

1 S.65

2 Senator Hardy moves that the bill be amended by striking out Sec. 1, 30
3 V.S.A. § 209, in its entirety and inserting in lieu thereof a new Sec. 1 and Sec.
4 1a and Sec. 1b to read as follows:

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

6 § 209. JURISDICTION; GENERAL SCOPE

7 * * *

8 (d) Energy efficiency and greenhouse gas emissions reduction.

9 (1) Programs and measures. The Department of Public Service, any
10 entity appointed by the Commission under subdivision (2) of this subsection,
11 all gas and electric utility companies, and the Commission upon its own
12 motion are encouraged to propose, develop, solicit, and monitor energy
13 efficiency and conservation programs and measures, including electrification
14 and appropriate combined heat and power systems that result in the
15 conservation and efficient use of energy and. Any programs and measures
16 supporting efficient use of biological and fossil-based fuels shall meet the
17 applicable air quality standards of the Agency of Natural Resources. Such
18 programs and measures, and their implementation, may be approved by the
19 Commission if it determines they will be beneficial ~~to~~ towards the reduction of
20 greenhouse gas emissions and beneficial to consumers or the ratepayers of the
21 companies after ~~such~~ notice and hearings as the Commission may require by

1 order or by rule. The Department of Public Service shall investigate the
2 feasibility of enhancing and expanding the efficiency programs of gas utilities
3 and shall make any appropriate proposals to the Commission.

4 (2) Appointment of independent efficiency entities.

5 (A) Electricity and natural gas. In place of utility-specific programs
6 developed pursuant to this section and section 218c of this title, the
7 Commission shall, after notice and opportunity for hearing, provide for the
8 development, implementation, and monitoring of gas and electric energy
9 efficiency ~~and~~, conservation, and electrification programs and measures,
10 including programs and measures delivered in multiple service territories, by
11 one or more entities appointed by the Commission for these purposes. The
12 Commission may include appropriate combined heat and power systems that
13 result in the conservation and efficient use of energy and meet the applicable
14 air quality standards of the Agency of Natural Resources. Except with regard
15 to a transmission company, the Commission may specify that the appointment
16 of an energy efficiency utility to deliver services within an electric utility's
17 service territory satisfies that electric utility's corresponding obligations, in
18 whole or in part, under section 218c of this title and under any prior orders of
19 the Commission.

20 (B) Thermal energy and process-fuel customers. The Commission
21 shall provide for the coordinated development, implementation, and

1 monitoring of cost-effective efficiency and conservation programs to thermal
2 energy and process-fuel customers ~~on a whole buildings basis~~ by one or more
3 entities appointed by the Commission for this purpose.

4 (i) In this section, “thermal energy” means the use of fuels to
5 control the temperature of space within buildings and to heat water. In this
6 section, “process fuel” means fuel used in commercial and industrial
7 production operations.

8 (ii) Periodically on a schedule directed by the Commission, the
9 appointed entity or entities shall propose to the Commission a plan to
10 implement this subdivision (d)(2)(B). The proposed plan shall comply with
11 subsections (e)–(g) of this section and shall be subject to the Commission’s
12 approval. The Commission shall not conduct the review of the proposed plan
13 as a contested case under 3 V.S.A. chapter 25 but shall provide notice and an
14 opportunity for written and oral comments to the public and affected parties
15 and State agencies.

16 (C) The appointed entity may be used to support the attainment of
17 building energy codes established pursuant to sections 51 and 53 of this title.
18 The Commission may approve a methodology for the appointed entity to
19 quantify energy savings achieved through code attainment, which shall be
20 counted toward the appointed entity’s quantitative savings targets.

1 (D) The annual revenue required to be raised by the electric
2 efficiency charge authorized under this subsection (d) shall be equivalent to the
3 inflation-adjusted Commission-approved electric efficiency budget in 2026.

4 (3) Energy efficiency charge; regulated fuels. In addition to its existing
5 authority, the Commission may establish by order or rule a volumetric charge
6 to customers for the support of energy efficiency programs that meet the
7 requirements of section 218c of this title, with priority consideration given to
8 the greenhouse gas emissions reductions and due consideration to the State's
9 energy policy under section 202a of this title and to its energy and economic
10 policy interests under section 218e of this title to maintain and enhance the
11 State's economic vitality. The charge shall be known as the energy efficiency
12 charge, shall be shown separately on each customer's bill, and shall be paid to
13 a fund administrator appointed by the Commission and deposited into the
14 Electric Efficiency Fund. When such a charge is shown, notice as to how to
15 obtain information about energy efficiency programs approved under this
16 section shall be provided in a manner directed by the Commission. This notice
17 shall include, at a minimum, a toll-free telephone number, and to the extent
18 feasible shall be on the customer's bill and near the energy efficiency charge.

19 (4) Supplemental funding. Programs funded under this subsection shall
20 be solely funded by each of the following:

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

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

17 (C) Any other monies that are appropriated to or deposited in the
18 Efficiency Fund for the delivery of thermal energy and process fuel energy
19 efficiency services.

20 (D) Notwithstanding subsection (e) of this section, a retail electricity
21 provider that is also an entity appointed under subdivision (2)(A) of this

1 subsection (d) may use monies subject to subsection (e) of this section and any
2 of the Supplemental Funding outlined in this subdivision (4) to deliver thermal
3 and transportation measures or programs that reduce fossil fuel use regardless
4 of the preexisting fuel source of the customer with special emphasis on
5 measures or programs that take a new or innovative approach to reducing fossil
6 fuel use, including support for staffing necessary to implement innovative
7 building sector policies and modifying or supplementing existing vehicle
8 incentive programs and electric vehicle supply equipment grant programs to
9 incentivize high-consumption fuel users, especially individuals using more
10 than 1,000 gallons of gasoline or diesel annually and those with low and
11 moderate income, to transition to the use of battery electric vehicles. The
12 amounts available shall include amounts annually budgeted for thermal energy
13 and process fuel funds or from Supplemental Funding, and any carry-forward
14 thermal energy and process fuel funds or Supplemental Funding from prior
15 periods, on programs, measures, and services that reduce greenhouse gas
16 emissions in the thermal energy or transportation sector.

17 (A)(5) Regulated use of the Efficiency Fund. Balances in the Electric
18 Efficiency Fund shall be ratepayer funds, shall and be used to support the
19 activities authorized in this subdivision, and for the reduction of total energy
20 use across all fuel sources without a requirement for proportional allocation of
21 costs or savings for specific fuel types. Balances in the Efficiency Fund shall

1 be carried forward and remain in the Fund at the end of each fiscal year. These
2 monies shall not be available to meet the general obligations of the State.
3 Interest earned shall remain in the Fund. The Commission will annually
4 provide the General Assembly with a report detailing the revenues collected
5 and the expenditures made for energy efficiency programs under this section.
6 The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not
7 apply to the report to be made under this subsection ~~(d)~~.

8 ~~(B)(A)~~ The charge established by the Commission pursuant to this
9 subdivision (3) shall be in an amount determined by the Commission by rule or
10 order that is consistent with the principles of least-cost integrated planning as
11 defined in section 218c of this title The Commission shall establish an
12 appropriate budget for the appointed entity using the Efficiency Fund. The
13 Commission shall consider all revenue sources established under subdivisions
14 (3) and (4) of this sub section (d) when establishing the budget. In reviewing
15 the appointed entity's proposed plan pursuant to subdivision (2)(B)(ii) of this
16 subsection (d), the Commission shall review and approve a budget that is
17 consistent with principles of least-cost integrated planning as defined in section
18 218c of this title and demonstrates cost-effectiveness using the Commission's
19 approved societal cost-benefit test. As circumstances and programs evolve, the
20 amount of the charge shall be reviewed Commission shall review the plan for
21 unrealized energy efficiency potential and shall be adjusted authorize

1 adjustments as necessary in order to realize all reasonably available, cost-
2 effective energy efficiency savings. In ~~setting the amount of the charge and its~~
3 ~~allocation~~ a budget for an appointed entity using the Efficiency Fund, the
4 Commission shall ~~determine an appropriate balance among the following~~
5 ~~objectives; provided, however, that particular emphasis shall be accorded to~~
6 ~~the first four of these objectives:~~ seek to balance the other following
7 objectives:

8 (i) reducing Vermont’s total energy demand, consumption, and
9 expenditures;

10 (ii) reducing the size of future power purchases;

11 (iii) reducing the generation of greenhouse gases;

12 (iv) equitable distribution of benefits using geographic and
13 economic indicators;

14 (v) limiting the need to upgrade the State’s transmission and
15 distribution infrastructure;

16 (vi) minimizing the costs of electricity;

17 (vii) reducing Vermont’s total energy demand, consumption, and
18 expenditures;

19 (viii) providing efficiency and conservation as a part of a
20 comprehensive resource supply strategy that includes implementation of
21 electrification, and supplying energy efficiency resources into the ISO-NE

1 forward capacity market or any future energy markets where energy efficiency
2 can support a reduction in cost for all ratepayers and generate revenues for
3 Vermont ratepayers through participation;

4 (ix) providing the opportunity for all Vermonters to participate in
5 efficiency and conservation programs; and

6 (x) targeting efficiency and conservation efforts to locations,
7 markets, or customers where they may provide the greatest value.

8 ~~(C)~~(B) The Commission, by rule or order, shall establish a process by
9 which a customer who pays an average annual energy efficiency charge under
10 this subdivision ~~(3)~~(5) of at least \$5,000.00 may apply to the Commission to
11 self-administer energy efficiency through an energy savings account or
12 customer credit program that shall contain up to 75 percent and 90 percent,
13 respectively of the customer's energy efficiency charge payments as
14 determined by the Commission. The remaining portion of the charge shall be
15 used for administrative, measurement, verification, and evaluation costs and
16 for systemwide energy benefits. Customer energy efficiency funds may be
17 approved for use by the Commission for one or more of the following: electric
18 energy efficiency projects and ~~non-electric~~ nonelectric efficiency projects,
19 which may include thermal and process fuel efficiency, flexible load
20 management, combined heat and power systems, demand management, energy
21 productivity, and energy storage. These funds shall not be used for the

1 purchase or installation of new equipment capable of combusting fossil fuels.

2 The Commission in its rules or order shall establish criteria for each program

3 and approval of these applications, establish application and enrollment

4 periods, establish participant requirements, and establish the methodology for

5 evaluation, measurement, and verification for programs. The total amount of

6 customer energy efficiency funds that can be placed into energy savings

7 accounts or the customer credit program annually is \$2,000,000.00 and

8 \$1,000,000.00 respectively.

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

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

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

17 ~~(iii) will result in a net reduction in State energy consumption and~~
18 ~~greenhouse gas emissions on a life cycle basis and will not have a detrimental~~
19 ~~impact on the environment through other means such as release of refrigerants~~
20 ~~or disposal. In making a finding under this subdivision, the Commission shall~~

1 ~~consider the use of the technology at all times of year and any likely new~~
2 ~~electricity demand created by such use;~~

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

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

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

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

19 ~~(viii) will be supported by an appropriate allocation of funds~~
20 ~~among the funding sources described in this subsection (d) and subsection (e)~~
21 ~~of this section. In the case of measures used to increase the energy~~

1 ~~performance of a building in which the technology is to be installed, the~~
2 ~~Commission shall assume installation of the technology in the building and~~
3 ~~then determine the allocation according to the proportion of the benefits~~
4 ~~provided to the regulated fuel and unregulated fuel sectors. In this subdivision~~
5 ~~(viii), “regulated fuel” and “unregulated fuel” shall have the same meaning as~~
6 ~~under subsection (e) of this section.~~

7 ~~(4)~~(6) Contract or order of appointment. Appointment of an entity
8 under subdivision (2) of this subsection may be by contract or by an order of
9 appointment. An appointment, whether by order of appointment or by
10 contract, may only be issued after notice and opportunity for hearing. An order
11 of appointment shall be for a limited duration not to exceed 12 years, although
12 an entity may be reappointed by order or contract. An order of appointment
13 may include any conditions and requirements that the Commission deems
14 appropriate to promote the public good. For good cause, after notice and
15 opportunity for hearing, the Commission may amend or revoke an order of
16 appointment.

17 ~~(5)~~(7) Appointed entity; supervision. Any entity appointed by order of
18 appointment under subdivisions (2) and ~~(4)~~(6) of this subsection that is not an
19 electric or gas utility already regulated under this title shall not be considered
20 to be a company as defined under section 201 of this title but shall be subject
21 to the provisions of sections 18–21, 30–32, 205–208; subsection 209(a);

1 sections 219; and 221; and subsection 231(b) of this title, to the same extent as
2 a company as defined under section 201 of this title. The Commission and the
3 Department of Public Service shall have jurisdiction under those sections over
4 the entity, its directors, receivers, trustees, lessees, or other persons or
5 companies owning or operating the entity and of all plants, equipment, and
6 property of that entity used in or about the business carried on by it in this
7 State as covered and included in this section. This jurisdiction shall be
8 exercised by the Commission and the Department so far as may be necessary
9 to enable them to perform the duties and exercise the powers conferred upon
10 them by law. The Commission and the Department each may, when they deem
11 the public good requires, examine the plants, equipment, and property of any
12 entity appointed by order of appointment under subdivisions (2) and ~~(4)~~(6) of
13 this subsection.

14 (8) Provision services for customers with low and moderate income;
15 requirements. Any appointed entity shall ensure provision of services as
16 follows:

17 (A) Not less than 25 percent of the annual budget shall be targeted
18 for residential services for customers with low to moderate income. Services
19 shall include the provision of weatherization services and other efficiency
20 measures for the purpose of reducing a household's total energy costs and total
21 energy burden.

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

3 (C) The cost of providing services under this subdivision (8) shall be
4 excluded from the calculation of cost-effectiveness for the appointed entity’s
5 portfolio of services.

6 (D) As used in this subdivision (8), “customer with low income”
7 means a customer with a household income of up to 80 percent of the area
8 median income as published annually by the U.S. Department of Housing and
9 Urban Development and “customer with moderate income” means a customer
10 with a household income between 80 percent and 120 percent of the median
11 income as published annually by the U.S. Department of Housing and Urban
12 Development.

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

14 (1) ~~Each of the following shall be used to deliver thermal energy and~~
15 ~~process fuel energy efficiency services in accordance with this section for~~
16 ~~unregulated fuels to Vermont consumers of such fuels. In addition, the The~~
17 Commission may authorize an entity appointed to deliver such services under
18 subdivision (d)(2)(B) of this section to use monies subject to this subsection
19 for the engineering, design, and construction of facilities for the conversion of
20 thermal energy customers using fossil fuels to district heat if the majority of

1 the district's energy is from biomass sources, the district's distribution system
2 is highly energy efficient, and such conversion is cost effective.

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

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

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

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

6 (3) In this subsection:

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

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

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

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

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

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

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

8 (2) Require that continued or improved efficiencies be made in the
9 production, delivery, and use of energy efficiency services, including the use
10 of compensation mechanisms for any energy efficiency entity appointed under
11 subdivision (d)(2) of this section that are based upon verified greenhouse gas
12 emission reductions, savings in energy usage and demand, and other
13 performance targets specified by the Commission. The linkage between
14 compensation and verified savings in energy usage and demand (and other
15 performance targets) shall be reviewed and adjusted not less than triennially by
16 the Commission.

17 * * *

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

1 **Sec. 1a. LOW-INCOME EFFICIENCY RATE**

2 On or before September 1, 2026, the appointed entity shall propose, and the
3 Commission shall evaluate the appropriateness of, a statewide low-income
4 energy efficiency rate for regulated fuels. The Commission may consider the
5 technical feasibility of implementation before approving such a rate. However,
6 if a rate is approved, a distribution utility that is also an appointed entity, and
7 has a Commission-approved discounted low-income rate, that appointed entity
8 may elect to apply its Commission-approved discounted low-income rate
9 criteria to the energy efficiency charge in lieu of adopting a statewide low-
10 income energy efficiency rate.

11 **Sec. 1b. ENERGY EFFICIENCY MODERNIZATION STUDY**

12 On or before April 30, 2026, the Public Utility Commission as part of its
13 report due under 2020 Acts and Resolves No. 151, shall make
14 recommendations, based on the results of the pilot program under that act, on
15 how to best achieve least cost integrated planning and greenhouse gas
16 emissions reductions from both the thermal and electric sectors.