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H.91

Introduced by Representatives Sullivan of Burlington, Burke of Brattleboro,
Bartholomew of Hartland, Cina of Burlington, Colburn of
Burlington, Donovan of Burlington, Gonzalez of Winooski,
McCarthy of St. Albans City, Ralph of Hartland, Scheu of
Middlebury, Till of Jericho, and White of Hartford

Referred to Committee on

Date:

Subject: Conservation and development; air pollution; climate change; energy;
greenhouse gases; cap and trade

Statement of purpose of bill as introduced: This bill proposes to enable
Vermont to participate in a multijurisdictional cap and trade program for
greenhouse gas emissions caused by transportation, heating, cooling, and
ventilation.

An act relating to a cap and trade program for greenhouse gas emissions
caused by transportation, heating, and other energy use

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

2 Sec. 1. 10 V.S.A. § 578 is amended to read:

3 § 578. GREENHOUSE GAS REDUCTION ~~GOALS~~

4 (a) General goal of greenhouse gas reduction. It is the goal of the State to
5 reduce emissions of greenhouse gases from within the geographical boundaries
6 of the State and those emissions outside the boundaries of the State that are
7 caused by the use of energy in Vermont in order to make an appropriate
8 contribution to achieving the regional goals of reducing emissions of
9 greenhouse gases from the 1990 baseline by:

10 (1) 25 percent ~~by~~ on or before January 1, 2012;

11 (2) 50 percent ~~by~~ on or before January 1, 2028; and

12 (3) ~~if practicable using reasonable efforts,~~ 75 percent ~~by~~ on or before
13 January 1, 2050.

14 (b) Vermont climate collaborative. The Secretary will participate in the
15 Vermont climate collaborative, a collaboration between State government and
16 Vermont's higher education, business, agricultural, labor, and environmental
17 communities. Wherever possible, members of the collaborative shall be
18 included among the membership of the program development working groups
19 established by the ~~climate change oversight committee~~ Climate Change
20 Oversight Committee created under 2008 Acts and Resolves No. 209, Sec. 14.
21 State entities shall cooperate with the ~~climate change oversight committee~~

1 Climate Change Oversight Committee in pursuing the priorities identified by
2 the ~~committee~~ Committee. The Secretary shall notify the general public that
3 the collaborative is developing greenhouse gas reduction programs and shall
4 provide meaningful opportunity for public comment on program development.
5 Programs shall be developed in a manner that implements State energy policy,
6 as specified in 30 V.S.A. § 202a.

7 (c) Implementation of State programs to reduce greenhouse gas emissions.
8 ~~In order to~~ To facilitate the State's compliance with the goals established in
9 this section, all State agencies shall consider, whenever practicable, any
10 increase or decrease in greenhouse gas emissions in their decision-making
11 procedures with respect to the purchase and use of equipment and goods; the
12 siting, construction, and maintenance of buildings; the assignment of
13 personnel; and the planning, design, and operation of programs, services, and
14 infrastructure.

15 (d) ~~Advocacy for cap~~ Cap and trade program for greenhouse gases,
16 including those caused by transportation, heating, cooling, and ventilation. In
17 order to increase the likelihood of the ~~State~~ State's meeting the goals
18 established under this section, the ~~Public Utility Commission, the Secretary of~~
19 ~~Natural Resources, and the Commissioner of Public Service shall advocate~~
20 ~~before appropriate regional or national entities and working groups in favor of~~
21 ~~the establishment of~~ Governor shall have authority to approve Vermont's

1 participation in a regional multijurisdictional or national cap and trade program
2 for greenhouse gas emissions, including those caused by transportation,
3 heating, cooling, and ventilation, that meets the requirements of this
4 subsection. This program may take the form of an expansion of the existing
5 regional greenhouse gas initiative Regional Greenhouse Gas Initiative (RGGI),
6 in which Vermont participates pursuant to 30 V.S.A. § 255; the Western
7 Climate Initiative; or it may entail the creation of an entirely a new and
8 separate regional or national cap and trade initiative that includes a 100 percent
9 consumer allocation system. The Secretary and the Public Utility
10 Commission, in consultation with the Secretary of Transportation and the
11 Commissioner of Public Service, shall have the authority to adopt joint rules to
12 implement Vermont’s participation in such a program.

13 (1) Definitions. As used in this subsection:

14 (A) “Allowance” means an authorization to emit up to one ton of
15 greenhouse gases.

16 (B) “Cap and trade program” means a program in which a
17 government entity sets, for a geographic area, a cap or maximum amount of
18 emissions for an air contaminant. Under such a program:

19 (i) Emission allowances are auctioned or otherwise sold to persons
20 and facilities with the obligation to comply with the program.

21 (ii) The total amount of emission allowances is equal to the cap.

1 (iii) A person or facility with the compliance obligation may emit
2 no more of the air contaminant than the total amount permitted by its
3 allowances.

4 (iv) The allowances may be traded.

5 (C) "Point of regulation" means the person or facility with the
6 obligation to comply with the cap and trade program.

7 (2) Goals; points of regulation. The cap and trade program shall enable
8 the State to achieve the goals of subsection (a) of this section and shall allow
9 and include a series of statewide emissions caps that support achieving those
10 goals by declining over time. Under the program as implemented in Vermont,
11 the point of regulation shall be:

12 (A) For transportation fuel combustion, where the fuel first enters
13 commerce in the State, such as at a terminal rack, final blender, or distributor.

14 (B) For residential and commercial fuel combustion, and industrial
15 fuel consumption with emissions below the threshold under subdivision (3) of
16 this subsection, where the fuel first enters commerce in the State, such as at a
17 distributor.

18 (C) For industrial sources, both process and combustion, with
19 emissions at or above the threshold under subdivision (3) of this subsection, at
20 the point of emission.

1 (D) For electricity generated in Vermont, at the generation facility.

2 An in-state generation facility that is subject to and in compliance with RGGI
3 shall be considered to comply with the requirements of this subsection (d).

4 (E) For electricity generated outside Vermont, at the first electric
5 distribution utility subject to Public Service Board jurisdiction that delivers the
6 electricity within Vermont.

7 (3) Emission thresholds. The rules shall state the emissions threshold at
8 and above which the obligation to comply with the program applies to a person
9 or facility. The emissions threshold may vary by category of facility and may
10 change over time.

11 (4) Offsets. The rules may allow a person or facility with the
12 compliance obligation to offset greenhouse gas emissions through procuring
13 greenhouse gas emissions reductions or carbon sequestration by a person or
14 facility not subject to the obligation, provided that each of the following is met:

15 (A) The incremental emissions reduction or sequestration would not
16 otherwise occur.

17 (B) The offset can be verified, audited, and enforced.

18 (C) The total amount of offsets does not at any time exceed 49
19 percent of the cap, in order to ensure that the majority of emission reductions
20 occur in Vermont.

1 (5) Auctions; proceeds. Under the program, the State of Vermont
2 periodically shall sell allowances at auction. The Vermont proceeds shall be
3 allocated as follows:

4 (A) Up to \$300,000.00 each fiscal year shall be allocated to program
5 administration and enforcement.

6 (B) Of the remaining proceeds:

7 (i) one-quarter shall be deposited into the Home Weatherization
8 Assistance Fund under 33 V.S.A. § 2501;

9 (ii) one-quarter shall be deposited into the Electric Efficiency
10 Fund under 30 V.S.A. § 209 for delivery of thermal energy and process fuel
11 energy efficiency services; and

12 (iii) one-half shall be deposited into the Vermont Sustainable
13 Transportation Fund established under 19 V.S.A. § 2801.

14 (6) Public process. This subdivision applies to the first rulemaking
15 under this subsection. Before filing proposed rules with the Secretary of State,
16 the Secretary and the Public Utility Commission jointly shall conduct a public
17 process on the development of the proposed rules that includes the following
18 elements:

19 (A) an opportunity for potentially affected persons and members of
20 the public to submit comments and recommendations on the design and

1 implementation of the cap and trade program, both in writing and at one or
2 more public meetings held for the purpose;

3 (B) after providing the opportunity described in subdivision (A) of
4 this subdivision (6), publication of a draft rule; and

5 (C) an opportunity for potentially affected persons and members of
6 the public to submit comments and recommendations on the draft rule issued
7 pursuant to subdivision (B) of this subdivision (6), both in writing and at one
8 or more public meetings held for the purpose.

9 (7) Reports.

10 (A) In this subdivision, “standing committees” refers to the House
11 Committees on Energy and Technology and on Natural Resources, Fish, and
12 Wildlife and to the Senate Committees on Finance and on Natural Resources
13 and Energy.

14 (B) On or before January 15, 2021, the Secretary, in consultation
15 with the Public Utility Commission, shall submit a written report to the
16 standing committees detailing the efforts undertaken to accomplish Vermont’s
17 entry into a cap and trade program pursuant to this subsection and the status of
18 Vermont’s participation in such a program.

19 (C) On or before January 15 of each year following the year in which
20 rules are first adopted under this subsection, the Secretary, in consultation with
21 the Public Utility Commission, shall submit to the standing committees a

1 written report detailing the implementation and operation of the cap and trade
2 program required by this subsection and the revenues collected and the
3 expenditures made under the subsection. The provisions of 2 V.S.A. § 20(d)
4 (expiration of required reports) shall not apply to the report to be made under
5 this subdivision.

6 (8) Enforcement. Rules adopted under this subsection may be enforced
7 pursuant to chapters 201 and 211 of this title or by the Public Utility
8 Commission pursuant to its authority under Title 30.

9 Sec. 2. 19 V.S.A. chapter 28 is added to read:

10 CHAPTER 28. SUSTAINABLE TRANSPORTATION FUND

11 § 2801. PURPOSE; CREATION

12 (a) The Vermont Sustainable Transportation Fund is established to receive
13 the monies allocated to the Fund from the cap and trade program when adopted
14 pursuant to 10 V.S.A. § 578 and such other monies as may be appropriated or
15 deposited into the Fund.

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

19 (c) Balances in the Fund shall be used solely for the purposes set forth in
20 this chapter and shall not be used for the general obligations of government.

21 All balances in the Fund at the end of any fiscal year shall be carried forward

1 and remain part of the Fund. Interest earned by the Fund shall be deposited in
2 the Fund. This Fund is established in the State Treasury pursuant to 32 V.S.A.
3 chapter 7, subchapter 5.

4 § 2802. EXPENDITURES

5 (a) The Secretary shall expend monies from the Fund to incent or finance
6 programs and measures related to the movement of people and goods that, on a
7 life-cycle basis, will result in a net reduction in the consumption of fossil fuels
8 and in greenhouse gas emissions. These measures may include public
9 transportation, car sharing infrastructure, pedestrian and bicycle infrastructure,
10 electric vehicles and associated charging stations, and motor vehicles that are
11 more energy efficient than the typical new vehicle in their class.

12 (b) Annually after adoption of the cap and trade program, the Secretary
13 shall solicit proposals and make awards from the Fund through a competitive
14 process. The Secretary shall consult with the Secretary of Natural Resources
15 and the Commissioner of Public Service in making these awards.

16 (c) Commencing with the first calendar year after adoption of the cap and
17 trade program, the Secretary shall adopt a five-year strategic plan and an
18 annual program plan for the Fund, both of which shall be developed with input
19 from the Secretary of Natural Resources and the Commissioner of Public
20 Service and a public stakeholder process and shall be consistent with this
21 section and State energy and transportation planning principles.

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

3 § 2803. REPORT

4 On or before September 15 of each year, commencing with the second year
5 after adoption of the cap and trade program, the Secretary shall provide to the
6 House Committee on Energy and Technology, the Senate Committee on
7 Natural Resources and Energy, and the House and Senate Committees on
8 Transportation a report for the fiscal year ending the preceding June 30,
9 detailing the activities undertaken, the revenues collected, and the expenditures
10 made under this chapter. The provisions of 2 V.S.A. § 20(d) (expiration of
11 required reports) shall not apply to the report to be made under this section.

12 Sec. 3. EFFECTIVE DATE

13 This act shall take effect on July 1, 2019.