

1 H.791

2 Introduced by Representatives Copeland-Hanzas of Bradford, Burke of
3 Brattleboro, Cina of Burlington, Colburn of Burlington, Deen of
4 Westminster, Donovan of Burlington, Dunn of Essex, Gonzalez
5 of Winooski, Hooper of Montpelier, Kitzmiller of Montpelier,
6 LaLonde of South Burlington, McCullough of Williston,
7 Mrowicki of Putney, O'Sullivan of Burlington, Rachelson of
8 Burlington, Scheu of Middlebury, Sheldon of Middlebury,
9 Squirrell of Underhill, Stevens of Waterbury, Stuart of
10 Brattleboro, Sullivan of Burlington, Walz of Barre City, Webb
11 of Shelburne, and Yantachka of Charlotte

12 Referred to Committee on

13 Date:

14 Subject: Climate change; public service; taxation; greenhouse gases; carbon
15 charge; electric bill rebates

16 Statement of purpose of bill as introduced: This bill proposes to adopt a
17 charge on the carbon content of fossil fuels to address climate change and
18 facilitate meeting greenhouse gas reduction goals and to return all of the
19 revenues from that charge to customers on their electric bills. Application of
20 the charge would commence on July 1, 2019 for fuels other than gasoline and
21 on October 1, 2019 for gasoline. Electricity, dyed diesel fuel, and jet fuel
22 would be exempt.

1 An act relating to a carbon charge that is refunded on electric bills

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

3 Sec. 1. DESIGNATION

4 This act shall be referred to as the Economy–Strengthening Strategic
5 Energy Exchange (ESSEX) Act.

6 Sec. 2. 30 V.S.A. chapter 15 is added to read:

7 CHAPTER 15. ECONOMY–STRENGTHENING STRATEGIC ENERGY

8 EXCHANGE

9 Subchapter 1. General

10 § 651. PURPOSE

11 The purposes of this chapter are to:

12 (1) take action in Vermont to address climate change, strengthen
13 Vermont’s economy, and facilitate meeting the State’s goals for greenhouse
14 gas reduction under 10 V.S.A. § 580 and for renewable energy under section
15 8001 of this title;

16 (2) adopt a charge on the carbon content of fossil fuels that will reduce
17 the burning of those fuels and facilitate a transition to cleaner, renewable
18 energy supplies; and

19 (3) require the return to Vermonters of the revenues from the charge on
20 their electric bills.

21 § 652. DEFINITIONS

22 As used in this chapter:

1 (1) “Carbon charge” means the charge adopted under subchapter 2 of
2 this chapter.

3 (2) “CO₂” means carbon dioxide.

4 (3) “Collection date” means the date by which a distributor must remit
5 the carbon charge to the Commissioner of Taxes under section 662 of this title.

6 (4) “Commission” means the Public Utility Commission under section 3
7 of this title.

8 (5) “Commissioner” means the Commissioner of Taxes.

9 (6) “Customer” shall have the same meaning as in section 8002 of this
10 title.

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

15 (8) “Fiscal year” or “FY” means the period of 12 months ending on
16 June 30.

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

19 (10) “Fund” means the Carbon Charge Rebate Fund established by
20 section 661 of this title.

21 (11) “Gasoline” means each fuel used or made for use in motor vehicles.

22 (12) “kg” means kilogram.

1 (b) Exemptions. The charge shall not apply to:

2 (1) the sale of electricity, dyed diesel fuel, or jet fuel;

3 (2) the sale of fuel to a company subject to the jurisdiction of the

4 Commission under subdivision 203(1) or (2) of this title, to be used at an in-

5 state generation facility owned by the company for the manufacture of

6 electricity to be used by the public;

7 (3) the sale of fuel to the U.S. government or its subdivisions, or under

8 any other circumstances in which the State lacks power to apply the charge; or

9 (4) the sale of fuel by a distributor if the same fuel has already been

10 subjected to the carbon charge, provided the sales invoice clearly indicates the

11 amount of fuel that has already been subjected to the charge and the distributor

12 possesses and retains documentation demonstrating the prior payment,

13 including the person who paid and the date and amount of payment.

14 (c) Calculation. For each fuel, the Commissioner shall convert the amount

15 per tonne stated in subsection (a) of this section to a rate per unit of fuel using

16 the applicable CO₂ emissions coefficient published by the U.S. Energy

17 Information Administration on February 2, 2016 or such carbon emission

18 coefficients as may be recommended by the Secretary of Natural Resources

19 based on the best available science. In addition to CO₂, the Secretary's

20 recommended coefficients may include emissions of other greenhouse gases,

21 such as methane and nitrous oxide.

1 (d) Publication. On or before January 15 of each year, the Commissioner
2 shall publish the carbon charge rate per unit that will be in effect during the
3 following fiscal year for each fuel.

4 § 657. ADMINISTRATION; ENFORCEMENT

5 (a) Collection; remittance.

6 (1) The distributor shall collect the carbon charge on completion of each
7 sale or delivery of fuel to which the charge applies. The distributor shall
8 identify the charge collected as a separate invoice entry on each sale of fuel.

9 (2) On or before the 15th day of each month, each distributor liable for
10 the carbon charge shall return to the Commissioner, under oath of a person
11 with legal authority to bind the distributor, a statement containing its name and
12 place of business, the quantity and type of fuel subject to the carbon charge
13 sold in the preceding calendar month, and any other information required by
14 the Commissioner, along with the charge due for the fuel sold in the preceding
15 month.

16 (b) Deposit. The Commissioner shall deposit all revenues from the carbon
17 charge into the Fund.

18 (c) Records; inspection. Every distributor shall maintain, for no fewer than
19 three years, accurate records documenting all transactions to which the carbon
20 charge applies and all transactions for which exemption is claimed under
21 subsection 656 of this title. The Commissioner may inspect these records at all
22 reasonable times during normal business hours.

1 (d) Enforcement; confidentiality of returns. The enforcement provisions of
2 32 V.S.A. chapter 103 shall apply to the obligations of a distributor under this
3 chapter and, for this purpose, those obligations shall be considered liabilities
4 under Title 32. The confidentiality requirements of 32 V.S.A. § 3102 shall
5 apply to records submitted to the Commissioner under this subchapter.

6 Subchapter 3. Return of Charge to Vermonters

7 § 661. CARBON CHARGE REBATE FUND

8 (a) The Carbon Charge Rebate Fund is established in the State Treasury
9 under 32 V.S.A. chapter 7, subchapter 5 to receive all revenues from the
10 carbon charge and such other monies as may be appropriated or deposited into
11 the Fund.

12 (b) Balances in the Fund shall be used solely for the purposes set forth in
13 this subchapter and shall not be used for the general obligations of government.
14 Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, all balances
15 in the Fund at the end of any fiscal year shall be carried forward and remain
16 part of the Fund, and interest earned by the Fund shall be deposited in the
17 Fund.

18 § 662. REBATE; ALLOCATION

19 (a) Rebate. In accordance with this subchapter, the total revenues from the
20 carbon charge remitted to the Commissioner of Taxes by each collection date
21 shall be rebated by each Vermont retail electricity provider during the rebate
22 month for that collection date:

1 (1) To the provider's customers on the bill.

2 (2) To households that are not customers and that occupy, as their
3 principal place of residence, dwelling units within the provider's territory, such
4 as renters or occupants of dwelling units that are not connected to the
5 distribution system of a provider. The Commission shall adopt the rules under
6 which rebates shall be made to such households and shall design those rules so
7 that such a household receives, as closely as possible, the same rebate that it
8 would receive if it were a customer.

9 (b) Allocation of revenues; calculation of rebates. The Commission shall
10 adopt by rule a formulaic method that governs the allocation of the carbon
11 charge revenues and the calculation of rebates. The method shall comply with
12 each of the following:

13 (1) Allocation to classes. The mechanism shall allocate the total
14 revenues received by the collection date among three customer classes, based
15 on the estimated percentage contribution of each class to those total revenues.
16 The classes shall be commercial, industrial, and residential.

17 (2) Commercial and industrial classes. For each of the commercial and
18 industrial classes, using 100 percent of the amount allocated to each class:

19 (A) The method shall calculate a rebate per kWh that each provider
20 shall apply to its retail bill for each commercial and industrial customer during
21 the rebate month. The amount of the rebate per kWh shall be the same for
22 each provider and for each customer within a class.

1 (B) The method shall apportion, among the providers, the total
2 amount allocated to the class based on each provider's percentage share of the
3 statewide kWh sales to customers in the class.

4 (3) Residential class.

5 (A) General residential rebate. Of the amount allocated to the
6 residential class, 50 percent shall be used for a general residential rebate. The
7 method shall determine a rebate per kWh that each provider shall apply to its
8 retail bill for each residential customer during the rebate month. The amount
9 of the rebate per kWh shall be the same for each provider and for each
10 residential customer. The method shall apportion, among the providers, the
11 total amount allocated to this rebate based on each provider's percentage share
12 of the statewide kWh sales to the customers in the class.

13 (B) Additional residential rebate; rural customers. Of the amount
14 allocated to the residential class, 25 percent shall be used for a rural residential
15 rebate that shall be in addition to the other rebates authorized in this
16 subdivision (3).

17 (i) The method shall calculate the rebate as a fixed amount per
18 month on the bill of each rural customer. This amount shall not vary by
19 provider.

20 (ii) To be eligible for the rebate, the customer's primary residence
21 shall be located within a rural area of the State as determined by the
22 Commission and the customer's account shall be for that residence.

1 (iii) The Commission shall determine which areas of the State
2 qualify as rural for the purpose of this subdivision (3)(B) and in doing so shall
3 consider the information set forth in “Mapping Total Energy Burden in
4 Vermont” prepared on behalf of Efficiency Vermont (July 2016).

5 (iv) The method shall apportion the revenue amount to be used for
6 this rural residential rebate among the providers based on each provider’s
7 percentage share of residential customers located in the areas that the
8 Commission determines are rural.

9 (C) Additional income-based residential rebate. Of the amount
10 allocated to the residential class, 25 percent shall be used for a rebate to
11 customers of low and middle income that shall be in addition to the other
12 rebates authorized in this subdivision (3).

13 (i) The rebate shall be a fixed amount per month on the bill of
14 each eligible customer. This amount shall not vary by provider.

15 (ii) To be eligible for the rebate, the customer’s primary residence
16 shall be within the State, the customer’s account shall be for that residence, and
17 the customer’s annual household income shall be below 300 percent of the
18 federal poverty level.

19 (iii) In consultation with the Department for Children and Families
20 (DCF), the Commission shall include in the method income tiers for the rebate
21 so that customers with lower household incomes receive a rebate that is larger
22 than the rebate provided to customers with higher household incomes.

1 (iv) With the monthly bill to a customer who has demonstrated
2 eligibility for this income-based rebate, the provider shall include a check to
3 the customer if, on the bill, the total amount of the residential rebates pursuant
4 to this subdivision (3) exceeds the total amount of other charges on the bill.
5 The amount of the check shall be the difference between these two amounts.
6 Each check issued pursuant to this subdivision shall state that it is a carbon
7 charge rebate check.

8 (4) Noncustomer households. The method shall include and account for
9 rebates to households that are not customers in accordance with subdivision
10 (a)(2) of this section.

11 (c) Eligibility demonstration; verification. A person seeking one or both of
12 the rural residential and income-based rebates established under this section
13 shall demonstrate eligibility. The Commission shall create a mechanism to be
14 used for the self-certification of eligibility for these rebates.

15 (1) The Commission, in consultation with DCF, shall determine:

16 (A) When, how, and to whom persons demonstrate eligibility and the
17 manner in which eligibility is verified. In making this determination, the
18 Commission shall consider employing measures similar to those used under
19 affordability programs approved pursuant to subsection 218(e) of this title.

20 (B) The manner in which customers and other potentially eligible
21 persons are notified of the availability and eligibility requirements of these
22 rebates and how to demonstrate eligibility.

1 (C) The requirements and procedures concerning changes in income
2 or other circumstances that affect a person's continued eligibility for one or
3 both of these rebates.

4 (2) The Commission shall determine the confidentiality requirements
5 applicable to eligibility information submitted under this section. Violation of
6 these requirements shall constitute a violation of this chapter.

7 (d) Periodic adjustment. The formulaic method established under this
8 section may include a periodic adjustment to each rebate to account for prior
9 over- or under-collection of revenues in comparison to rebates issued.

10 (e) Information from Department of Taxes. The Commissioner of Taxes
11 shall provide the Commission with such information as it directs concerning
12 past and projected carbon charge revenues and estimated contributions of
13 customer classes to those revenues.

14 (f) Information from providers. Each retail electricity provider shall
15 furnish the Commission with the information the Commission considers
16 necessary in implementing this subchapter.

17 § 663. ADMINISTRATION; ENFORCEMENT

18 (a) Line item on bill. A Vermont retail electricity provider shall show each
19 rebate received by a customer pursuant to section 662 of this title as a separate
20 line item on the customer's bill.

21 (b) Monies from the Fund to providers for rebates. To pay for the rebates
22 under this subchapter, the Treasurer shall disburse monies from the Fund to a

1 Vermont retail electricity provider at the direction of the Commission. Each
2 provider shall hold the monies in trust for its customers and shall use the
3 monies solely for rebates to its customers under this chapter. These monies
4 shall not be considered revenue in establishing retail rates under this title.

5 (c) Rate recovery; other provider expenses. A Vermont retail electricity
6 provider shall have the opportunity to recover in retail rates its necessary and
7 reasonable expenses, other than rebates, in implementing this chapter.

8 (d) Accounts. Each Vermont retail electricity provider shall keep accurate
9 accounts of all its receipts and disbursements of monies from the Fund and all
10 its other receipts and expenditures in implementing this chapter.

11 (e) Additional provider duties. In addition to the duties specified in this
12 chapter, the Commission may specify such other duties of retail electricity
13 providers that it considers necessary in implementing this chapter.

14 (f) Energy efficiency measures. Rebates issued under this chapter shall not
15 be used in determining the cost-effectiveness of energy efficiency programs
16 and measures delivered under this title.

17 (g) Net metering customers.

18 (1) Rebates issued under this chapter shall not be used in determining
19 the amount per kWh of bill credits for net metering systems under chapter 89
20 of this title.

21 (2) With the monthly bill to a net metering customer, the provider shall
22 include a check to the customer if, on the bill, the total amount of the rebates

1 pursuant to this subchapter exceeds the total amount of other charges on the
2 bill net of any bill credits from the net metering system. The amount of the
3 check shall be the difference between these two amounts. The purpose of
4 requiring such a check is to ensure that the net metering customer in fact
5 receives the rebate of the carbon charge under this chapter and is not to require
6 payment for power generated by a net metering system. Each check issued
7 pursuant to this subdivision shall state that it is a carbon charge rebate check.

8 (h) Enforcement. The provisions of chapters 1 and 5 of this title enabling
9 enforcement, records inspection by the Commission and the Department of
10 Public Service, and injunctive and other relief for violations of law shall apply
11 to the obligations of Vermont retail electricity providers under this chapter and
12 rules and orders of the Commission issued thereunder. For the purpose of
13 sections 30 and 218 of this title, a violation of such an obligation shall be
14 treated as a violation of chapter 5 of this title.

15 § 664. AUDITS

16 (a) The Auditor of Accounts of the State may conduct audits of the
17 activities under this chapter to ensure that all of the monies raised by the
18 carbon charge are returned to customers. The Auditor shall conduct two such
19 audits as follows:

20 (1) On or before January 15, 2021, for FY 2020.

21 (2) On or before January 15, 2022, for FY 2021.

1 (b) The Auditor and his or her authorized representatives may at any time
2 examine the accounts and books of a Vermont retail electricity provider
3 relating to this chapter, including its receipts, disbursements, contracts, funds,
4 investments, and any other relevant matters.

5 Sec. 3. IMPLEMENTATION

6 (a) In this section, terms defined in Sec. 2, 30 V.S.A. § 652, shall have the
7 same meaning as in Sec. 2.

8 (b) On or before March 15, 2019:

9 (1) The Commissioner of Taxes shall publish the carbon charge rate per
10 unit that will be in effect during fiscal year 2020 for each fuel and make
11 available the form distributors will use to remit carbon charge collections.

12 (2) The Commission shall take all actions required under Sec. 2 to
13 implement the carbon charge during fiscal year 2020, including finally
14 adopting the formulaic method required by 30 V.S.A. § 662(b) and creating the
15 forms and making the determinations required by 30 V.S.A. § 662(c).

16 (c) Each provider shall furnish rebates under this act with bills rendered on
17 and after September 1, 2019.

18 Sec. 4. EFFECTIVE DATE

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