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H.395

Introduced by Representatives Pearson of Burlington, Burke of Brattleboro,
McCormack of Burlington, and McCullough of Williston

Referred to Committee on

Date:

Subject: Taxation; climate change; greenhouse gases; carbon pollution tax;
low-income weatherization

Statement of purpose of bill as introduced: This bill proposes to establish an excise tax on fossil fuels that emit greenhouse gases in order to reduce dependence on these fuels and assure that the price of the fuels reflects external costs of greenhouse gas emissions. The bill proposes to offset 80 percent of the revenues from this carbon pollution tax through a per employee rebate to employers and a refundable tax credit to personal income taxpayers of middle and low income. The remaining 20 percent of the carbon pollution tax revenues would fund low-income weatherization and other thermal energy efficiency and a Vermont Sustainable Transportation Fund.

An act relating to establishing a carbon pollution tax

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

1 * * * Establishment of Carbon Pollution Tax * * *

2 Sec. 1. 32 V.S.A. chapter 217 is added to read:

3 CHAPTER 217. CARBON POLLUTION TAX

4 § 8801. PURPOSE

5 The purposes of this chapter are to tax distributors of fossil fuels in order to
6 reduce dependence on these fuels and to reflect, in the price of the fuels,
7 external costs of the carbon dioxide emitted from burning them.

8 § 8802. DEFINITIONS

9 As used in this chapter:

10 (1) “AT” means the amount of tax per tonne set forth in section 8803 of
11 this chapter.

12 (2) “Carbon pollution tax” means the tax imposed by this chapter.

13 (3) “CCF” means 100 SCF.

14 (4) “CO₂” means carbon dioxide.

15 (5) “CO₂ factor” means a carbon dioxide emission factor for a fuel listed
16 in “Emissions Factors for Greenhouse Gas Inventories” published by the U.S.
17 Environmental Protection Agency, last revised on April 4, 2014.

18 (A) “CO₂ factor” (mobile) means a CO₂ factor listed in Table 2,
19 Mobile Combustion CO₂ Emission Factors.

20 (B) “CO₂ factor” (stationary) means a CO₂ factor listed in Table 1,
21 Stationary Combustion Emission Factors. Unless specified otherwise in

1 section 8804 of this chapter, a CO₂ factor (stationary) shall be in kg CO₂ per
2 gallon.

3 (6) “Commissioner” means the Commissioner of Taxes, except when
4 immediately followed by a phrase indicating the commissioner of a different
5 agency, such as the Commissioner of Public Service.

6 (7) “Department” means the Department of Taxes, except when
7 immediately followed by a phrase indicating a different department.

8 (8) “Distributor” means a person who imports or causes to be imported
9 fuel for use, distribution, or sale within the State or a person who produces,
10 refines, manufactures, or compounds fuel within the State for use, distribution,
11 or sale.

12 (9) “Employee,” “employer,” “full-time equivalent” and “FTE” shall
13 have the same meanings as in 21 V.S.A. § 2002.

14 (10) “Fiscal year” means the period of 12 months ending on the last day
15 of June.

16 (11) “Fuel” means each form and grade of butane, coal, diesel fuel,
17 gasoline, fuel oil, jet fuel, kerosene, natural gas, and propane.

18 (12) “Gasoline” means all fuel used or made for use in motor vehicles
19 except diesel fuel, jet fuel, natural gas, and kerosene.

20 (13) “kg” means kilogram.

21 (14) “Quintile” means 20 percent of a given population.

1 (15) "SCF" means standard cubic foot.

2 (16) "Short ton" means 2,000 pounds.

3 (17) "Tonne" means metric ton or 1,000 kg.

4 § 8803. IMPOSITION OF TAX

5 A carbon pollution tax is imposed per tonne of CO₂ emissions on the sale in
6 the State of each fuel by a distributor, to be calculated and assessed as set out
7 in section 8804 of this chapter. The amount of the tax per tonne of CO₂
8 emissions shall be \$50.00 during the first fiscal year in which this section is
9 effective, increasing by \$10.00 on July 1 of each subsequent fiscal year until
10 reaching \$100.00.

11 § 8804. CALCULATION OF TAX FOR EACH FUEL

12 The carbon pollution tax shall be calculated and assessed on each unit of
13 fuel in accordance with the following formula:

14 (1) For each gallon of butane: AT times 0.001 times the CO₂ factor
15 (stationary) for butane.

16 (2) For each short ton of coal: AT times 0.001 times 1.1 times the CO₂
17 factor (stationary) for anthracite coal, in kg CO₂ per short ton. For coal
18 distributed by the pound, the formula shall be the same, except that the result
19 shall be divided by 2,000. This formula shall apply to all forms of coal,
20 whether or not anthracite.

1 (3) For each gallon of diesel fuel: AT times 0.001 times the CO₂ factor
2 (mobile) for diesel fuel. This formula shall apply to all forms of diesel,
3 whether for mobile or stationary use.

4 (4) For each gallon of gasoline: AT times 0.001 times the CO₂ factor
5 (mobile) for motor gasoline.

6 (5) For each gallon of fuel oil: AT times 0.001 times the CO₂ factor
7 (stationary) for distillate fuel oil no. 2. This formula shall apply to all forms of
8 fuel oil, including heating oil and all classes of distillate and residual fuel oil.

9 (6) For each gallon of jet fuel: AT times 0.001 times the CO₂ factor
10 (mobile) for jet fuel (kerosene type).

11 (7) For each gallon of kerosene: AT times 0.001 times the CO₂ factor
12 (stationary) for kerosene.

13 (8) For each CCF of natural gas: AT times 0.001 times the CO₂ factor
14 (stationary) for natural gas in kg CO₂ per SCF times 100. This formula shall
15 apply to all forms of natural gas, whether for mobile or stationary use.

16 (9) For each gallon of propane: AT times 0.001 times the CO₂ factor
17 (stationary) for propane.

18 § 8805. PUBLICATION OF TAX RATES

19 On or before May 1 of each year, the Commissioner shall publish the
20 carbon pollution tax rate for each fuel that will be in effect during the

1 following fiscal year, calculated in accordance with section 8804 of this
2 chapter.

3 § 8806. COLLECTION; REMITTANCE

4 (a) The distributor shall collect the carbon pollution tax on completion of
5 any sale or delivery of fuel. The distributor shall identify the amount of tax
6 collected as a separate invoice entry on each sale of fuel.

7 (b) On or before each January 15, April 15, July 15, and October 15, each
8 distributor liable for the carbon pollution tax shall return to the Commissioner,
9 under oath of a person with legal authority to bind the distributor, a statement
10 containing its name and place of business, the quantity and type of fuel subject
11 to the carbon pollution tax sold in the preceding three calendar months, and
12 any other information required by the Commissioner, along with the tax due
13 for the fuel sold in the preceding three calendar months.

14 § 8807. EXEMPTIONS

15 The carbon pollution tax shall not apply to:

16 (1) the sale of fuel to the U.S. government or its subdivisions, or
17 under any other circumstances in which the State is without power to impose
18 the tax;

19 (2) the sale of fuel to a company subject to the jurisdiction of the Public
20 Service Board under 30 V.S.A. § 203(1) or (2), to be used at an in-state

1 generation facility owned by the company for the manufacture of electricity to
2 be used by the public; and

3 (3) the sale of fuel by a distributor if the same fuel has already been
4 subjected to the carbon pollution tax, provided the sales invoice clearly
5 indicates the amount of fuel that has already been subjected to the tax and the
6 distributor possesses and retains documentation demonstrating the prior
7 payment of the carbon pollution tax for the same fuel, including the person
8 who paid and the date and amount of payment.

9 § 8808. RECORDS; INSPECTION

10 Every distributor shall maintain, for no fewer than three years, accurate
11 records documenting all transactions subject to tax liability under this chapter
12 and all transactions for which exemption is claimed under section 8807 of this
13 chapter. The Commissioner may inspect these records at all reasonable times
14 during normal business hours.

15 § 8809. ASSISTANCE; OTHER AGENCIES

16 At the request of the Commissioner, the Commissioners of Labor and of
17 Public Service and the Secretaries of Commerce and Community Development
18 and of Transportation shall provide the Commissioner with information in their
19 possession relevant to the administration of this chapter and with assistance in
20 estimating revenues from the carbon pollution tax.

1 § 8810. ALLOCATION OF CARBON POLLUTION TAX REVENUES

2 (a) Each fiscal year, the revenues from the carbon pollution tax shall defray
3 the Department's actual costs in administering this chapter and the credits and
4 rebates described in this section, up to a maximum of \$300,000.00. The 80
5 and 20 percent allocations set forth in subsections (b) and (c) of this section
6 shall be net of the amount to defray the Department's costs under this
7 subsection.

8 (b) Each fiscal year, 80 percent of the revenues from the carbon pollution
9 tax shall be allocated to tax credits and rebates in accordance with this
10 subsection. Of this 80 percent, nine-sixteenths shall be allocated to a
11 refundable personal income tax credit under section 5828d of this title and
12 seven-sixteenths to a per employee rebate under section 8811 of this chapter.

13 (c) Each fiscal year, 20 percent of the revenues from the carbon pollution
14 tax shall be allocated to energy policy programs in accordance with this
15 subsection. Of this 20 percent:

16 (1) One-quarter shall be deposited into the Home Weatherization
17 Assistance Fund established under 33 V.S.A. § 2501.

18 (2) One-quarter shall be deposited into the Electric Efficiency Fund
19 established under 30 V.S.A. § 209(d) for the delivery of thermal energy and
20 process fuel energy efficiency services.

1 (3) One-half shall be deposited into the Vermont Sustainable
2 Transportation Fund established under 19 V.S.A. § 2801.

3 § 8811. PER EMPLOYEE CARBON POLLUTION TAX REBATE

4 (a) Each tax year, an employer shall be entitled to a per employee rebate for
5 the number of its full-time equivalent employees, to be known as the per
6 employee carbon pollution tax rebate. Each year, the Commissioner shall
7 calculate the amount of this rebate per employee through dividing the amount
8 of carbon pollution tax revenue allocated to the rebate under subsection
9 8810(b) of this chapter by the number of FTEs.

10 (b) The Commissioner shall adopt rules to implement this section.

11 * * * Personal Income Tax Credits * * *

12 Sec. 2. 32 V.S.A. § 5828d is added to read:

13 § 5828d. CARBON POLLUTION TAX CREDIT

14 (a) A taxpayer shall be entitled to a refundable personal income tax credit
15 against the tax imposed under section 5822 of this title, to be known as the
16 carbon pollution tax credit.

17 (b) Each year, the Commissioner shall calculate the amount of this credit
18 as follows:

19 (1) The Commissioner shall divide the amount of carbon pollution tax
20 revenue allocated to the carbon pollution tax credit under subsection 8810(b)
21 of this title according to each quintile of taxpayers by adjusted gross income,

1 with none of the amount going to the highest income quintile, two-tenths of the
2 amount going to each of the second and third highest income quintiles, and
3 three-tenths of the amount going to each of the fourth and fifth highest income
4 quintiles.

5 (2) The Commissioner shall then divide the amount for quintile by the
6 number of taxpayers in the quintile.

7 (c) The Commissioner shall adopt rules to implement this section.

8 * * * Use of Carbon Pollution Tax Proceeds for Programs * * *

9 Sec. 3. 33 V.S.A. § 2501 is amended to read:

10 § 2501. HOME WEATHERIZATION ASSISTANCE FUND

11 (a) There is created in the State Treasury a fund to be known as the Home
12 Weatherization Assistance Fund to be expended by the Director of the State
13 Office of Economic Opportunity in accordance with federal law and this
14 chapter.

15 (b) The Fund shall be composed of the receipts from the gross receipts tax
16 on retail sales of fuel imposed by section 2503 of this title, ~~such~~ the monies
17 allocated to the Fund from the carbon pollution tax under 32 V.S.A. § 8810,
18 any funds as may be allocated from the Oil Overcharge Fund, such any funds
19 as may be allocated from the federal Low Income Energy Assistance Program,
20 and such any other funds as may be monies appropriated to the Fund by the
21 General Assembly.

1 Sec. 4. 30 V.S.A. § 209(e) is amended to read:

2 (e) Thermal energy and process fuel efficiency funding.

3 (1) Each of the following shall be used to deliver thermal energy and
4 process fuel energy efficiency services in accordance with this section for
5 unregulated fuels to Vermont consumers of such fuels.

6 (A) Net revenues above costs associated with payments from the
7 New England Independent System Operator (ISO-NE) for capacity savings
8 resulting from the activities of the energy efficiency utility designated under
9 subdivision (2)(A) of this subsection that are not transferred to the State PACE
10 Reserve Fund under 24 V.S.A. § 3270(c). These revenues shall be deposited
11 into the Electric Efficiency Fund established by this section. In delivering
12 services with respect to heating systems using the revenues subject to this
13 subdivision (A), the entity shall give priority to incentives for the installation
14 of high efficiency biomass heating systems and shall have a goal of offering an
15 incentive that is equal to 25 percent of the installed cost of such a system. In
16 this subdivision (A), “biomass” means organic nonfossil material constituting a
17 source of renewable energy within the meaning of subdivision 8002(17) of this
18 title. Provision of an incentive under this subdivision (A) for a biomass
19 heating system shall not be contingent on the making of other energy
20 efficiency improvements at the property on which the system will be installed.

1 (B) Net revenues above costs from the sale of carbon credits under
2 the cap and trade program established under section 255 of this title, which
3 shall be deposited into the Electric Efficiency Fund established by this section.

4 (C) The monies allocated to the Electric Efficiency Fund from the
5 carbon pollution tax under 32 V.S.A. § 8810.

6 (D) Any other monies that are appropriated to or deposited in the
7 Electric Efficiency Fund for the delivery of thermal energy and process fuel
8 energy efficiency services.

9 (2) If a program combines regulated fuel efficiency services with
10 unregulated fuel efficiency services supported by funds under this section, the
11 Board shall allocate the costs of the program among the funding sources for the
12 regulated and unregulated fuel sectors in proportion to the benefits provided to
13 each sector.

14 (3) In this subsection:

15 (A) “Efficiency services” includes the establishment of a statewide
16 information clearinghouse under subsection (g) of this section.

17 (B) “Regulated fuels” means electricity and natural gas delivered by
18 a regulated utility.

19 (C) “Unregulated fuels” means fuels used by thermal energy and
20 process fuel customers other than electricity and natural gas delivered by a
21 regulated utility.

1 Sec. 5. 19 V.S.A. chapter 28 is added to read:

2 CHAPTER 28. SUSTAINABLE TRANSPORTATION FUND

3 § 2801. PURPOSE; CREATION

4 (a) The Vermont Sustainable Transportation Fund is established to receive
5 the monies allocated to the Fund from the carbon pollution tax under 32 V.S.A.
6 § 8810 and such other monies as may be appropriated or deposited into the
7 Fund.

8 (b) The purpose of the Fund is to invest in infrastructure and programs to
9 help reduce Vermont's dependence on fossil fuels for transportation and
10 associated greenhouse gas emissions.

11 (c) Balances in the Fund shall be used solely for the purposes set forth in
12 this chapter and shall not be used for the general obligations of government.
13 All balances in the Fund at the end of any fiscal year shall be carried forward
14 and remain part of the Fund. Interest earned by the Fund shall be deposited in
15 the Fund. This Fund is established in the State Treasury pursuant to 32 V.S.A.
16 chapter 7, subchapter 5.

17 § 2802. EXPENDITURES

18 (a) The Secretary shall expend monies from the Fund to incent or finance
19 programs and measures related to the movement of people and goods that, on a
20 life-cycle basis, will result in a net reduction in the consumption of fossil fuels
21 and greenhouse gas emissions. These measures may include public

1 transportation, care sharing infrastructure, pedestrian and bicycle
2 infrastructure, electric vehicles and associated charging stations, and motor
3 vehicles that are more energy efficient than the typical new vehicle in their
4 class.

5 (b) Annually, the Secretary shall solicit proposals and make awards from
6 the Fund through a competitive process. The Secretary shall consult with the
7 Secretary of Natural Resources and the Commissioner of Public Service in
8 making these awards.

9 (c) Commencing in 2017, the Secretary shall adopt a five-year strategic
10 plan and an annual program plan for the Fund, both of which shall be
11 developed with input from the Secretary of Natural Resources and the
12 Commissioner of Public Service and a public stakeholder process and shall be
13 consistent with this section and State energy and transportation planning
14 principles.

15 (d) The Secretary shall implement this chapter separately from the annual
16 transportation planning and prioritization process.

17 § 2803. REPORT

18 By January 15 of each year commencing in 2019, the Secretary shall
19 provide to the House and Senate Committees on Natural Resources and Energy
20 and the House and Senate Committees on Transportation a report for the fiscal
21 year ending the preceding June 30 detailing the activities undertaken, the

1 revenues collected, and the expenditures made under this chapter. The
2 provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to
3 the report to be made under this section.

4 * * * Effective Dates * * *

5 Sec. 6. EFFECTIVE DATES

6 (a) This section shall take effect on passage.

7 (b) Secs. 1 and 2 shall take effect on July 1, 2017, except that on passage
8 the Commissioner of Taxes shall have authority to adopt, for effect on
9 January 1, 2018, rules to implement 32 V.S.A. §§ 5828d and 8811.

10 (c) Secs. 3 through 5 shall take effect on July 1, 2015.