

1 **This Draft Contains Revisions to the Bill as Introduced**

2 **Highlighted in Yellow**

3 TO THE HOUSE OF REPRESENTATIVES:

4 The Committee on Energy and Digital Infrastructure to which was referred
5 House Bill No. 727 entitled “An act relating to sustainable data center
6 deployment” respectfully reports that it has considered the same and
7 recommends that the bill be amended by striking out all after the enacting
8 clause and inserting in lieu thereof the following:

9 Sec. 1. 30 V.S.A. chapter 5, subchapter 3 is added to read:

10 Subchapter 3. Data Centers

11 § 281. SHORT TITLE

12 This subchapter shall be known and may be cited as the “Vermont
13 Sustainable Data Centers Act.”

14 § 282. PURPOSE

15 The purpose of this subchapter is to establish a regulatory framework that
16 ensures responsible growth of an essential emerging industry in a manner that
17 protects existing electric ratepayers from unwarranted costs and promotes
18 sustainable climate, environmental, community, and equity outcomes
19 consistent with State policy policies.

20 § 283. DEFINITIONS

21 As used in this subchapter:

1 (1) “Data center” means a facility that uses or is able to use 20
2 megawatts or more of power and is engaged in providing data processing,
3 hosting, and related services as described under code 518210 of the 2022 North
4 American Industry Classification System.

5 (2) “Facility” means all buildings, equipment, structures, and other
6 stationary items that are located on a single site or on contiguous or adjacent
7 sites and that are owned or operated by the same person or by any person that
8 controls, is controlled by, or is under common control with such person.

9 § 284. **TARIFFS; CONTRACTS LARGE LOAD SERVICE EQUITY**

10 **CONTRACT; APPROVAL**

11 (a) For the purpose of ensuring just and reasonable rates for all ratepayer
12 classes and mitigating the risk of financial exposure to electric distribution
13 companies and their existing ratepayers, the Public Utility Commission shall
14 establish a separate ratepayer class and tariff schedule applicable to data
15 centers and, in addition, shall require specific provisions in any contract for
16 electric service entered into by an electric distribution company and a data
17 center as specified in subsection (c) of this section a data center shall be
18 served by an electric company pursuant to a large load service equity
19 contract approved by the Public Utility Commission.

20 (b) The Commission shall develop a general tariff with standardized
21 structures applicable to all electric distribution companies with respect to the

1 data center ratepayer class, and these requirements shall be reflected in each
2 company's individual tariff filings. The standardized structures shall **The**
3 **large load service equity contract shall:**

4 (1) Include a method for allocating costs that is equal or proportional to
5 the costs of providing electric service to ~~data centers~~ **the data center,**
6 **including providing for**

7 ~~(2) provide for~~ equitable contributions to the **embedded costs and the**
8 efficiency, reliability, and resiliency of the electricity network.

9 (2) Mitigate the risk of other ratepayer classes paying unwarranted costs,
10 including any electric generation, distribution, and transmission infrastructure
11 costs incurred **solely** to meet the load requirements of a data center **or the**
12 **energy capacity, transmission, or resource adequacy costs incurred as a**
13 **result of the data center's load.**

14 (3) **promote or, at a minimum, not impede in any way an electric**
15 **company's ability to meet renewable electricity targets pursuant to the**
16 **Renewable Energy Standard;**

17 (4) **reflect the mandatory contractual provisions specified in subsection**
18 **(c) of this section; and**

19 (5) **meet any other conditions the Commission may require consistent**
20 **with the purpose of this section and in the public interest.**

1 ~~(c) A contract for electric service entered into between an electric company~~
2 ~~and a data center shall:~~

3 ~~(4) Specify the duration of the contract, which shall not be less than 10~~
4 ~~years:~~

5 ~~(2) specify and~~ the date or the estimated date that the electric company
6 will begin to provide electric service to the data center.

7 ~~(5) Obligate the data center to pay a minimum amount or percentage~~
8 ~~based on the data center’s projected electricity usage for the duration of the~~
9 ~~contract to ensure compliance with subdivision (b)(1) of this section.~~

10 ~~(6) Include a reasonable charge for excess demand in excess of the data~~
11 ~~center’s projected electricity demand at the time the contract is entered~~
12 ~~into.~~

13 ~~(7) Include a collateral requirement sufficient to mitigate the risk of~~
14 ~~stranded costs.~~

15 ~~(8) Include provisions requiring implementation of demand-side~~
16 ~~management operational measures, including harnessing load flexibility~~
17 ~~for the purpose of maintaining grid stability and efficiency.~~

18 ~~(9) Include provisions for the collection of gross receipts taxes,~~
19 ~~energy efficiency charges, and any other fees or charges that may be~~
20 ~~applicable to electricity revenues.~~

1 (10) Meet any other terms or conditions required by the Commission
2 that are consistent with the purpose of this section and in the public interest.

3 ~~§ 285. SITING; CERTIFICATE OF PUBLIC GOOD~~

4 (c) ~~No person shall in any way begin site preparation for or commence~~
5 ~~construction of a data center.~~ **The Commission shall not approve a large load**
6 **service equity contract** unless the Commission first finds that the same will
7 promote the general good of the State ~~and issues a certificate of public good to~~
8 ~~that effect pursuant to this section.~~

9 (d) Before the Commission ~~issues a certificate of public good~~ **approves a**
10 **large load service equity contract** as required under subsection (c) of this
11 section, the Commission shall find that the proposed data center, including any
12 upgrades to electric generation, distribution, and transmission facilities
13 necessary to power the data center:

14 (1) ~~will not unduly interfere with the orderly development of the region~~
15 ~~with due consideration having been given to the recommendations of the~~
16 ~~municipal and regional planning commissions, the recommendations of the~~
17 ~~municipal legislative bodies, and the land conservation measures contained in~~
18 ~~the plan of any affected municipality;~~

19 (2) ~~will not adversely affect the efficiency, reliability, and resilience of~~
20 ~~the electric power system;~~

21 (2) ~~will result in an economic benefit to the State and its residents;~~

1 (3) will not have an undue adverse effect on aesthetics, historic sites, air
2 and water purity, the natural environment, the use of natural resources, and the
3 public health and safety, with due consideration having been given to the
4 criteria specified in 10 V.S.A. §§ 1424a(d) (outstanding resource waters) and
5 6086(a)(1)–(8) and (9)(K) (conditions and criteria for State land use and
6 development plans), impacts to primary agricultural soils as defined in
7 10 V.S.A. § 6001, community noise levels, and the attainment of the State’s
8 greenhouse gas emissions reduction requirements;

9 (4) is consistent with the principles for resource selection expressed in
10 the applicable electric distribution company’s approved least-cost integrated
11 plan;

12 (5) is consistent with the Electrical Energy Plan approved by the
13 Department under section 202 of this title, or that there exists good cause to
14 permit a variance;

15 ~~(7) is consistent with the Vermont Long Range Transmission Plan~~
16 ~~prepared by the Vermont Electric Power Company, Inc.;~~

17 (6) will not have an adverse effect on any segment of the waters of the
18 State that have been designated as outstanding resource waters by the Secretary
19 of Natural Resources;

1 (7) can be served economically by existing or planned transmission
2 facilities without undue adverse effect on Vermont utilities or other retail
3 ratepayer classes;

4 (8) complies with applicable air pollution control requirements under the
5 federal Clean Air Act, 42 U.S.C. § 7401 et seq.;

6 (9) complies with harvesting procedures and procurement standards that
7 ensure long-term forest health and sustainability, including the guidelines and
8 standards adopted under 10 V.S.A. § 2750;

9 (10) is consistent with State energy efficiency requirements, including
10 commercial building energy standards;

11 (11) is consistent with environmental justice and equity policy as
12 established pursuant to 3 V.S.A. chapter 72; and

13 (12) adequately accounts for potential facility decommissioning.

14 (e) No data center shall be eligible to participate in an energy savings
15 account or a customer credit program pursuant to subdivision
16 209(d)(3)(C) of this title, or a self-managed energy efficiency program
17 pursuant to subsection 209(j) of this title.

18 ~~(e) The Commission shall adopt by rule procedures for implementing the~~
19 ~~requirements of this section that are modeled after sections 248 and 248a of~~
20 ~~this title, to the extent deemed reasonable and necessary by the Commission.~~
21 ~~Accordingly, the procedures shall include requirements related to: an~~

1 application fee; notice; letter of intent; review period; exemptions from other
2 law; participation by municipal bodies; consideration of municipal plans and
3 recommendations; the retention of experts; fees for the participation of other
4 State entities, as appropriate, including the Department of Public Service, the
5 Agency of Natural Resources, the Agency of Agriculture, Food and Markets,
6 the Agency of Commerce and Community Development, and the
7 Environmental Justice Advisory Council; and a review process.

8 § 286. DEMAND SIDE MANAGEMENT

9 (a) The Commission may establish a demand-side management program
10 applicable to data centers that includes requirements and standards applicable
11 to data center energy and water usage. In developing such a program, the
12 Commission shall consider:

13 (1) cositing requirements for renewable energy sources, batteries, and
14 other on-site generation and storage;

15 (2) water conservation initiatives, such as the use of recycled water for
16 cooling;

17 (3) the establishment of data center microgrids for critical services that
18 would provide continuous and reliable energy for critical services, operate
19 independently from an electric company's power system, ensure uptime during
20 outages, provide greater efficiencies for managing energy costs and carbon
21 emissions, and enhance the resilience of the State's electricity network;

- 1 ~~(4) authorization for a data center to procure its own energy resources;~~
2 ~~(5) a prohibition on fossil fuel power purchase agreements that provide~~
3 ~~incentives or discount rates to data centers;~~
4 ~~(6) enhanced energy efficiency standards; and~~
5 ~~(7) any other standard or requirement deemed appropriate by the~~
6 ~~Commission and consistent with the purpose of this subchapter and in the~~
7 ~~public interest.~~

- 8 ~~(b) Any program developed by the Commission pursuant to this section~~
9 ~~shall take effect upon approval of the General Assembly by legislative~~
10 ~~enactment.~~

11 **§ 285. ENERGY EFFICIENCY DESIGN**

12 **Early in the design development phase of a data center, the owner or**
13 **operator of a data center shall consult with Efficiency Vermont to ensure**
14 **compliance with State energy efficiency requirements and best practices.**

15 **§ 286. WATER USE; COOLING; PERMITTING; QUALITY**

16 **(a) As used in this section:**

17 **(1) “Closed-loop cooling system” means a sealed cooling process in**
18 **which the same water or coolant circulates continuously within a data**
19 **center’s cooling system without withdrawal of water from municipal**
20 **public water supplies, groundwater, or surface water and without**
21 **discharge of wastewater to municipal wastewater systems, groundwater,**

1 or surface waters, except for de minimis discharges authorized under a
2 discharge permit issued by the Agency of Natural Resources.

3 (2) “Per- and polyfluoroalkyl substances” or “PFAS” means any
4 chemical substance or mixture containing a chemical substance that
5 structurally contains at least one of the following three sub-structures:

6 (A) R-(CF₂)-CF(R')R'', where both the CF₂ and CF moieties are
7 saturated carbons;

8 (B) R-CF₂OCF₂-R', where R and R' can either be F, O, or
9 saturated carbons; or

10 (C) CF₃C(CF₃)R'R'', where R' and R'' can either be F or
11 saturated carbons.

12 (b)(1) A person applying to operate a data center in the State shall
13 identify to the Commission and to the District Commission reviewing the
14 data center’s application for a permit under 10 V.S.A. chapter 151 how
15 the data center will cool the facility.

16 (2) If water is used to cool a data center, the data center shall use a
17 closed-loop cooling system to minimize impacts to the quality and quantity
18 of surface water and groundwater unless a District Commission, during
19 review of a permit application under 10 V.S.A. chapter 151, determines
20 that the use of a closed-loop cooling system is not feasible at the proposed
21 data center.

1 **(3) If water is used to cool a data center through a closed-loop**
2 **cooling system or through another type of cooling system, a person**
3 **applying to operate the data center in the State shall propose how the data**
4 **center will obtain water to cool the facility and where the cooling water**
5 **will be discharged.**

6 **(c) If a person applying to operate a data center proposes to use**
7 **groundwater to cool the data center, the data center shall obtain a**
8 **groundwater withdrawal permit under 10 V.S.A. § 1418 for any**
9 **withdrawal of groundwater by the data center notwithstanding the**
10 **permitting threshold of withdrawal of more than 57,600 gallons of**
11 **groundwater a day. A closed-loop cooling system is not exempt from the**
12 **groundwater withdrawal permit under 10 V.S.A. § 1418(b)(6).**

13 **(d) If a person applying to operate a data center proposes to use**
14 **surface water to cool the facility, an applicant shall obtain a surface water**
15 **withdrawal permit pursuant to 10 V.S.A. § 1043. The rules adopted by**
16 **the Secretary to implement 10 V.S.A. § 1043 shall require that data**
17 **centers cease withdrawals under drought conditions.**

18 **(e)(1) A person applying to operate a data center shall obtain all**
19 **applicable water quality permits from the Agency of Natural Resources,**
20 **including stormwater, shoreland, stream alteration, direct discharge, and**
21 **river corridor development permits.**

1 **(2) A person applying to operate a data center shall obtain from the**
2 **Agency of Natural Resources a water quality certificate from the Agency**
3 **that meets the same criteria that the Agency requires to be met to obtain a**
4 **federal Clean Water Act Section 401 water quality certification.**

5 **(f) A person applying to operate a data center who intends to discharge**
6 **wastewater into a surface water of the State shall submit a plan to the**
7 **Agency of Natural Resources establishing a program that monitors the**
8 **discharge for the presence of PFAS.**

9 § **287. QUARTERLY AND ANNUAL REPORTS**

10 (a) Data center. Within three months after a data center becomes
11 operational, and in a form and manner determined by the Commission, the
12 owner **or operator** of the data center shall begin submitting quarterly reports
13 to the Commission and the Department of Public Service. Each quarterly
14 report shall include the data center’s water and energy usage, **including its**
15 **peak usage per day,** as well as a description of any interconnection requests
16 the owner has submitted in other states **and an itemization of the data**
17 **center’s payments toward shared infrastructure constructed to support**
18 **the data center.**

19 (b) Department. Annually, beginning on or before January **15, 2028, and**
20 **provided at least one data center has entered into a large load large load**
21 **service equity contract pursuant to this subchapter,** the Commissioner of

1 Public Service shall ~~submit a written report on data centers to the House~~
2 ~~Committees on Energy and Digital Infrastructure, on Environment, and on~~
3 ~~Agriculture, Food Resiliency, and Forestry and to the Senate Committees on~~
4 ~~Finance, on Natural Resources and Energy, and on Agriculture. The report~~
5 ~~shall include findings and recommendations related to the energy,~~
6 ~~environmental, and economic impacts of data center construction and~~
7 ~~deployment in Vermont, including any benefits to all electric ratepayers from~~
8 ~~electric infrastructure projects undertaken to provide power to a data center~~
9 ~~include in the Department’s annual report published pursuant to~~
10 ~~subsection 202b(e) of this title findings and recommendations related to~~
11 ~~the energy, environmental, and economic impacts of data center~~
12 ~~construction and operation in Vermont, as well as any impactful~~
13 ~~developments within the region, including any benefits to all ratepayers~~
14 ~~from electric infrastructure projects undertaken to provide power to one~~
15 ~~or more data centers.~~

16 ~~§ 288. FINANCING STATE AND LOCAL BENEFITS~~

17 ~~(a) It is the intent of the General Assembly to establish a financial structure~~
18 ~~that will support State and local energy, environmental, and economic benefits~~
19 ~~and to finance that structure with:~~

20 ~~(1) a percentage of tax revenue generated from sales, property, or~~
21 ~~income taxes applicable to data centers;~~

1 ~~(2) a data center gross receipts tax; or~~
2 ~~(3) another financing mechanism recommended by the Commissioner of~~
3 ~~Public Service that the Commissioner deems to be consistent with the purpose~~
4 ~~of this subchapter and in the public interest.~~

5 ~~(b) The Commissioner of Public Service, with input from the~~
6 ~~Commissioner of Taxes, shall develop findings and recommendations for~~
7 ~~implementing the legislative intent of this section, which shall be submitted in~~
8 ~~a written report to the House Committees on Energy and Digital Infrastructure,~~
9 ~~on Environment, on Ways and Means, and on Agriculture, Food Resiliency,~~
10 ~~and Forestry and to the Senate Committees on Finance, on Natural Resources~~
11 ~~and Energy, and on Agriculture, on or before January 1, 2028.~~

12 § 288. RULES

13 In addition to the rules required by this subchapter, the Commission may
14 adopt any other rules it deems necessary to implement and enforce the
15 provisions of this subchapter consistent with its purpose and in the public
16 interest.

17 **Sec. 2. 10 V.S.A. § 6001(3)(A)(xiv) is added to read:**

18 **(xiv) The construction of improvements on a tract or tracts of**
19 **land for a data center as defined in 30 V.S.A. § 283(1).**

20 Sec. 3. APPLICATION

1 30 V.S.A. chapter 5, subchapter 3 (established in Sec. 1 of this act) shall
2 apply to any data center not operational on or before the effective date of this
3 act.

4 **Sec. 4. REPORT ON REGIONAL RENEWABLE ENERGY MARKET**

5 **CONDITIONS; PUBLIC UTILITY COMMISSION**

6 **(a) On or before December 15, 2026, the Public Utility Commission**
7 **shall prepare a written report on projected regional renewable electric**
8 **generation market conditions. In developing the report, the Commission**
9 **shall examine the cost and availability of new regional renewable electric**
10 **generation resources during the years 2027 through 2035, including with**
11 **regard to:**

12 **(1) changes in federal tax law, tax incentives, or tax credit**
13 **availability;**

14 **(2) changes in federal permitting requirements or processes;**

15 **(3) federal trade policy, including tariffs or import restrictions**
16 **affecting energy equipment or components;**

17 **(4) federal energy, environmental, or land-use policies;**

18 **(5) supply chain constraints;**

19 **(6) interconnection timelines and regional transmission**
20 **development; and**

21 **(7) any other matters deemed relevant by the Commission.**

1 **(b) In preparing the report, the Commission shall provide an**
2 **opportunity for written input from interested stakeholders, including**
3 **retail electricity providers, renewable energy developers, regional**
4 **transmission organizations, consumer advocates, and any other members**
5 **of the public. In addition, the Commission may consult with the**
6 **Department of Public Service and other relevant state, regional, or federal**
7 **entities, as the Commission deems appropriate. Preparation of the report**
8 **is not subject to the contested case procedures established under 3 V.S.A.**
9 **chapter 25.**

10 **(c) The Commission shall submit the report to the House Committee**
11 **on Energy and Digital Infrastructure and the Senate Committees on**
12 **Finance and on Natural Resources and Energy.**

13 Sec. 5. EFFECTIVE DATE

14 This act shall take effect on passage.

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1 (Committee vote: _____)

2

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Representative _____

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FOR THE COMMITTEE