H.463

Introduced by Representatives Colburn of Burlington and Gonzalez of Winooski

Referred to Committee on

Date:

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

Statement of purpose of bill as introduced: This bill proposes to adopt a charge on the carbon content of fossil fuels to address climate change and facilitate meeting greenhouse gas reduction goals and to return all of the revenues from that charge to customers on their electric bills.

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

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

Sec. 1. DESIGNATION

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

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

CHAPTER 15. ECONOMY–STRENGTHENING STRATEGIC ENERGY EXCHANGE

Subchapter 1. General
§ 651. PURPOSE

The purposes of this chapter are to:

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

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

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

§ 652. DEFINITIONS

As used in this chapter:

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

(2) “CO₂” means carbon dioxide.

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

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

(5) “Commissioner” means the Commissioner of Taxes.
(6) “Customer” has the same meaning as in section 8002 of this title.

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

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

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

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

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

(12) “kg” means kilogram.

(13) “kWh” means kilowatt hour.

(14) “Rebate month” means the full billing cycle of a retail electricity provider commencing during the calendar month that immediately follows the collection date. For example, if the collection date is January 15, the rebate month for that collection date is February.

(15) “Retail electricity provider” and “provider” have the same meaning as in section 8002 of this title.

(16) “Tonne” means metric ton or 1,000 kg.
Subchapter 2. Carbon Charge: Application, Administration, and Enforcement

§ 656. APPLICATION OF CHARGE; CALCULATION AND PUBLICATION OF RATE

(a) Application. There shall be a charge on the carbon content of fuel applied to the sale in the State of each fuel by a distributor, to be calculated in accordance with this section and assessed on each unit of fuel sold.

(1) The charge shall be $5.00 per tonne of carbon content during fiscal year 2021, rising by $5.00 per tonne each FY from 2022 through 2028 until reaching $40.00 per tonne during FY 2028 and each FY thereafter.

(2) For fuel other than gasoline, the application of the charge shall commence on July 1, 2020.

(3) For gasoline, the application of the charge shall commence on October 1, 2020.

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

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

(2) the sale of fuel to a company subject to the jurisdiction of the Commission under subdivision 203(1) or (2) of this title, to be used at an in-state generation facility owned by the company for the manufacture of electricity to be used by the public;
(3) the sale of fuel to the U.S. government or its subdivisions, or under any other circumstances in which the State lacks power to apply the charge; or

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

(c) Calculation. For each fuel, the Commissioner shall convert the amount per tonne stated in subsection (a) of this section to a rate per unit of fuel using the applicable CO₂ emissions coefficient published by the U.S. Energy Information Administration on February 2, 2016 or such carbon emission coefficients as may be recommended by the Secretary of Natural Resources based on the best available science. In addition to CO₂, the Secretary’s recommended coefficients may include emissions of other greenhouse gases, such as methane and nitrous oxide.

(d) Publication. On or before January 15 of each year, the Commissioner shall publish the carbon charge rate per unit that will be in effect during the following fiscal year for each fuel.
(1) The distributor shall collect the carbon charge on completion of each
sale or delivery of fuel to which the charge applies. The distributor shall
identify the charge collected as a separate invoice entry on each sale of fuel.

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

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

(c) Records; inspection. Every distributor shall maintain, for not fewer
than three years, accurate records documenting all transactions to which the
carbon charge applies and all transactions for which exemption is claimed
under section 656 of this title. The Commissioner may inspect these records at
all reasonable times during normal business hours.

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

Subchapter 3. Return of Charge to Vermonters

§ 661. CARBON CHARGE REBATE FUND

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

(b) Balances in the Fund shall be used solely for the purposes set forth in
this subchapter and shall not be used for the general obligations of government.

Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, all balances
in the Fund at the end of any fiscal year shall be carried forward and remain
part of the Fund, and interest earned by the Fund shall be deposited in the
Fund.

§ 662. REBATE; ALLOCATION

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

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

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

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

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

(A) The method shall calculate a rebate per kWh that each provider shall apply to its retail bill for each commercial and industrial customer during the rebate month. The amount of the rebate per kWh shall be the same for each provider and for each customer within a class.
(B) The method shall apportion, among the providers, the total amount allocated to the class based on each provider’s percentage share of the statewide kWh sales to customers in the class.

(3) Residential class.

(A) General residential rebate. Of the amount allocated to the residential class, 33.33 percent shall be used for a general residential rebate. The method shall determine a rebate per kWh that each provider shall apply to its retail bill for each residential customer during the rebate month. The amount of the rebate per kWh shall be the same for each provider and for each residential customer. The method shall apportion, among the providers, the total amount allocated to this rebate based on each provider’s percentage share of the statewide kWh sales to the customers in the class.

(B) Additional residential rebate; rural customers. Of the amount allocated to the residential class, 33.33 percent shall be used for a rural residential rebate that shall be in addition to the other rebates authorized in this subdivision (3).

(i) The method shall calculate the rebate as a fixed amount per month on the bill of each rural customer. This amount shall not vary by provider.
(ii) To be eligible for the rebate, the customer’s primary residence shall be located within a rural area of the State as determined by the Commission and the customer’s account shall be for that residence.

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

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

(C) Additional income-based residential rebate. Of the amount allocated to the residential class, 33.33 percent shall be used for a rebate to customers of low and middle income that shall be in addition to the other rebates authorized in this subdivision (3).

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

(ii) To be eligible for the rebate, the customer’s primary residence shall be within the State, the customer’s account shall be for that residence, and the customer’s annual household income shall be below 300 percent of the federal poverty level.
(iii) In consultation with the Department for Children and Families (DCF), the Commission shall include in the method income tiers for the rebate so that customers with lower household incomes receive a rebate that is larger than the rebate provided to customers with higher household incomes.

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

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

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

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

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

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

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

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

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

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

(f) Information from providers. Each retail electricity provider shall furnish the Commission with the information the Commission considers necessary in implementing this subchapter.
§ 663. ADMINISTRATION; ENFORCEMENT

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

(b) Monies from the Fund to providers for rebates. To pay for the rebates under this subchapter, the Treasurer shall disburse monies from the Fund to a Vermont retail electricity provider at the direction of the Commission. Each provider shall hold the monies in trust for its customers and shall use the monies solely for rebates to its customers under this chapter. These monies shall not be considered revenue in establishing retail rates under this title.

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

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

(e) Additional provider duties. In addition to the duties specified in this chapter, the Commission may specify such other duties of retail electricity providers that it considers necessary in implementing this chapter.
(f) Energy efficiency measures. Rebates issued under this chapter shall not be used in determining the cost-effectiveness of energy efficiency programs and measures delivered under this title.

(g) Net metering customers.

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

(2) With the monthly bill to a net metering customer, the provider shall include a check to the customer if, on the bill, the total amount of the rebates pursuant to this subchapter exceeds the total amount of other charges on the bill net of any bill credits from the net metering system. The amount of the check shall be the difference between these two amounts. The purpose of requiring such a check is to ensure that the net metering customer in fact receives the rebate of the carbon charge under this chapter and is not to require payment for power generated by a net metering system. Each check issued pursuant to this subdivision shall state that it is a carbon charge rebate check.

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

treated as a violation of chapter 5 of this title.

§664. AUDITS

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

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

(2) On or before January 15, 2023, for FY 2022.

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

Sec. 3. IMPLEMENTATION

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

(b) On or before March 15, 2020:

(1) The Commissioner of Taxes shall publish the carbon charge rate per
unit that will be in effect during fiscal year 2021 for each fuel and make
available the form distributors will use to remit carbon charge collections.
(2) The Commission shall take all actions required under Sec. 2 to implement the carbon charge during fiscal year 2021, including finally adopting the formulaic method required by 30 V.S.A. § 662(b) and creating the forms and making the determinations required by 30 V.S.A. § 662(c).

(c) Each provider shall furnish rebates under this act with bills rendered on and after September 1, 2020.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2019.