

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 65 entitled “An act relating to energy efficiency utility
4 jurisdiction” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

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

8 § 209. JURISDICTION; GENERAL SCOPE

9 * * *

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

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

1 greenhouse gas emissions and beneficial to consumers or the ratepayers of the
2 companies after such notice and hearings as the Commission may require by
3 order or by rule. The Department of Public Service shall investigate the
4 feasibility of enhancing and expanding the efficiency programs of gas utilities
5 and shall make any appropriate proposals to the Commission.

6 (2) Appointment of independent efficiency entities.

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

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

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

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

18 (C) The appointed entity may be used to support the attainment of
19 building energy codes established pursuant to sections 51 and 53 of this title.
20 The Commission shall review and approve a methodology for the appointed
21 entities to support the attainment of code in the next Demand Resources Plan

1 Proceeding. The Commission is authorized to approve a methodology for the
2 appointed entity and the State to quantify energy savings achieved through
3 code attainment, which shall be counted toward the appointed entity's
4 quantitative savings targets.

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

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

1 shall include, at a minimum, a toll-free telephone number, and to the extent
2 feasible shall be on the customer's bill and near the energy efficiency charge.

3 (4) Supplemental funding. Programs funded under this subsection shall
4 also be funded without further appropriation or offsets by each of the
5 following:

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

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

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

18 (D) Notwithstanding subsection (e) of this section, a retail electricity
19 provider that is also an entity appointed under subdivision (d)(2)(A) of this
20 section, may use monies subject to subsection (e) of this section and any of the
21 Supplemental Funding outlined in this subdivision (4) to deliver thermal and

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

15 ~~(A)~~(5) Regulated use of the Efficiency Fund. Balances in the ~~Electric~~
16 Efficiency Fund shall be ratepayer funds, shall be used to support the activities
17 authorized in this subdivision, ~~and~~ for the reduction of total energy use across
18 all electric, fossil, or biologic fuel sources without a requirement for
19 proportional allocation of costs or savings for specific fuel types. Balances in
20 the Efficiency Fund shall be carried forward and remain in the Fund at the end
21 of each fiscal year. These monies shall not be available to meet the general

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

7 ~~(B)~~(A) The charge established by the Commission pursuant to this
8 subdivision ~~(3)~~(5) shall be in an amount determined by the Commission by
9 rule or order that is societally cost-effective for the purpose of reducing
10 greenhouse gas emissions and is consistent with the principles of least-cost
11 integrated planning as defined in section 218c of this title. As circumstances
12 and programs evolve, the amount of the charge shall be reviewed for
13 unrealized energy efficiency potential and shall be adjusted as necessary in
14 order to realize all reasonably available, cost-effective energy efficiency
15 savings. In setting the amount of the charge and its allocation, the Commission
16 shall ~~determine an appropriate balance among the following objectives;~~
17 ~~provided, however, that particular emphasis shall be accorded to the first four~~
18 ~~of these objectives:~~ prioritize the reduction of greenhouse gases and seek to
19 balance the other following objectives: reducing Vermont’s total energy
20 demand, consumption, and expenditures; reducing the size of future power
21 purchases; ~~reducing the generation of greenhouse gases~~ equitable distribution

1 of benefits using geographic and economic indicators; limiting the need to
2 upgrade the State’s transmission and distribution infrastructure; minimizing the
3 costs of electricity; reducing Vermont’s total energy demand, consumption,
4 and expenditures; providing efficiency and conservation as a part of a
5 comprehensive resource supply strategy that includes implementation of
6 electrification; providing the opportunity for all Vermonters to participate in
7 efficiency and conservation programs; and targeting efficiency and
8 conservation efforts to locations, markets, or customers where they may
9 provide the greatest value.

10 ~~(C)~~(B) The Commission, by rule or order, shall establish a process by
11 which a customer who pays an average annual energy efficiency charge under
12 this subdivision ~~(3)~~(5) of at least \$5,000.00 may apply to the Commission to
13 self-administer energy efficiency through an energy savings account or
14 customer credit program that shall contain up to 75 percent and 90 percent,
15 respectively of the customer’s energy efficiency charge payments as
16 determined by the Commission. The remaining portion of the charge shall be
17 used for administrative, measurement, verification, and evaluation costs and
18 for systemwide energy benefits. Customer energy efficiency funds may be
19 approved for use by the Commission for one or more of the following: electric
20 energy efficiency projects and ~~non-electric~~ nonelectric efficiency projects,
21 which may include thermal and process fuel efficiency, flexible load

1 management, combined heat and power systems, demand management, energy
2 productivity, and energy storage. These funds shall not be used for the
3 purchase or installation of new equipment capable of combusting fossil fuels.
4 The Commission in its rules or order shall establish criteria for each program
5 and approval of these applications, establish application and enrollment
6 periods, establish participant requirements, and establish the methodology for
7 evaluation, measurement, and verification for programs. The total amount of
8 customer energy efficiency funds that can be placed into energy savings
9 accounts or the customer credit program annually is \$2,000,000.00 and
10 \$1,000,000.00 respectively.

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

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

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

19 ~~(iii) will result in a net reduction in State energy consumption and~~
20 ~~greenhouse gas emissions on a life cycle basis and will not have a detrimental~~
21 ~~impact on the environment through other means such as release of refrigerants~~

1 ~~or disposal. In making a finding under this subdivision, the Commission shall~~
2 ~~consider the use of the technology at all times of year and any likely new~~
3 ~~electricity demand created by such use;~~

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

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

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

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

20 ~~(viii) will be supported by an appropriate allocation of funds~~
21 ~~among the funding sources described in this subsection (d) and subsection (e)~~

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

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

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

1 to the provisions of sections 18–21, 30–32, 205–208; subsection 209(a);
2 sections 219, and 221; and subsection 231(b) of this title, to the same extent as
3 a company as defined under section 201 of this title. The Commission and the
4 Department of Public Service shall have jurisdiction under those sections over
5 the entity, its directors, receivers, trustees, lessees, or other persons or
6 companies owning or operating the entity and of all plants, equipment, and
7 property of that entity used in or about the business carried on by it in this
8 State as covered and included in this section. This jurisdiction shall be
9 exercised by the Commission and the Department so far as may be necessary
10 to enable them to perform the duties and exercise the powers conferred upon
11 them by law. The Commission and the Department each may, when they deem
12 the public good requires, examine the plants, equipment, and property of any
13 entity appointed by order of appointment under subdivisions (2) and ~~(4)~~(6) of
14 this subsection.

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

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.

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

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

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

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
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 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE