or awards of other
2 funding.

3 ~~(2)~~(d) Priority. In providing services under this ~~subsection~~ section, the
4 Rural Economic Development Initiative shall give first priority to projects that
5 have received necessary State or municipal approval and that are ready for
6 construction or implementation.

7 ~~(d)~~(e) ~~Services; business development~~ Priority projects. The Rural
8 Economic Development Initiative shall ~~provide small towns and rural areas~~
9 ~~with services to facilitate business development in these areas. These services~~
10 ~~shall include:~~

11 ~~(1) Identifying businesses or business types suitable for a small town,~~
12 ~~rural areas, industrial parks in a small town or rural area, or coworker spaces or~~
13 ~~generator spaces in rural areas. In identifying businesses or business types, the~~
14 ~~Rural Economic Development Initiative shall seek to~~ assist the following
15 priority types of projects:

16 ~~(A) identify businesses or business types in the following priority~~
17 ~~areas:~~

18 ~~(i)~~(1) milk plants, milk handlers, or dairy products, as those terms
19 are defined in 6 V.S.A. § 2672;

20 ~~(ii)~~(2) the outdoor recreation and equipment ~~or recreation industry~~
21 enterprises;

1 ~~(iii)~~(3) ~~the value-added~~ food and forest products industry
2 enterprises;

3 ~~(iv)~~(4) ~~the value added food industry~~ farm operations, including
4 phosphorus removal technology for farm operations;

5 ~~(v)~~(5) ~~phosphorus removal technology~~ coworking or business
6 generator and accelerator spaces; and

7 ~~(vi)~~(6) commercial composting facilities; and

8 (7) restoration and rehabilitation of historic buildings in community
9 centers.

10 ~~(B)~~ ~~explore with a small town or rural area whether underused or~~
11 ~~closed school buildings are appropriate sites for coworker or generator spaces.~~

12 ~~(2)~~ ~~Recommending available grants, tax credits, or other incentives that~~
13 ~~a small town or rural area can use to attract businesses.~~

14 ~~(3)~~(f) Coordination. In providing services under this ~~subsection~~ section,
15 the Rural Economic Development Initiative shall coordinate with the Secretary
16 of Commerce and Community Development ~~in order to avoid duplication by~~
17 ~~the Rural Economic Development Initiative of business recruitment and~~
18 ~~workforce development services provided by the Agency of Commerce and~~
19 Community Development, regional development corporations, and regional
20 planning commissions.

1 ~~(e)(g)~~ Report. Beginning on January 15, 2018 31, 2019, and annually
2 thereafter, the Rural Economic Development Initiative shall submit to the
3 Senate Committees on Agriculture and on Economic Development, Housing
4 and General Affairs and the House Committees on Agriculture and Forestry
5 and on Commerce and Economic Development a report regarding the activities
6 and progress of the Initiative as part of the report of the Vermont Farm and
7 Forest Viability Program. The report shall ~~include:~~

8 ~~(1) a summary of the Initiative's activities in the preceding calendar~~
9 ~~year;~~

10 ~~(2) an evaluation of the effectiveness of the services provided by the~~
11 ~~Initiative to small towns, rural areas, and industrial parks;~~

12 ~~(3) a summary of the Initiative's progress in attracting priority~~
13 ~~businesses to small towns and rural areas;~~

14 ~~(4) an accounting of the grants or other funding that the Initiative~~
15 ~~facilitated or provided assistance with;~~

16 ~~(5) an accounting of the funds acquired by the Rural Economic~~
17 ~~Development Initiative for administration of grants or other funding~~
18 ~~mechanisms and whether these funds are sufficient to offset the cost of the~~
19 ~~Rural Economic Development Initiative; and~~

20 ~~(6) recommended changes to the program, including proposed~~
21 ~~legislative amendments to further economic development in small towns and~~

1 ~~rural areas in the State~~ summarize the Initiative’s activities in the preceding
2 year; evaluate the effectiveness of the services provided by the Initiative;
3 provide an accounting of the grants or other funding that the Initiative
4 facilitated or helped secure; and recommend any changes to the program to
5 further economic development in small towns and rural areas of the State.

6 * * * Outdoor Recreation-Friendly Community Program * * *

7 Sec. 2. OUTDOOR RECREATION-FRIENDLY COMMUNITY PROGRAM

8 (a) Establishment. Upon receipt of funding, the Outdoor Recreation-
9 Friendly Community Program (Program) is created to provide incentives for
10 communities to leverage outdoor recreation assets to foster economic growth
11 within a town, village, city, or region of the State.

12 (b) Administration. The Program shall be administered by the Department
13 of Forests, Parks and Recreation in association with the Agency of Commerce
14 and Community Development.

15 (c) Selection. The Commissioner of Forests, Parks and Recreation in
16 consultation with the Agency of Commerce and Community Development and
17 the Vermont Outdoor Recreation Economic Collaborative steering committee
18 shall select communities for the Program using, at minimum, the following
19 factors:

20 (1) community economic need;

1 (2) identification of outdoor recreation as a priority in a town plan or
2 other pertinent planning document;

3 (3) community commitment to an outdoor recreation vision;
4 demonstrated support from community officials, the public, local business, and
5 local and statewide outdoor recreation nonprofit organizations; and
6 commitment to adhere to accepted standards and recreation ethos;

7 (4) a community with a good foundation of outdoor recreation assets
8 already in place with strong potential for growth on both private and public
9 lands;

10 (5) a community with good opportunities for connecting assets within
11 the community with assets of other nearby communities;

12 (6) a community with an existing solid network of local supporting
13 businesses; and

14 (7) community commitment to track and measure outcomes to
15 demonstrate economic and social success.

16 (d) Incentives. Communities accepted into the Program shall be offered, at
17 minimum, the following incentives:

18 (1) preferential consideration to become part of the Vermont Trail
19 System;

1 (2) preferential consideration when applying for grant assistance
2 through the Recreational Trails Program and the Land and Water Conservation
3 Fund Program;

4 (3) access to other economic development assistance if available and
5 appropriate; and

6 (4) recognition as part of a network of Outdoor Recreation-Friendly
7 Communities connected through a common branding and adherence to high
8 standards of quality and service.

9 (e) Pilot project and appropriation. Upon receipt of funding to create the
10 Outdoor Recreation Friendly Community Program, the Agency of Commerce
11 and Community Development, in association with the Department of Forests,
12 Parks and Recreation, shall approve pilot communities to serve as prototypes
13 for the Program. The funding may be used for the following purposes:

14 (1) communitywide outdoor recreation planning, including assessment,
15 mapping, and identifying possibilities and priorities;

16 (2) services of consultants and other technical assistance providers;

17 (3) public facing mapping and other informational materials;

18 (4) securing access;

19 (5) implementation of public access improvements;

20 (6) stewardship;

21 (7) marketing; and

1 accessory buildings. Trails recognized as part of the Vermont Trails System
2 under section 443 of this title shall be deemed to be for a State purpose.

3 * * *

4 (C) For the purposes of determining jurisdiction under subdivision
5 ~~(3)~~(A) of this ~~section~~ subdivision (3), the following shall apply:

6 * * *

7 (vi) Vermont Trail System projects. In the case of a construction
8 project for a trail recognized as part of the Vermont Trail System pursuant to
9 section 443 of this title, the computation of land involved shall not include any
10 portion of the trail or of the Vermont Trail System in existence as of July 1,
11 2018, unless that portion will be physically altered as part of the project and is
12 on the same tract or tracts of land.

13 * * *

14 (F) When jurisdiction over a trail has been established pursuant to
15 subdivision (A) of this subdivision (3), jurisdiction shall extend only to the
16 trail corridor and to any area directly or indirectly affected by the construction,
17 operation, or maintenance of the trail corridor. The width of the corridor shall
18 be 10 feet unless the District Commission determines that circumstances
19 warrant a wider or narrower width.

20 Sec. 4a. PROSPECTIVE REPEAL

21 10 V.S.A. § 6001(3)(C)(vi) shall be repealed on July 1, 2019.

1 Sec. 4b. ACT 250 JURISDICTION; RECREATIONAL TRAILS;

2 EVALUATION

3 (a) In addition to the currently assigned tasks under 2017 Acts and
4 Resolves No. 47 (Act 47), the Commission on Act 250: the Next 50 Years (the
5 Commission) established under that act shall evaluate the strengths and
6 challenges associated with regulation of recreational trails under 10 V.S.A.
7 chapter 151 (Act 250) and alternative structures for the planning, review, and
8 construction of future trail networks and the extension of existing trail
9 networks. The Commission shall include recommendations on this issue in its
10 report to the General Assembly due on or before December 15, 2018 under
11 Act 47.

12 (b) To provide information and recommendations to the Commission on
13 the issue identified in subsection (a) of this section, the Commissioner of
14 Forest, Parks and Recreation or designee and the Chair of the Natural
15 Resources Board or designee shall form a recreational trails working group that
16 shall include officers and employees of the Agency of Natural Resources
17 designated by the Secretary of Natural Resources, the Vermont Trails and
18 Greenways Council established under 10 V.S.A. chapter 20, representatives of
19 environmental organizations, and other affected persons. The working group
20 shall submit a report to the Commission on Act 250 on or before October 1,
21 2018.

1 (1) With respect to recreational trails, the working group’s report shall
2 examine multiple potential planning and regulatory structures, including
3 possible revisions to Act 250; the creation of a trail oversight program within
4 the Agency of Natural Resources that includes best development practices and
5 an agency permitting process, including consideration of a general permit; and
6 other options that the working group may identify.

7 (2) In considering alternative structures, the working group shall
8 evaluate how best to foster the development of an interconnected recreational
9 trail network in Vermont while safeguarding the State’s natural resources,
10 including water quality, wildlife habitat and populations, and sensitive natural
11 communities and areas, and potential impacts on neighboring properties and
12 host municipalities.

13 (3) The Commission shall consider the report of the working group
14 during its deliberation and report preparation phase set forth in Act 47,
15 Sec. 2(d)(3), and shall attach a copy of the working group’s report to its own
16 report to the General Assembly.

1 professionals, ~~veterinarians~~, and other experts to deliver the ~~informational and~~
2 ~~technological~~ educational and consulting services.

3 (3) Encourage agricultural or forest-sector economic development
4 through investing in improvements to essential infrastructure and the
5 promotion of ~~farm~~ businesses in ~~Vermont~~ these sectors.

6 (4) Enter into agreements with private organizations or individuals or
7 with any agency or instrumentality of the United States or of this State and
8 employ technical experts to carry out the purposes of this section.

9 (b) The ~~farm viability enhancement program~~ Farm and Forest Viability
10 Program shall be assisted by an advisory board consisting of ~~ten~~ 12 members
11 who shall include:

12 (1) The Secretary of Agriculture, Food and Markets. The Secretary
13 shall serve as Chair of the Board.

14 (2) The Commissioner of Forests, Parks and Recreation or designee.

15 (3) The Commissioner of Economic Development or designee.

16 (3)(4) The Manager of the Vermont Economic Development Authority
17 or designee.

18 (4)(5) The Director of University of Vermont Extension or designee.

19 (5)(6) The Executive Director of the Vermont Housing and
20 Conservation Board or designee.

1 ~~(6)~~(7) Four Vermont ~~farmers~~ agricultural or forest-sector business
2 owners appointed by the Secretary of Agriculture, Food and Markets in
3 consultation with the Vermont Housing and Conservation Board and the
4 Commissioner of Forests, Parks and Recreation. ~~The four farmers shall serve~~
5 ~~two-year terms, except for the first year, two farmers chosen by the Chair shall~~
6 ~~serve one-year terms~~ At least two of the four business owners shall be
7 agricultural-sector business owners.

8 ~~(7)~~(8) ~~A person who has~~ Two people who have expertise in agricultural
9 or forest-sector economics, financing, or business ~~planning~~ development
10 appointed by the Secretary of Agriculture, Food and Markets in consultation
11 with the Vermont Housing and Conservation Board and the Commissioner of
12 Forests, Parks and Recreation.

13 (c) Members of the Advisory Board established in subsection (b) of this
14 section other than ex officio members shall serve up to three two-year terms
15 and shall be entitled to per diem expenses pursuant to 32 V.S.A. § 1010 for
16 each day spent in the performance of their duties, and each such member shall
17 be reimbursed ~~from the fund created by this section~~ for his or her reasonable
18 expenses incurred in carrying out his or her duties under this section.

19 (d) In consultation with the Advisory Board, the Secretary of Agriculture,
20 Food and Markets and the Vermont Housing and Conservation Board shall
21 establish ~~grant criteria~~, performance goals, performance measures that

1 demonstrate Program results, and other criteria to implement the Program. The
2 ~~grant~~ criteria shall include at least the following requirements:

3 (1) ~~the application is developed in consultation with the producers who~~
4 ~~use or would use the Program and will address their needs;~~

5 (2) the use of ~~the funds~~ available to the Program is likely to succeed in
6 improving the economic viability of the ~~farm and the farm's producers~~
7 business;

8 (3)~~(2)~~ ~~the producers are committed~~ enrollees demonstrate commitment
9 to participating in the Program; and

10 (4)~~(3)~~ an evaluation shall be completed by ~~enrolled farmers in~~
11 ~~conjunction with the teams~~ the enrollees.

12 (e)~~(1)~~ ~~The Farm Viability Enhancement Program Special Fund is~~
13 ~~established in the State Treasury and shall be administered by the Secretary of~~
14 ~~Agriculture, Food and Markets in accordance with the provisions of 32 V.S.A.~~
15 ~~chapter 7, subchapter 5, except that interest earned on the fund shall be~~
16 ~~retained in the Fund. The Fund shall be used only for the purpose of~~
17 ~~implementing and effectuating the Farm Viability Enhancement Program~~
18 ~~established by this section. There shall be deposited in such Fund any monies~~
19 ~~appropriated by the General Assembly to, or received by, the Secretary of~~
20 ~~Agriculture, Food and Markets from any other source, public or private. The~~
21 ~~Fund shall be used only for the purposes of:~~

1 ~~(A) providing funds for the Farm Viability Enhancement Program as~~
2 ~~established in this section;~~

3 ~~(B) providing funds to enrolled farmers;~~

4 ~~(C) providing funds to service providers for administrative expenses~~
5 ~~of the program; and~~

6 ~~(D) leveraging other competitive public and private funds, grants,~~
7 ~~and contributions for the Farm Viability Enhancement Program.~~

8 (2) The Secretary of Agriculture, Food and Markets, the Commissioner
9 of Forests, Parks and Recreation, and the Vermont Housing and Conservation
10 Board, separately or cooperatively, may solicit federal funds, grants, and
11 private contributions for the Farm and Forest Viability ~~Enhancement~~ Program,
12 but any Vermont Housing and Conservation Board funds used for the Farm
13 and Forest Viability ~~Enhancement~~ Program shall be administered in
14 accordance with 10 V.S.A. § 312.

15 (f)(4) In collaboration with ~~the Vermont Housing and Conservation Board,~~
16 the Secretary of Agriculture, Food and Markets and the Commissioner of
17 Forests, Parks and Recreation, the Vermont Housing and Conservation Board
18 shall report in writing to the Senate ~~Committee~~ Committees on Agriculture and
19 on Economic Development, Housing and General Affairs and the House
20 ~~Committee~~ Committees on Agriculture and Forestry and on Commerce and
21 Economic Development on or before January 31 of each year with a report on

1 the activities and performance of the Farm and Forest Viability ~~Enhancement~~
2 Program. At a minimum, the report shall include an evaluation of the Program
3 utilizing the performance goals and performance measures established in
4 consultation with the Advisory Board under subsection (d) of this section. ~~The~~
5 ~~report should assess potential demand for the Program over the succeeding~~
6 ~~three years.~~

7 ~~(2) The Agency of Agriculture, Food and Markets and the Vermont~~
8 ~~Housing and Conservation Board shall describe in their annual budget~~
9 ~~submissions plans to develop adequate State, federal, and private funds to carry~~
10 ~~out this initiative.~~

11 ~~(g)(1) The Agricultural Economic Development Special Account is~~
12 ~~established as a dedicated sub-account of the Vermont Farm Viability~~
13 ~~Enhancement Program Special Fund. There shall be deposited in such account~~
14 ~~any monies:~~

15 ~~(A) appropriated by the General Assembly to the account; and~~

16 ~~(B) received by the State or the Secretary of Agriculture, Food and~~
17 ~~Markets from any source, public or private, for use for any of the purposes for~~
18 ~~which the account was established.~~

19 ~~(2) The Fund shall only be used for the purposes of:~~

20 ~~(A) encouraging private investment in the economic initiative; and~~

1 ~~(B) providing incentives for technology businesses, determined by~~
2 ~~the Agency of Agriculture, Food and Markets to provide critical technological~~
3 ~~solutions for the growth of Vermont’s agricultural economy.~~

4 ~~(3) Assistance from the Agricultural Economic Development Special~~
5 ~~Account shall be available in order to produce agricultural energy, harvest~~
6 ~~biomass, convert biomass into energy, or enable installation and usage of wind,~~
7 ~~solar, or other technology that relies on a resource that is being consumed at a~~
8 ~~harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A.~~
9 ~~§ 8002(2), including:~~

10 ~~(A) business and technical assistance for research and planning to aid~~
11 ~~a farmer or a group of farmers in developing business enterprises;~~

12 ~~(B) cost-effective implementation assistance to leverage other~~
13 ~~sources of capital to assist a farmer or group of farmers in purchasing~~
14 ~~equipment, technology, or other assistance; and~~

15 ~~(C) business, technical, and implementation assistance to persons that~~
16 ~~are not farmers for the development and implementation of technology or~~
17 ~~development of facilities designed to produce agricultural energy, harvest~~
18 ~~biomass, or convert biomass into energy, provided that the person is working~~
19 ~~in consultation with a Vermont farm, is creating an enterprise that utilizes~~
20 ~~Vermont resources, and provides Vermont a significant return on investment~~

1 ~~and meets any financial and technical criteria established by the Secretary by~~
2 ~~procedure.~~ [Repealed.]

3 * * * Nutrient Management Plans; Technical Service Providers * * *

4 Sec. 5a. 6 V.S.A. § 4989 is added to read:

5 § 4989. CERTIFICATION OF NUTRIENT MANAGEMENT PLAN

6 TECHNICAL SERVICE PROVIDERS

7 (a) On or before July 1, 2019, the Secretary of Agriculture, Food and
8 Markets shall adopt by rule a process by which a nutrient management
9 technical service provider shall be certified to operate within the State. The
10 certification process shall require a nutrient management technical service
11 provider to complete eight hours of training over each five-year period
12 regarding:

13 (1) calculating manure and agricultural waste generation;

14 (2) taking soil and manure samples;

15 (3) identifying and creating maps of all natural resource features;

16 (4) use of erosion calculation tools;

17 (5) reconciling plans using records;

18 (6) use of nutrient index tools; and

19 (7) requirements within the Required Agricultural Practices, Medium
20 Farm Operation rules and general permit, and Large Farm Operation rules.

1 Sec. 7. COMMISSION ON ACT 250; REVIEW OF FOREST PRODUCTS
2 PROCESSING

3 The Commission on Act 250: the Next 50 Years (Commission) established
4 under 2017 Acts and Resolves No. 47 (Act 47) shall review whether permit
5 conditions in permits issued under 10 V.S.A. chapter 151 (Act 250) to forest
6 processing operations negatively impact the ability of a forest processing
7 operation to operate in an economically sustainable manner, including whether
8 Act 250 permit conditions limit the ability of a forest processing operation to
9 alter production or processing in order to respond to market conditions. If the
10 Commission determines that Act 250 permit conditions have a significant
11 negative economic impact on forestry processing operations, the Commission
12 shall recommend alternatives for mitigating those negative economic impacts.
13 The Commission shall include its findings and recommendation on this issue,
14 if any, in the report due to the General Assembly on December 15, 2018 under
15 Act 47.

16 * * * Environmental Permitting Fees * * *

17 Sec. 8. 3 V.S.A. § 2822(j) is amended to read:

18 (j) In accordance with subsection (i) of this section, the following fees are
19 established for permits, licenses, certifications, approvals, registrations, orders,
20 and other actions taken by the Agency of Natural Resources.

21 * * *

1 * * * Electric Utility Demand Charges; Rural Towns * * *

2 Sec. 9. DEMAND CHARGES; REPORT

3 (a) On or before January 31, 2019, the Commissioner of Public Service
4 (Commissioner), in consultation with the Secretary of Commerce and
5 Community Development, shall submit a written report on electric utility
6 demand charges in Vermont and their effect on the ability of industrial
7 enterprises to locate in rural towns of the State.

8 (b) The Commissioner shall submit the report to the House Committees on
9 Agriculture and Forestry, on Commerce and Community Development, and on
10 Energy and Technology and the Senate Committees on Agriculture, on
11 Economic Development, Housing and General Affairs, and on Finance.

12 (c) The report under this section shall include:

13 (1) a narrative summary of the terms, conditions, and rates for each
14 demand charge tariff of each Vermont electric utility;

15 (2) a table that shows the rates and applicability of each such tariff, with
16 such other information as the Commissioner may consider relevant, organized
17 by electric utility;

18 (3) an analysis of the alternatives to these tariffs that will improve the
19 ability of industrial enterprises to locate in rural towns of the State, including
20 the use of energy efficiency, self-generation, and other measures to reduce the
21 demand of such enterprises on the interconnecting electric utility;

1 * * * Forest Products Industry; Wood Energy; Supply * * *

2 Sec. 11. PUBLIC BUILDINGS; WOOD ENERGY; VERMONT
3 SUPPLIERS; REPORT

4 (a) On or before December 15, 2018, the Commissioner of Buildings and
5 General Services (Commissioner), in consultation with the Commissioner of
6 Public Service, shall submit a written report and recommendation on the
7 feasibility and impacts of requiring certain public buildings that use wood to
8 produce heat or electricity, or both, to give preference to Vermont suppliers
9 when making fuel supply purchases.

10 (b) As used in this section, “public building” has the same meaning as in
11 20 V.S.A. § 2730.

12 (c) The submission shall include the Commissioner’s specific
13 recommendations as to each of the following categories of public buildings:

14 (1) schools owned, occupied, or administered by municipalities;

15 (2) other public buildings owned or occupied by the State of Vermont,
16 counties, municipalities, or other public entities; and

17 (3) public buildings or biomass energy facilities in Vermont that receive
18 incentives or financing, or both, from the State of Vermont and are not within
19 the category described in subdivision (1) or (2) of this subsection.

20 (d) The Commissioner shall submit the report and recommendation to the
21 Senate Committees on Agriculture and on Natural Resources and Energy and

1 the House Committees on Agriculture and Forestry and on Energy and
2 Technology.

3 * * * Hemp * * *

4 Sec. 12. PURPOSE

5 The purpose of this section and Secs. 13–14 of this act is to amend the laws
6 of Vermont regarding the cultivation of industrial hemp to conform with
7 federal requirements for industrial hemp research set forth in section 7606 of
8 the federal Agricultural Act of 2014, Pub. L. No. 113-79, codified at 7 U.S.C.
9 § 5940.

10 Sec. 13. 6 V.S.A. chapter 34 is amended to read:

11 CHAPTER 34. HEMP

12 § 561. FINDINGS; INTENT

13 (a) Findings.

14 (1) Hemp has been continuously cultivated for millennia, is accepted
15 and available in the global marketplace, and has numerous beneficial, practical,
16 and economic uses, including: high-strength fiber, textiles, clothing, ~~bio-fuel~~
17 biofuel, paper products, protein-rich food containing essential fatty acids and
18 amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic
19 products, construction materials, rope, and value-added crafts.

1 (2) The many agricultural and environmental beneficial uses of hemp
2 include: livestock feed and bedding, stream buffering, erosion control, water
3 and soil purification, and weed control.

4 (3) The hemp plant, an annual herbaceous plant with a long slender stem
5 ranging in height from four to 15 feet and a stem diameter of one-quarter to
6 three-quarters of an inch is morphologically distinctive and readily identifiable
7 as an agricultural crop grown for the cultivation and harvesting of its fiber
8 and seed.

9 (4) Hemp cultivation will enable the State of Vermont to accelerate
10 economic growth and job creation, promote environmental stewardship, and
11 expand export market opportunities.

12 (5) The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized
13 the growing, cultivation, and marketing of industrial hemp, notwithstanding
14 restrictions under the federal Controlled Substances Act, if certain criteria are
15 satisfied.

16 (b) Purpose. The intent of this chapter is to establish policy and procedures
17 for growing hemp in Vermont that comply with federal law so that farmers and
18 other businesses in the Vermont agricultural industry can take advantage of
19 this market opportunity.

20 § 562. DEFINITIONS

21 As used in this chapter:

1 (1) [Repealed.]

2 (2) “Hemp products” or “hemp-infused products” means all products
3 made from hemp, including cloth, cordage, fiber, food, fuel, paint, paper,
4 construction materials, plastics, seed, seed meal, seed oil, and certified seed for
5 cultivation.

6 (3) “Hemp” or “industrial hemp” means the plant Cannabis sativa L. and
7 any part of the plant, whether growing or not, with a delta-9
8 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry
9 weight basis.

10 (4) “Secretary” means the Secretary of Agriculture, Food and Markets.

11 § 563. HEMP; AN AGRICULTURAL PRODUCT

12 ~~Hemp~~ Industrial hemp is an agricultural product ~~which~~ that may be grown
13 as a crop; produced, possessed, marketed, and commercially traded in Vermont
14 pursuant to the provisions of this chapter. The cultivation of industrial hemp
15 shall be subject to and comply with ~~the requirements of~~ the required
16 agricultural practices adopted under section 4810 of this title.

17 § 564. REGISTRATION; ADMINISTRATION; PILOT PROJECT

18 (a) The Secretary shall establish a pilot program to research the growth,
19 cultivation, and marketing of industrial hemp. Under the pilot program, the
20 Secretary shall register persons who will participate in the pilot program
21 through growing or cultivating industrial hemp. The Secretary shall certify the

1 site where industrial hemp will be cultivated by each person registered under
2 this chapter. A person who intends to participate in the pilot program and
3 grow industrial hemp shall register with the Secretary and submit on a form
4 provided by the Secretary the following:

5 (1) the name and address of the person;

6 (2) a statement that the seeds obtained for planting are of a type and
7 variety that do not exceed the maximum concentration of tetrahydrocannabinol
8 set forth in subdivision 562(3) of this title; and

9 (3) the location and acreage of all parcels sown and other field reference
10 information as may be required by the Secretary.

11 (b) The form provided by the Secretary pursuant to subsection (a) of this
12 section shall include a notice statement that, ~~until current federal law is~~
13 ~~amended to provide otherwise:~~

14 (1) cultivation and possession of industrial hemp in Vermont is a
15 violation of the federal Controlled Substances Act unless the industrial hemp is
16 grown, cultivated, or marketed under a pilot program authorized by section
17 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79; and

18 (2) federal prosecution for growing hemp in violation of federal law
19 may include criminal penalties, forfeiture of property, and loss of access to
20 federal agricultural benefits, including agricultural loans, conservation
21 programs, and insurance programs; and

1 (3) registrants may purchase or import hemp genetics from any state that
2 complies with federal requirements for the cultivation of industrial hemp.

3 (c) A person registered with the Secretary pursuant to this section shall
4 allow industrial hemp crops, throughout sowing, growing season, harvest,
5 storage, and processing, to be inspected and tested by and at the discretion of
6 the Secretary or ~~his or her~~ designee. The Secretary shall retain tests and
7 inspection information collected under this section for the purposes of research
8 of the growth and cultivation of industrial hemp.

9 (d) The Secretary may assess an annual registration fee of \$25.00 for the
10 performance of his or her duties under this chapter.

11 § 566. RULEMAKING AUTHORITY

12 (a) The Secretary may adopt rules to provide for the implementation of this
13 chapter and the pilot project authorized under this chapter, which may include
14 rules to require hemp to be tested during growth for tetrahydrocannabinol
15 levels and to require inspection and supervision of hemp during sowing,
16 growing season, harvest, storage, and processing. The Secretary shall not
17 adopt under this or any other section a rule that would prohibit a person to
18 grow hemp based on the legal status of hemp under federal law.

19 (b) The Secretary shall adopt rules establishing how the Agency of
20 Agriculture, Food and Markets will conduct research within the pilot program
21 for industrial hemp.

1 (c) The Secretary shall adopt rules establishing requirements for the
2 registration of processors of hemp and hemp-infused products.

3 Sec. 14. TRANSITION; IMPLEMENTATION

4 All persons registered prior to July 1, 2018 with the Secretary of
5 Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate
6 hemp shall be deemed to be registered with the Secretary of Agriculture, Food
7 and Markets as participants in the industrial hemp pilot project established by
8 this act under 6 V.S.A. § 564, and those previously registered persons shall not
9 be required to reregister with the Secretary of Agriculture, Food and Markets.

10 Sec. 15. 6 V.S.A. §§ 567 and 568 are added to read:

11 § 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

12 The Agency of Agriculture, Food and Markets shall establish a cannabis
13 quality control program for the following purposes:

14 (1) to develop potency and contaminant testing protocols for hemp and
15 hemp-infused products;

16 (2) to verify cannabinoid label guarantees of hemp and hemp-infused
17 products;

18 (3) to test for pesticides, solvents, heavy metals, mycotoxins, and
19 bacterial and fungal contaminants in hemp and hemp-infused products; and

20 (4) to certify testing laboratories that can offer the services in
21 subdivisions (2) and (3) of this section.

1 § 568. TEST RESULTS; ENFORCEMENT

2 (a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86
3 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol
4 concentration of more than 0.3 percent on a dry weight basis, the person
5 registered with the Secretary as growing the hemp crop shall:

6 (1) enter into an agreement with a dispensary registered under 18 V.S.A.
7 chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the
8 hemp crop, return of the hemp crop to the person registered with the Secretary,
9 and retention of the separated delta-9 tetrahydrocannabinol by the dispensary.

10 (2) sell the hemp crop to a dispensary registered under 18 V.S.A.
11 chapter 86; or

12 (3) arrange for the Secretary to destroy or order the destruction of the
13 hemp crop.

14 (b) A person registered with the Secretary as growing the hemp crop shall
15 not be subject to civil, criminal, or administrative liability or penalty under
16 18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9
17 tetrahydrocannabinol concentration of one percent or less on a dry weight
18 basis.

19 (c) A crop or product confirmed by the Secretary to meet the definition of
20 hemp under State or federal law may be sold or transferred in interstate
21 commerce to the extent authorized by federal law.

1 Sec. 16. 18 V.S.A. § 4474e is amended to read:

2 § 4474e. DISPENSARIES; CONDITIONS OF OPERATION

3 (a) A dispensary registered under this section may:

4 (1) Acquire, possess, cultivate, manufacture, process, transfer, transport,
5 supply, sell, and dispense marijuana, marijuana-infused products, and
6 marijuana-related supplies and educational materials for or to a registered
7 patient who has designated it as his or her dispensary and to his or her
8 registered caregiver for the registered patient’s use for symptom relief.

9 * * *

10 (5) Acquire, possess, manufacture, process, transfer, transport, market,
11 and test hemp provided by persons registered with the Secretary of
12 Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate
13 hemp.

14 * * *

15 * * * Produce Inspection * * *

16 Sec. 17. 6 V.S.A. § 21(b) is amended to read:

17 (b) The Secretary shall have the authority to:

18 (1) respond to and remediate incidences of mass animal death,
19 agricultural structure fires, or other emergencies on a farm in order to prevent a
20 public health hazard;

1 (2) condemn, confiscate, or establish restrictions on the use, sale, or
2 distribution of adulterated raw agricultural commodities or animal feed; and

3 (3) cooperate with the Department of Health and other State and federal
4 agencies regarding:

5 (A) the prevention or remediation of the adulteration of raw
6 agricultural commodities, food, or animal feed on farms; and

7 (B) application of the FDA Food Safety Modernization Act,
8 ~~21 U.S.C. §§ 2201-2252~~ Pub. L. No. 111-353, to farms, farm products, or
9 value-added products produced in the State.

10 Sec. 18. 6 V.S.A. § 852 is amended to read:

11 § 852. AUTHORITY; ~~ENFORCEMENT~~

12 (a) The Secretary may enforce in the State the requirements of:

13 (1) the rules adopted under the ~~federal U.S. Food and Drug~~
14 Administration Food Safety Modernization Act, Public Law No. 111-353, for
15 standards for growing, harvesting, packing, and holding of produce for human
16 consumption Standards for Growing, Harvesting, Packing, and Holding of
17 Produce for Human Consumption, 21 C.F.R. part 112; and

18 (2) the rules adopted under this chapter.

19 (b) The Agency may collaborate with the ~~Vermont~~ Department of Health
20 regarding application of the ~~federal Food Safety Modernization Act and the~~
21 ~~rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety

1 Modernization Act, Standards for Growing, Harvesting, Packing, and Holding
2 of Produce for Human Consumption, 21 C.F.R. part 112, and application of the
3 rules adopted under this chapter.

4 (c) The Secretary shall carry out the provisions of this chapter using:

5 (1) monies appropriated to the Agency by the federal government for the
6 purpose of administering the federal Food Safety Modernization Act and the
7 rules adopted thereunder;

8 (2) monies appropriated to the Agency by the State for the purpose of
9 administering this chapter; and

10 (3) other gifts, bequests, and donations by private entities for the
11 purposes of administering this chapter.

12 Sec. 19. 6 V.S.A. § 853 is amended to read:

13 § 853. FARM INSPECTIONS

14 (a)(1) The Secretary may inspect a produce farm during reasonable hours
15 for the purposes of ensuring compliance with:

16 (A) the federal standards for growing, harvesting, packing, and
17 holding of produce for human consumption, as adopted under 21 C.F.R.

18 part 112; or

19 (B) the rules adopted under this chapter.

1 (2) This section shall not limit the Secretary’s authority to respond to an
2 emergency in order to prevent a public health hazard under section 21 of this
3 title.

4 ~~(b) After inspection, the Secretary may issue an inspection certificate that~~
5 ~~shall include the date and place of inspection along with any other pertinent~~
6 ~~facts that the Secretary may require.~~

7 ~~(e)~~ The Secretary may coordinate with other State agencies and
8 organizations to carry out inspections at or near the same time on a given
9 produce farm.

10 Sec. 20. 6 V.S.A. §§ 856 and 857 are added to read:

11 § 856. ENFORCEMENT; CORRECTIVE ACTIONS

12 When the Secretary of Agriculture, Food and Markets determines that a
13 person is violating the rules listed in section 852 of this title, the Secretary may
14 issue a written warning that shall be served in person or by certified mail,
15 return receipt requested. A warning issued under this section shall include:

16 (1) a description of the alleged violation;

17 (2) identification of this section;

18 (3) identification of the applicable rule violated; and

19 (4) the required corrective action that the person shall take to correct the
20 violation.

1 § 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

2 (a) Notwithstanding the requirements of section 856 of this title, the
3 Secretary at any time may pursue one or more of the following:

4 (1) issue a cease and desist order in accordance to a person the Secretary
5 believes to be in violation of the rules listed in section 852 of this title;

6 (2) issue a verbal order or written administrative order to protect public
7 health, including orders for the stop sale, recall, embargo, destruction,
8 quarantine, and release of produce, when:

9 (A) the U.S. Food and Drug Administration requires immediate State
10 action; or

11 (B) an alleged violation, activity, or farm practice presents an
12 immediate threat to the public health or welfare;

13 (3) order mandatory corrective actions;

14 (4) take any action authorized under chapter 1 of this title;

15 (5) seek administrative or civil penalties in accordance with the
16 requirements of section 15, 16, or 17 of this title.

17 (b) When the Secretary of Agriculture, Food and Markets issues a cease
18 and desist order, written administrative order, or required corrective action
19 under subsection (a) of this section, the Secretary shall provide the person
20 subject to the order or corrective action with a statement that the order or

1 corrective action is effective upon receipt and the person has 15 days from the
2 date the order or corrective action was issued to request a hearing.

3 (c) If the Secretary of Agriculture, Food and Markets issues a verbal order
4 under this section, the Secretary shall issue written notice to the person subject
5 to the order within five days of the issuance of the verbal order. The written
6 notice shall include a statement that the person has 15 days from the date the
7 written notice was received to request a hearing.

8 (d) If a person who receives a cease and desist order, a verbal order, an
9 administrative order, or a mandatory corrective action under this section does
10 not request in writing a hearing within 15 days of receipt of the order or within
11 15 days of written notice for a verbal order, the person's right to a hearing is
12 waived. Upon receipt of a written request for a hearing, the Secretary
13 promptly shall set a date and time for a hearing. A request for a hearing on a
14 cease and desist order, verbal order, or administrative order issued under this
15 section shall not stay the order.

16 (e) A person aggrieved by a final action or decision of the Secretary under
17 this section may appeal de novo to the Civil Division of the Superior Court
18 within 30 days of the final decision of the Secretary.

1 * * * Livestock and Poultry Transport for Slaughter * * *

2 Sec. 21. 6 V.S.A. § 1461a(c) is amended to read:

3 (c) Livestock and poultry that are transported to a commercial slaughter
4 facility within the State shall not be removed from the facility without the
5 facility's ~~owner~~ owner's first obtaining written permission from the State
6 Veterinarian. For purposes of this section, arrival of the conveyance onto
7 facility property and the offloading of livestock or poultry constitutes transport
8 to a slaughter facility, regardless of whether the animals have been ~~offloaded~~
9 or presented for antemortem inspection. The State Veterinarian may require
10 inspection and testing prior to issuing consent for removal.

11 * * * Industrial Park Designation * * *

12 Sec. 22. AGENCY OF COMMERCE AND COMMUNITY

13 DEVELOPMENT; INDUSTRIAL PARK DESIGNATION

14 (a) On or before December 15, 2018, the Secretary of Commerce and
15 Community Development, after consultation with the Secretary of Natural
16 Resources, the Chair of the Natural Resources Board, Regional Development
17 Corporations, Regional Planning Commissions, the Vermont Natural
18 Resources Council, and the Commission on Act 250, shall submit to the Senate
19 Committees on Agriculture and on Economic Development, Housing and
20 General Affairs and to the House Committees on Commerce and Economic
21 Development, on Agriculture and Forestry, and on Natural Resources, Fish,

1 and Wildlife recommendations for establishing an economic development
2 program under which defined parcels in rural areas of the State are designated
3 as industrial parks for the purposes of providing regulatory and permitting
4 incentives to businesses sited within the industrial park. The report shall
5 include:

6 (1) recommended criteria for establishing an industrial park in a
7 rural area;

8 (2) eligibility criteria, if any, for a business to site within a designated
9 industrial park in a rural area;

10 (3) recommended incentives for businesses sited within a designated
11 industrial park in a rural area, including permitting incentives, permit fee
12 reductions, reduced electric rates, net metering incentives, and other regulatory
13 incentives;

14 (4) recommended technical or financial assistance that a business would
15 be eligible to receive for locating within a designated industrial park in a rural
16 area; and

17 (5) draft legislation necessary to implement any recommendation.

18 (b) The recommendations in the report shall be designed in a manner so
19 that any recommended process or criteria maintains consistency with the land
20 use goals of Vermont in 24 V.S.A. § 4302 and the relevant regional plan
21 adopted under 24 V.S.A. § 4348.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

* * *

(b) Managed forestland shall be eligible for use value appraisal under this subchapter only if:

(1) The land is subject to a forest management plan, or subject to a conservation management plan in the case of lands certified under 10 V.S.A. § 6306(b), ~~which~~ that is filed in the manner and form required by the Department of Forests, Parks and Recreation and that:

(A) ~~is~~ Is signed by the owner of the parcel;

(B) ~~complies~~ Complies with subdivision 3752(9) of this title;

(C) ~~is filed with and~~ Is approved by the Department of Forests, Parks and Recreation; ~~and.~~

(D) ~~provides~~ Provides for continued conservation management or forest crop production on the parcel for 10 years. An initial forest management plan or conservation management plan must be filed with the Department of Forests, Parks and Recreation ~~no later than~~ on or before October 1 and shall be effective for a 10-year period beginning the following April 1. Prior to expiration of a 10-year plan and ~~no later than~~ on or before April 1 of the year in which the plan expires, the owner shall file a new conservation or forest management plan for the next succeeding 10 years to remain in the program.

(E) The Department may approve a forest management plan that provides for the maintenance and enhancement of the tract's wildlife habitat

1 where clearly consistent with timber production and with minimum acceptable
2 standards for forest management as established by the Commissioner of
3 Forests, Parks and Recreation.

4 (F) The Department, upon giving due consideration to resource
5 inventories submitted by applicants, may approve a conservation management
6 plan, consistent with conservation management standards, so as to include
7 appropriate provisions designed to preserve: areas with special ecological
8 values; fragile areas; rare or endangered species; significant habitat for
9 wildlife; significant wetlands; outstanding resource waters; rare and
10 irreplaceable natural areas; areas with significant historical value; public water
11 supply protection areas; areas that provide public access to public waters; and
12 open or natural areas located near population centers or historically frequented
13 by the public. In approving a plan, the Department shall give due
14 consideration to: the need for restricted public access where required to
15 protect the fragile nature of the resource; public accessibility where restricted
16 access is not required; facilitation of appropriate, traditional public usage; and
17 opportunities for traditional or expanded use for educational purposes and for
18 research.

19 (2) A management report of whatever activity has occurred, signed by
20 the owner, has been filed with the Department of ~~Forests, Parks and Recreation~~

1 ~~by Taxes, Director of Property Valuation and Review on or before~~ February 1
2 of the year following the year when the management activity occurred.

3 (3) There has not been filed with the Director an adverse inspection
4 report by the Department stating that the management of the tract is contrary to
5 the forest or conservation management plan, or contrary to the minimum
6 acceptable standards for forest or conservation management. The management
7 activity report shall be on a form prescribed by the Commissioner of Forests,
8 Parks and Recreation in consultation with the Commissioner of Taxes and shall
9 ~~include a detachable section~~ be signed by all the owners that and shall contain
10 the federal tax identification numbers of all the owners. ~~The section containing~~
11 ~~federal tax identification numbers shall not be made available to the general~~
12 ~~public, but shall be forwarded to the Commissioner of Taxes within 30 days~~
13 ~~after receipt and used for tax administration purposes.~~ All information
14 contained within the management activity report shall be forwarded to the
15 Department of Forests, Parks and Recreation, except for any tax identification
16 number included in the report. If any owner ~~shall satisfy~~ satisfies the
17 Department that he or she was prevented by accident, mistake, or misfortune
18 from filing an initial or revised management plan ~~which that~~ that is required to be
19 filed on or before October 1, or a management plan update ~~which that~~ that is
20 required to be filed on or before April 1 of the year in which the plan expires,
21 or a management activity report ~~which that~~ that is required to be filed on or before

1 February 1 of the year following the year when the management activity
2 occurred, the ~~Department~~ owner may ~~receive~~ submit that management plan or
3 management activity report at a later date; provided, however, no initial or
4 revised management plan shall be received later than December 31, and no
5 management plan update shall be received later than one year after April 1 of
6 the year the plan expires, and no management activity report shall be received
7 later than March 1.

8 (c) The Department of Forests, Parks and Recreation shall periodically
9 review the management plans and each year review the management activity
10 reports that have been filed.

11 (1) At intervals not to exceed 10 years, that Department shall inspect
12 each parcel of managed forestland qualified for use value appraisal to verify
13 that the terms of the management plan have been carried out in a timely
14 fashion.

15 (2) The Department shall have the ability to enter parcels of managed
16 forestland for the purpose of inspections. The Department may bring any other
17 staff from the Agency of Natural Resources that have the expertise to evaluate
18 compliance with this chapter or staff that may be required to ensure the safety
19 of the Department while conducting the inspections.

20 (3) If that Department finds that the management of the tract is contrary
21 to the conservation or forest management plan, or contrary to the minimum

1 acceptable standards for conservation or forest management, it shall file with
2 the owner, the assessing officials, and the Director an adverse inspection report
3 within 30 days ~~of~~ after the conclusion of the inspection process.

4 (d) After managed forestland has been removed from use value appraisal
5 due to an adverse inspection report under ~~subdivision 3756(i)(1)~~ subsection
6 3756(k) of this title, a new application for use value appraisal shall not be
7 considered for a period of five years, and then the forest management plan
8 shall be approved by the Department of Forests, Parks and Recreation only if a
9 compliance report has been filed with the new ~~application~~ forest management
10 plan, certifying that appropriate measures have been taken to bring the parcel
11 into compliance with minimum acceptable standards for forest or conservation
12 management.

13 * * *

14 * * * Sales and Use Tax; Advanced Wood Boilers * * *

15 Sec. 25. 32 V.S.A. § 9701 is amended to read:

16 § 9701. DEFINITIONS

17 Unless the context in which they occur requires otherwise, the following
18 terms when used in this chapter mean:

19 * * *

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

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

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

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

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

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

20 (D) An applicant eligible pursuant to subdivision (A)(i) of this
21 subdivision (j)(4) shall commit to an annual average ~~energy efficiency~~

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

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

17 (F) A participant shall provide to the Commission and Department
18 annually an accounting of ~~energy~~ investments in energy efficiency and
19 productivity programs and measures and the resultant energy savings in the
20 form prescribed by the Commission, which may conduct reasonable audits to
21 ensure the accuracy of the data provided.

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

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

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

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

18 (I) the difference between the investment it made pursuant to
19 the self-managed energy efficiency program during the three-year period of
20 noncompliance and the full amount of the charges and rates related to energy

1 efficiency it would have incurred during that period absent exemption under
2 subdivision (3) of this subsection (j); and

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

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

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

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

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

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

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

10 * * *

11 Sec. 29. ENERGY SAVINGS ACCOUNT PARTNERSHIP PILOT

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

13 (1) “ACCD” means the Agency of Commerce and Community
14 Development under 3 V.S.A. chapter 47.

15 (2) “Commission” means the Public Utility Commission under
16 30 V.S.A. § 3.

17 (3) “Customer” means a commercial or industrial electric customer that
18 is located in a service territory in which Efficiency Vermont delivers energy
19 efficiency programs and measures and that does not qualify for SMEEP. The
20 term shall also include at least one electric customer located in such a service

1 territory whose operation is primarily devoted to farming as defined in
2 10 V.S.A. § 6001, regardless of the customer’s rate class.

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

5 (5) “Department” means the Department of Public Service under
6 3 V.S.A. § 212 and 30 V.S.A. § 1.

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

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

12 (8) “Energy efficiency utility” or “EEU” means an entity appointed to
13 deliver energy efficiency and conservation programs and measures under
14 30 V.S.A. § 209(d)(2).

15 (9) “ESA” means an energy savings account under 30 V.S.A.
16 § 209(d)(3)(B).

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

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

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

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

6 (14) “Unregulated fuel” shall have the same meaning as in 30 V.S.A.
7 § 209(e).

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

14 (1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B),
15 the customer shall be able to receive an amount equal to 100 percent of its
16 Customer EEC Funds to pay for the full cost of projects that are eligible under
17 subdivision (3) of this subsection; for technical assistance and other services
18 from EVT; 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 for one or more of the following: electric
6 energy efficiency, thermal energy and process-fuel efficiency for unregulated
7 fuels, productivity measures, demand management, and energy storage that
8 provides benefits to the customer and its interconnecting utility.

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

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

19 (2) EVT and the Department shall evaluate and verify the electricity
20 savings of each project funded under the ESA Partnership Pilot with no less

1 rigor than is required by the Independent System Operator of New England
2 (ISO-NE) for the ISO-NE’s forward capacity market.

3 (d) Competitive solicitation. A customer shall apply to participate in the
4 ESA Partnership Pilot through a competitive solicitation process conducted
5 jointly by EVT, the Department, and ACCD.

6 (1) Promptly after the Commission’s rule or order under subsection (b)
7 of this section becomes effective, EVT, the Department, and ACCD shall
8 establish criteria for customer selection that are consistent with that rule or
9 order and that take into account energy efficiency and economic development.

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

13 (3) EVT, the Department, and ACCD jointly shall select customers to
14 participate in the ESA Partnership Pilot from among the customers that timely
15 submit proposals in response to the RFP and shall notify the Commission of
16 the selected customers.

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

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

1 (e) Energy management plans. Working with EVT, each customer selected
2 for the ESA Partnership Pilot shall develop an energy management plan for the
3 three-year period of the pilot with projects to be implemented, energy savings
4 targets, and a timeline for projects and investments. A copy of each plan shall
5 be submitted to the Commission, the Department, and ACCD.

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

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

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

17 (i) Annual reports. On or before each November 1 from 2020 through
18 2022, the EVT and the selected customers jointly shall submit written progress
19 reports to the Commission, the Department, and the standing committees of
20 jurisdiction that include projects under the ESA Partnership Pilot and their
21 associated energy and cost savings. A customer's projects under the pilot and

1 the associated data and results shall be made public through this report.
2 However, a customer may request that the Commission order customer-
3 specific data to be used in preparing a report under this subsection be kept
4 confidential if the data would qualify for exemption from disclosure under
5 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the
6 order shall be disclosed only in accordance with a protective agreement
7 approved by the Commission and signed by the recipient of the data, unless a
8 court directs otherwise.

9 (j) Evaluation; recommendation. On completion of the ESA Partnership
10 Pilot, the Commission shall conduct or shall have a third party conduct an
11 independent evaluation of the ESA Partnership Pilot and, after considering the
12 results of that evaluation, shall submit a written recommendation to the
13 standing committees of jurisdiction on whether to continue the program
14 conducted under this section and, if so, under what recommended conditions
15 and revisions, if any. The Commission shall submit this recommendation on
16 or before January 15, 2023.

17 * * * Effective Dates * * *

18 Sec. 30. EFFECTIVE DATES

19 (a) This section and Secs. 3–4b (Act 250; trails), 5a (technical service
20 providers), 6 (Act 250 primary processing of forest products), 7 (Act 250;

1 review of forest products processing), 8 (wetland permit fee), 17–20 (produce
2 inspection), and 21 (livestock transport) shall take effect on passage.

3 (b) All other sections shall take effect on July 1, 2018.

4

5

6 (Committee vote: _____)

7

8

Representative _____

9

FOR THE COMMITTEE