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S.65

Introduced by Senators Watson, Clarkson and White

Referred to Committee on

Date:

Subject: Public service; energy; energy efficiency; energy efficiency utilities

Statement of purpose of bill as introduced: This bill proposes to amend the legislative direction to the Public Utility Commission to require the energy efficiency utilities to prioritize greenhouse gas emissions reductions and equitable access for all Vermonters and Vermont businesses

An act relating to energy efficiency utility jurisdiction

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

Sec. 1. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

\* \* \*

(d) Energy efficiency and emissions reduction.

(1) Programs and measures. The Department of Public Service, any entity appointed by the Commission under subdivision (2) of this subsection, all gas and electric utility companies, and the Commission upon its own motion are encouraged to propose, develop, solicit, and monitor energy efficiency and conservation programs and measures, including electrification.

1 energy storage, and appropriate combined heat and power systems that result  
2 in the conservation and efficient use of energy, ~~and~~ Any programs and  
3 measures supporting efficient use of biological and fossil-based fuels shall  
4 meet the applicable air quality standards of the Agency of Natural Resources.  
5 Such programs and measures, and their implementation, may be approved by  
6 the Commission if it determines they will be beneficial ~~to~~ towards the  
7 reduction of greenhouse gas emissions required under 10 V.S.A. § 578 and  
8 beneficial to consumers or the ratepayers of the companies after ~~such~~ notice  
9 and hearings as the Commission may require by order or by rule. The  
10 Department of Public Service shall investigate the feasibility of enhancing and  
11 expanding the efficiency programs of gas utilities and shall make any  
12 appropriate proposals to the Commission.

13 (2) Appointment of independent efficiency entities.

14 (A) Electricity and natural gas. In place of utility-specific programs  
15 developed pursuant to this section and section 218c of this title, the  
16 Commission shall, after notice and opportunity for hearing, provide for the  
17 development, implementation, and monitoring of gas and electric energy  
18 efficiency, ~~and~~ conservation, electrification, active demand management, and  
19 energy storage programs and measures, including programs and measures  
20 delivered in multiple service territories, by one or more entities appointed by  
21 the Commission for these purposes. The Commission may include appropriate

1 combined heat and power systems that result in the conservation and efficient  
2 use of energy and meet the applicable air quality standards of the Agency of  
3 Natural Resources. Except with regard to a transmission company, the  
4 Commission may specify that the appointment of an energy efficiency utility to  
5 deliver services within an electric utility's service territory satisfies that  
6 electric utility's corresponding obligations, in whole or in part, under section  
7 218c of this title and under any prior orders of the Commission.

8 (B) Thermal energy and process-fuel customers. The Commission  
9 shall provide for the coordinated development, implementation, and  
10 monitoring of cost-effective efficiency and conservation programs to thermal  
11 energy and process-fuel customers ~~on a whole buildings basis~~ by one or more  
12 entities appointed by the Commission for this purpose.

13 (i) In this section, "thermal energy" means the use of fuels to  
14 control the temperature of space within buildings and to heat water. In this  
15 section, "process fuel" means fuel used in commercial and industrial  
16 production operations.

17 (ii) Periodically on a schedule directed by the Commission, the  
18 appointed entity or entities shall propose to the Commission a plan to  
19 implement this subdivision (d)(2)(B). The proposed plan shall comply with  
20 subsections (e)–(g) of this section and shall be subject to the Commission's  
21 approval. The Commission shall not conduct the review of the proposed plan

1 as a contested case under 3 V.S.A. chapter 25 but shall provide notice and an  
2 opportunity for written and oral comments to the public and affected parties  
3 and State agencies.

4 (C) The appointed entity may be used to support the attainment of  
5 building energy codes established pursuant to sections 51 and 53 of this title.  
6 The Commission shall review and approve a methodology for the appointed  
7 entities to support the attainment of code in the next Demand Resources Plan  
8 Proceeding. The Commission is authorized to approve a methodology for the  
9 appointed entity and the State to quantify energy savings achieved through  
10 code attainment, which shall be counted toward the appointed entity's  
11 quantitative savings targets.

12 (D) The appointed entity shall receive a total annual budget from 2027  
13 through 2030 that is equivalent to the inflation-adjusted Commission-approved  
14 budget in 2026.

15 (3) Energy efficiency charge; regulated fuels. In addition to its existing  
16 authority, the Commission may establish by order or rule a volumetric charge  
17 to customers for the support of energy efficiency programs that meet the  
18 requirements of section 218c of this title, with priority consideration given to  
19 the greenhouse gas reduction requirements under 10 V.S.A. § 578, and due  
20 consideration to the State's energy policy under section 202a of this title and to  
21 its energy and economic policy interests under section 218e of this title to

1 maintain and enhance the State's economic vitality. The charge shall be  
2 known as the energy efficiency charge, shall be shown separately on each  
3 customer's bill, and shall be paid to a fund administrator appointed by the  
4 Commission and deposited into the ~~Electric~~ Efficiency Fund. When such a  
5 charge is shown, notice as to how to obtain information about energy  
6 efficiency programs approved under this section shall be provided in a manner  
7 directed by the Commission. This notice shall include, at a minimum, a toll-  
8 free telephone number, and to the extent feasible shall be on the customer's bill  
9 and near the energy efficiency charge.

10 (4) Supplemental funding; Programs funded under this section shall also  
11 be funded without further appropriation or offsets by each of the following:

12 (A) Net revenues above costs associated with payments from the  
13 New England Independent System Operator (ISO-NE) for capacity savings  
14 resulting from the activities of the energy efficiency utility designated under  
15 subdivision (2)(A) of this subsection (e) that are not transferred to the State  
16 PACE Reserve Fund under 24 V.S.A. § 3270(c). These revenues shall be  
17 deposited into the Efficiency Fund established by this section.

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

1           (C) Any other monies that are appropriated to or deposited in the  
2           Electric Efficiency Fund for the delivery of thermal energy and process fuel  
3           energy efficiency services.

4           (D) Notwithstanding subsection (e) of this section, a retail electricity  
5           provider that is also an entity appointed under subdivision (d)(2)(A), may use  
6           monies subject to subsection (e) of this section and any of the Supplemental  
7           Funding outlined in this subdivision (4) to deliver thermal and transportation  
8           measures or programs that reduce fossil fuel use regardless of the preexisting  
9           fuel source of the customer with special emphasis on measures or programs  
10           that take a new or innovative approach to reducing fossil fuel use including  
11           support for staffing necessary to implement innovative building sector policies  
12           and modifying or supplementing existing vehicle incentive programs and  
13           electric vehicle supply equipment grant programs to incentivize high-  
14           consumption fuel users, especially individuals using more than 1000 gallons of  
15           gasoline or diesel annually and those with low and moderate income, to  
16           transition to the use of battery electric vehicles. The amounts available shall  
17           include amounts annually budgeted for thermal energy and process fuel funds  
18           or from Supplemental Funding, and any carry-forward thermal energy and  
19           process fuel funds or Supplemental Funding from prior periods, on programs,  
20           measures, and services that reduce greenhouse gas emissions in the thermal  
21           energy or transportation sector.

1           ~~(A)~~(5) Regulated use of the Efficiency Fund. Balances in the ~~Electric~~  
2           Efficiency Fund shall be ratepayer funds, shall be used to support the activities  
3           authorized in this subdivision in a fuel neutral manner, and shall be carried  
4           forward and remain in the Fund at the end of each fiscal year. These monies  
5           shall not be available to meet the general obligations of the State. Interest  
6           earned shall remain in the Fund. The Commission will annually provide the  
7           General Assembly with a report detailing the revenues collected and the  
8           expenditures made for energy efficiency programs under this section. The  
9           provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply  
10          to the report to be made under this subsection (d).

11          ~~(B)~~(A) The ~~charge~~ charges established by the Commission pursuant  
12          to this subdivision ~~(3)~~(5) shall be in an amount determined by the Commission  
13          by rule or order that ~~is consistent with the principles of least cost integrated~~  
14          ~~planning as defined in section 218e of this title~~ are societally cost-effective for  
15          the purpose of reducing greenhouse gas emissions. As circumstances and  
16          programs evolve, the amount of the ~~charge~~ charges shall be reviewed for  
17          unrealized energy efficiency potential and shall be adjusted as necessary in  
18          order to realize all reasonably available, cost-effective energy efficiency  
19          savings. In setting the amount of the charge and its allocation, the Commission  
20          shall ~~determine an appropriate balance among the following objectives;~~  
21          ~~provided, however, that particular emphasis shall be accorded to the first four~~

1 ~~of these objectives:~~ prioritize the reduction of greenhouse gases and seek to  
2 balance the other following objectives: reducing Vermont's total energy  
3 demand, consumption, and expenditures; reducing the size of future power  
4 purchases; ~~reducing the generation of greenhouse gases~~ equitable distribution  
5 of benefits using geographic and economic indicators; limiting the need to  
6 upgrade the State's transmission and distribution infrastructure; minimizing the  
7 costs of electricity; reducing Vermont's total energy demand, consumption,  
8 and expenditures; providing efficiency and conservation as a part of a  
9 comprehensive resource supply strategy that includes implementation of  
10 beneficial electrification and energy storage system projects; providing the  
11 opportunity for all Vermonters to participate in efficiency and conservation  
12 programs; and targeting efficiency and conservation efforts to locations,  
13 markets, or customers where they may provide the greatest value.

14 ~~(C)~~(B) The Commission, by rule or order, shall establish a process by  
15 which a customer who pays an average annual energy efficiency charge under  
16 this subdivision ~~(3)~~(5) of at least \$5,000.00 may apply to the Commission to  
17 self-administer energy efficiency through an energy savings account or  
18 customer credit program that shall contain up to 75 percent and 90 percent,  
19 respectively of the customer's energy efficiency charge payments as  
20 determined by the Commission. The remaining portion of the charge shall be  
21 used for administrative, measurement, verification, and evaluation costs and



1 for systemwide energy benefits. Customer energy efficiency funds may be  
2 approved for use by the Commission for one or more of the following: electric  
3 energy efficiency projects and ~~non-electric~~ nonelectric efficiency projects,  
4 which may include thermal and process fuel efficiency, flexible load  
5 management, combined heat and power systems, demand management, energy  
6 productivity, and energy storage. These funds shall not be used for the  
7 purchase or installation of new equipment capable of combusting fossil fuels.  
8 The Commission in its rules or order shall establish criteria for each program  
9 and approval of these applications, establish application and enrollment  
10 periods, establish participant requirements, and establish the methodology for  
11 evaluation, measurement, and verification for programs. The total amount of  
12 customer energy efficiency funds that can be placed into energy savings  
13 accounts or the customer credit program annually is \$2,000,000.00 and  
14 \$1,000,000.00 respectively.

15 ~~(D) The Commission may authorize the use of funds raised through~~  
16 ~~an energy efficiency charge on electric ratepayers to reduce the use of fossil~~  
17 ~~fuels for space heating by supporting electric technologies that may increase~~  
18 ~~electric consumption, such as air source or geothermal heat pumps if, after~~  
19 ~~investigation, it finds that deployment of the technology:~~

20 ~~(i) will be beneficial to electric ratepayers as a whole;~~

1                   ~~(ii) will result in cost-effective energy savings to the end-user and~~  
2                   ~~to the State as a whole;~~

3                   ~~(iii) will result in a net reduction in State energy consumption and~~  
4                   ~~greenhouse gas emissions on a life-cycle basis and will not have a detrimental~~  
5                   ~~impact on the environment through other means such as release of refrigerants~~  
6                   ~~or disposal. In making a finding under this subdivision, the Commission shall~~  
7                   ~~consider the use of the technology at all times of year and any likely new~~  
8                   ~~electricity demand created by such use;~~

9                   ~~(iv) will be part of a comprehensive energy efficiency and~~  
10                  ~~conservation program that meets the requirements of subsections (d) (g) of this~~  
11                  ~~section and that makes support for the technology contingent on the energy~~  
12                  ~~performance of the building in which the technology is to be installed. The~~  
13                  ~~building's energy performance shall achieve or shall be improved to achieve an~~  
14                  ~~energy performance level that is approved by the Commission and that is~~  
15                  ~~consistent with meeting or exceeding the goals of 10 V.S.A. § 581 (building~~  
16                  ~~efficiency);~~

17                  ~~(v) among the product models of the technology that are suitable~~  
18                  ~~for use in Vermont, will employ the product models that are the most efficient~~  
19                  ~~available;~~

1           ~~(vi) will be promoted in conjunction with demand management~~  
2           ~~strategies offered by the customer's distribution utility to address any increase~~  
3           ~~in peak electric consumption that may be caused by the deployment;~~

4           ~~(vii) will be coordinated between the energy efficiency and~~  
5           ~~distribution utilities, consistent with subdivision (f)(5) of this section; and~~

6           ~~(viii) will be supported by an appropriate allocation of funds~~  
7           ~~among the funding sources described in this subsection (d) and subsection (e)~~  
8           ~~of this section. In the case of measures used to increase the energy~~  
9           ~~performance of a building in which the technology is to be installed, the~~  
10          ~~Commission shall assume installation of the technology in the building and~~  
11          ~~then determine the allocation according to the proportion of the benefits~~  
12          ~~provided to the regulated fuel and unregulated fuel sectors. In this subdivision~~  
13          ~~(viii), "regulated fuel" and "unregulated fuel" shall have the same meaning as~~  
14          ~~under subsection (e) of this section.~~

15          ~~(4)(6)~~ Contract or order of appointment. Appointment of an entity  
16          under subdivision (2) of this subsection may be by contract or by an order of  
17          appointment. An appointment, whether by order of appointment or by  
18          contract, may only be issued after notice and opportunity for hearing. An order  
19          of appointment shall be for a limited duration not to exceed 12 years, although  
20          an entity may be reappointed by order or contract. An order of appointment  
21          may include any conditions and requirements that the Commission deems

1 appropriate to promote the public good. For good cause, after notice and  
2 opportunity for hearing, the Commission may amend or revoke an order of  
3 appointment.

4 ~~(5)~~(7) Appointed entity; supervision. Any entity appointed by order of  
5 appointment under subdivisions (2) and ~~(4)~~(6) of this subsection that is not an  
6 electric or gas utility already regulated under this title shall not be considered  
7 to be a company as defined under section 201 of this title but shall be subject  
8 to the provisions of sections 18–21, 30–32, 205–208, subsection 209(a),  
9 sections 219, 221, and subsection 231(b) of this title, to the same extent as a  
10 company as defined under section 201 of this title. The Commission and the  
11 Department of Public Service shall have jurisdiction under those sections over  
12 the entity, its directors, receivers, trustees, lessees, or other persons or  
13 companies owning or operating the entity and of all plants, equipment, and  
14 property of that entity used in or about the business carried on by it in this  
15 State as covered and included in this section. This jurisdiction shall be  
16 exercised by the Commission and the Department so far as may be necessary  
17 to enable them to perform the duties and exercise the powers conferred upon  
18 them by law. The Commission and the Department each may, when they deem  
19 the public good requires, examine the plants, equipment, and property of any  
20 entity appointed by order of appointment under subdivisions (2) and (4) of this  
21 subsection.

1           (8) Provision of equity and justice in services; requirements. Any  
2           appointed entity shall ensure an equitable and just provision of services.

3           (A) Not less than 25 percent of the annual budget shall be targeted  
4           for residential services for customers with low to moderate income.

5           (B) Not less than 12.5 percent of the annual budget shall be targeted  
6           for small businesses and not-for-profit organizations.

7           (C) The cost of providing services under this subsection (6) shall be  
8           excluded from the calculation of cost-effectiveness for the appointed entities'  
9           portfolio of services.

10           (D) On or before September 1, 2026, the appointed entity shall  
11           propose and the Commission shall evaluate the appropriateness of a statewide  
12           low-income energy efficiency rate for regulated fuels. The Commission may  
13           consider the technical feasibility of implementation before approving such a  
14           rate. For a distribution utility that is also an appointed entity, and has a  
15           Commission approved discounted low-income rate, that appointed entity may  
16           elect to apply its Commission approved discounted low-income rate criteria to  
17           the energy efficiency charge in lieu of adopting a statewide low-income energy  
18           efficiency rate.

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

20           ~~(1) Each of the following shall be used to deliver thermal energy and~~  
21           ~~process fuel energy efficiency services in accordance with this section for~~

1 ~~unregulated fuels to Vermont consumers of such fuels.~~ In addition, the  
2 Commission may authorize an entity appointed to deliver such services under  
3 subdivision (d)(2)(B) of this section to use monies subject to this subsection  
4 for the engineering, design, and construction of facilities for the conversion of  
5 thermal energy customers using fossil fuels to district heat if the majority of  
6 the district's energy is from biomass sources, the district's distribution system  
7 is highly energy efficient, and such conversion is cost effective.

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

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

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

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

12          ~~(3) In this subsection:~~

13                 (A) “Biomass” means organic nonfossil material constituting a  
14                 source of renewable energy within the meaning of section 8002 of this title.

15                 (B) “District heat” means a system through which steam or hot water  
16                 from a central plant is piped into buildings to be used as a source of thermal  
17                 energy.

18                 (C) “Efficiency services” includes the establishment of a statewide  
19                 information clearinghouse under subsection (g) of this section.

1           (D) “Fossil fuel” means an energy source formed in the earth’s crust  
2 from decayed organic material. The common fossil fuels are petroleum, coal,  
3 and natural gas. A fossil fuel may be a regulated or unregulated fuel.

4           (E) “Regulated fuels” means electricity and natural gas delivered by a  
5 regulated utility.

6           (F) “Unregulated fuels” means fuels used by thermal energy and  
7 process fuel customers other than electricity and natural gas delivered by a  
8 regulated utility.

9           (f) Goals and criteria; all energy efficiency programs. With respect to all  
10 energy efficiency programs approved under this section, the Commission shall:

11           (1) Ensure that all retail consumers, regardless of retail electricity, gas,  
12 or heating or process fuel provider, will have an opportunity to participate in  
13 and benefit from a comprehensive set of cost-effective energy efficiency,  
14 electrification, and energy storage programs and initiatives designed to  
15 overcome barriers to participation.

16           (2) Require that continued or improved efficiencies be made in the  
17 production, delivery, and use of energy efficiency services, including the use  
18 of compensation mechanisms for any energy efficiency entity appointed under  
19 subdivision (d)(2) of this section that are based upon verified greenhouse gas  
20 emission reductions, savings in energy usage and demand, and other  
21 performance targets specified by the Commission. The linkage between



1 compensation and verified savings in energy usage and demand (and other  
2 performance targets) shall be reviewed and adjusted not less than triennially by  
3 the Commission.

4 \* \* \*

5 (g) Thermal energy and process fuel efficiency programs; additional  
6 criteria. With respect to energy efficiency programs delivered under this  
7 section to thermal energy and process fuel customers, the Commission shall:

8 (1) Ensure that programs are delivered ~~on a whole buildings basis~~ to  
9 help meet the State's ~~building~~ efficiency goals established by 10 V.S.A. § 581  
10 and to reduce greenhouse gas emissions ~~from thermal energy and process fuel~~  
11 ~~use in Vermont~~ pursuant to 10 V.S.A. § 578.

12 (2) ~~Require the establishment of a statewide information clearinghouse~~  
13 ~~to enable effective access for customers to and effective coordination across~~  
14 ~~programs. The clearinghouse shall serve as a portal for customers to access~~  
15 ~~thermal energy and process fuel efficiency services and for coordination~~  
16 ~~among State, regional, and local entities involved in the planning or delivery of~~  
17 ~~such services, making referrals as appropriate to service providers and to~~  
18 ~~entities having information on associated environmental issues such as the~~  
19 ~~presence of asbestos in existing insulation.~~

