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H.412

Introduced by Representatives Deen of Westminster, Sullivan of Burlington,
Bartholomew of Hartland, Berry of Manchester, Burke of
Brattleboro, Donovan of Burlington, French of Randolph,
Gonzalez of Winooski, Grad of Moretown, Hooper of
Montpelier, Jewett of Ripton, Kitzmiller of Montpelier,
Krowinski of Burlington, LaLonde of South Burlington, Lenes
of Shelburne, Masland of Thetford, McCormack of Burlington,
McCullough of Williston, Mrowicki of Putney, O’Sullivan of
Burlington, Rachelson of Burlington, Ram of Burlington,
Sheldon of Middlebury, Stevens of Waterbury, Stuart of
Brattleboro, Sweaney of Windsor, and Townsend of
South Burlington

Referred to Committee on

Date:

Subject: Taxation; climate change; greenhouse gases; carbon pollution tax;
low-income weatherization

Statement of purpose of bill as introduced: This bill proposes to establish an
excise tax on fossil fuels that emit greenhouse gases in order to reflect external
costs of greenhouse gas emissions in the price of these fuels and reduce fossil
fuel use. The bill proposes to offset 90 percent of the revenues from this

1 carbon pollution tax through reduction of the sales and use tax, a refundable
2 tax credit to personal income taxpayers, a low-income taxpayer rebate, and a
3 per employee rebate to employers. The remaining 10 percent of the carbon
4 pollution tax revenues would fund low-income weatherization and a Vermont
5 Energy Independence Fund (VEIF). The bill would amend the Clean Energy
6 Development Fund to become the VEIF.

7 An act relating to establishing a carbon pollution tax

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

9 * * * Establishment of Carbon Pollution Tax * * *

10 Sec. 1. 32 V.S.A. chapter 217 is added to read:

11 CHAPTER 217. CARBON POLLUTION TAX

12 § 8801. PURPOSE

13 The purposes of this chapter are to tax distributors of fossil fuels in order to
14 reflect, in the price of these fuels, external costs of the carbon dioxide emitted
15 from burning them and to reduce their use.

16 § 8802. DEFINITIONS

17 As used in this chapter:

18 (1) “AT” means the amount of tax per tonne set forth in section 8803 of
19 this chapter.

20 (2) “Carbon pollution tax” means the tax imposed by this chapter.

1 (3) “CCF” means 100 SCF.

2 (4) “CO₂” means carbon dioxide.

3 (5) “CO₂ factor” means a carbon dioxide emission factor for a fuel listed
4 in “Emissions Factors for Greenhouse Gas Inventories” published by the U.S.
5 Environmental Protection Agency, last revised on April 4, 2014.

6 (A) “CO₂ factor” (mobile) means a CO₂ factor listed in Table 2,
7 Mobile Combustion CO₂ Emission Factors.

8 (B) “CO₂ factor” (stationary) means a CO₂ factor listed in Table 1,
9 Stationary Combustion Emission Factors. Unless specified otherwise in
10 section 8804 of this chapter, a CO₂ factor (stationary) shall be in kg CO₂ per
11 gallon.

12 (6) “Commissioner” means the Commissioner of Taxes, except when
13 immediately followed by a phrase indicating the commissioner of a different
14 agency, such as the Commissioner of Public Service.

15 (7) “Department” means the Department of Taxes, except when
16 immediately followed by a phrase indicating a different department.

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

1 (9) “Employee,” “employer,” “full-time equivalent” and “FTE” shall
2 have the same meanings as in 21 V.S.A. § 2002.

3 (10) “Fiscal year” means the period of 12 months ending on the last day
4 of June.

5 (11) “Fuel” means each form and grade of butane, coal, diesel fuel,
6 gasoline, fuel oil, jet fuel, kerosene, natural gas, and propane.

7 (12) “Gasoline” means all fuel used or made for use in motor vehicles
8 except diesel fuel, jet fuel, natural gas, and kerosene.

9 (13) “kg” means kilogram.

10 (14) “SCF” means standard cubic foot.

11 (15) “Short ton” means 2,000 pounds.

12 (16) “Tonne” means metric ton or 1,000 kg.

13 § 8803. IMPOSITION OF TAX

14 A carbon pollution tax is imposed per tonne of CO₂ emissions on the sale in
15 the State of each fuel by a distributor, to be calculated and assessed as set out
16 in section 8804 of this chapter. The amount of the tax per tonne of CO₂
17 emissions shall be \$10.00 during the first fiscal year in which this section is
18 effective, increasing by \$10.00 on July 1 of each subsequent fiscal year until
19 reaching \$100.00.

1 § 8804. CALCULATION OF TAX FOR EACH FUEL

2 The carbon pollution tax shall be calculated and assessed on each unit of
3 fuel in accordance with the following formula:

4 (1) For each gallon of butane: AT times 0.001 times the CO₂ factor
5 (stationary) for butane.

6 (2) For each short ton of coal: AT times 0.001 times 1.1 times the CO₂
7 factor (stationary) for anthracite coal, in kg CO₂ per short ton. For coal
8 distributed by the pound, the formula shall be the same, except that the result
9 shall be divided by 2,000. This formula shall apply to all forms of coal,
10 whether or not anthracite.

11 (3) For each gallon of diesel fuel: AT times 0.001 times the CO₂ factor
12 (mobile) for diesel fuel. This formula shall apply to all forms of diesel,
13 whether for mobile or stationary use.

14 (4) For each gallon of gasoline: AT times 0.001 times the CO₂ factor
15 (mobile) for motor gasoline.

16 (5) For each gallon of fuel oil: AT times 0.001 times the CO₂ factor
17 (stationary) for distillate fuel oil no. 2. This formula shall apply to all forms of
18 fuel oil, including heating oil and all classes of distillate and residual fuel oil.

19 (6) For each gallon of jet fuel: AT times 0.001 times the CO₂ factor
20 (mobile) for jet fuel (kerosene type).

1 (7) For each gallon of kerosene: AT times 0.001 times the CO₂ factor
2 (stationary) for kerosene.

3 (8) For each CCF of natural gas: AT times 0.001 times the CO₂ factor
4 (stationary) for natural gas in kg CO₂ per SCF times 100. This formula shall
5 apply to all forms of natural gas, whether for mobile or stationary use.

6 (9) For each gallon of propane: AT times 0.001 times the CO₂ factor
7 (stationary) for propane.

8 § 8805. PUBLICATION OF TAX RATES

9 On or before May 1 of each year, the Commissioner shall publish the
10 carbon pollution tax rate for each fuel that will be in effect during the
11 following fiscal year, calculated in accordance with section 8804 of this
12 chapter.

13 § 8806. COLLECTION; REMITTANCE

14 (a) The distributor shall collect the carbon pollution tax on completion of
15 any sale or delivery of fuel. The distributor shall identify the amount of tax
16 collected as a separate invoice entry on each sale of fuel.

17 (b) On or before each January 15, April 15, July 15, and October 15, each
18 distributor liable for the carbon pollution tax shall return to the Commissioner,
19 under oath of a person with legal authority to bind the distributor, a statement
20 containing its name and place of business, the quantity and type of fuel subject
21 to the carbon pollution tax sold in the preceding three calendar months, and

1 any other information required by the Commissioner, along with the tax due
2 for the fuel sold in the preceding three calendar months.

3 § 8807. EXEMPTIONS

4 The carbon pollution tax shall not apply to:

5 (1) the sale of fuel to the U.S. government or its subdivisions, or
6 under any other circumstances in which the State is without power to impose
7 the tax;

8 (2) the sale of fuel to a company subject to the jurisdiction of the Public
9 Service Board under 30 V.S.A. § 203(1) or (2), to be used at an in-state
10 generation facility owned by the company for the manufacture of electricity to
11 be used by the public; and

12 (3) the sale of fuel by a distributor if the same fuel has already been
13 subjected to the carbon pollution tax, provided the sales invoice clearly
14 indicates the amount of fuel that has already been subjected to the tax and the
15 distributor possesses and retains documentation demonstrating the prior
16 payment of the carbon pollution tax for the same fuel, including the person
17 who paid and the date and amount of payment.

18 § 8808. RECORDS; INSPECTION

19 Every distributor shall maintain, for no fewer than three years, accurate
20 records documenting all transactions subject to tax liability under this chapter
21 and all transactions for which exemption is claimed under section 8807 of this

1 chapter. The Commissioner may inspect these records at all reasonable times
2 during normal business hours.

3 § 8809. ASSISTANCE; OTHER AGENCIES

4 At the request of the Commissioner, the Commissioners of Public Service
5 and of Labor and the Secretaries of Commerce and Community Development,
6 of Human Services, and of Transportation shall provide the Commissioner
7 with information in their possession relevant to the administration of this
8 chapter and with assistance in estimating revenues from the carbon
9 pollution tax.

10 § 8810. ALLOCATION OF CARBON POLLUTION TAX REVENUES

11 (a) Each fiscal year, the revenues from the carbon pollution tax shall defray
12 the Department's actual costs in administering this chapter and the credits and
13 rebates described in this section, up to a maximum of \$300,000.00. The 90
14 and 10 percent allocations set forth in subsections (b) and (c) of this section
15 shall be net of the amount to defray the Department's costs under this
16 subsection.

17 (b) Each fiscal year, 90 percent of the revenues from the carbon pollution
18 tax shall be allocated to tax credits and rebates in accordance with this
19 subsection. Of this 90 percent:

20 (1) The following specific dollar amounts shall be used to reduce the
21 sales and use tax:

1 (A) for fiscal year 2018, \$31.5 million;

2 (B) for fiscal year 2019, \$48.6 million; and

3 (C) for fiscal years 2020 and following, \$66.8 million.

4 (2) Of the remainder after the amounts to reduce the sales and use tax:

5 (A) 60 percent shall be allocated to a refundable personal income tax

6 credit and a low-income carbon pollution tax rebate under section 5828d of

7 this title, of which share three-quarters shall fund the tax credit and one-quarter

8 shall fund the rebate; and

9 (B) 40 percent shall be allocated a per employee rebate under section

10 8811 of this chapter.

11 (c) Each fiscal year, 10 percent of the revenues from the carbon pollution

12 tax shall be allocated between the Home Weatherization Assistance Fund

13 established under 33 V.S.A. § 2501 and the Vermont Energy Independence

14 Fund established under 30 V.S.A. § 8015. Of this 10 percent, \$8 million shall

15 be deposited into the Home Weatherization Assistance Fund and the remainder

16 shall be deposited into the Vermont Energy Independence Fund. However, if

17 the amount to be allocated under this subsection is equal to or less than \$8

18 million, then all of the amount shall be deposited into the Home

19 Weatherization Assistance Fund.

1 § 8811. PER EMPLOYEE CARBON POLLUTION TAX REBATE

2 (a) Each tax year, an employer shall be entitled to a per employee rebate for
3 the number of its full-time equivalent employees, to be known as the per
4 employee carbon pollution tax rebate. Each year, the Commissioner shall
5 calculate the amount of this rebate per employee through dividing the amount
6 of carbon tax revenue allocated to the rebate under subsection 8810(b) of this
7 chapter by the number of FTEs.

8 (b) The Commissioner shall adopt rules to implement this section.

9 * * * Personal Income Tax Offsets * * *

10 Sec. 2. 32 V.S.A. § 5828d is added to read:

11 § 5828d. CARBON POLLUTION TAX CREDIT AND LOW-INCOME TAX
12 REBATE

13 (a) A taxpayer shall be entitled to a refundable personal income tax credit
14 against the tax imposed under section 5822 of this title, to be known as the
15 carbon pollution tax credit. The Commissioner shall calculate this credit by
16 apportioning the amount of carbon tax revenue allocated to the credit under
17 subsection 8810(b) of this chapter to each taxpayer by filing status so that the
18 amount of the credit is the same for each taxpayer filing as single, head of
19 household, or married filing separately and, for married filing jointly, is double
20 the amount assigned to the other statuses.

1 (b) For tax year 2021 and following, a taxpayer with federal adjusted gross
2 income that is 200 percent or less of federal poverty level shall be entitled to a
3 carbon pollution tax rebate. Each year, the Commissioner shall calculate the
4 amount of this rebate through dividing the amount of carbon pollution tax
5 revenue allocated to this low-income carbon pollution tax rebate under
6 subsection 8810(b) of this title by the number of taxpayers eligible for the
7 rebate.

8 (c) Eligible taxpayers shall receive this rebate on a monthly basis. The
9 Commissioner, in consultation with the Secretary of Human Services, shall
10 determine the manner in which this rebate is delivered to eligible taxpayers,
11 and shall consider delivering this rebate through existing programs that provide
12 resources to low-income Vermonters such as 3SquaresVT under 33 V.S.A.
13 chapter 17 or Home Heating Fuel Assistance under 33 V.S.A. chapter 26.

14 (d) The Commissioner shall adopt rules to implement this section.

15 * * * Sales and Use Tax Reduction * * *

16 Sec. 3. 16 V.S.A. § 4025 is amended to read:

17 § 4025. EDUCATION FUND

18 (a) An Education Fund is established to comprise the following:

19 (1) ~~All~~ all revenue paid to the State from the statewide education tax on
20 nonresidential and homestead property under 32 V.S.A. chapter 135;

1 (2) ~~For~~ for each fiscal year, the amount of the general funds
2 appropriated or transferred to the Education Fund shall be \$277,400,000.00
3 increased by the most recent New England Economic Project Cumulative Price
4 Index, as of November 15, for state and local government purchases of goods
5 and services from fiscal year 2012 through the fiscal year for which the
6 payment is being determined, plus an additional one-tenth of one percent;

7 (3) ~~Revenues~~ revenues from State lotteries under 31 V.S.A. chapter 14,
8 and from any multijurisdictional lottery game authorized under that chapter;

9 (4) ~~Revenues~~ revenues from the electric generating plant education
10 property tax under 32 V.S.A. § 5402a;

11 (5) ~~One-third~~ one-third of the revenues raised from the purchase and use
12 tax imposed by 32 V.S.A. chapter 219, notwithstanding 19 V.S.A. § 11(1);

13 (6) ~~Thirty-five~~ 35 percent of the revenues raised from the sales and use
14 tax imposed by 32 V.S.A. chapter 233;

15 (7) Medicaid reimbursement funds pursuant to subsection 2959a(f) of
16 this title;

17 (8) 35 percent of the carbon pollution tax revenues allocated under
18 32 V.S.A. § 8810(b) to the reduction of the sales and use tax.

19 * * *

1 Sec. 4. 19 V.S.A. § 11 is amended to read:

2 § 11. TRANSPORTATION FUND

3 The Transportation Fund shall comprise the following:

4 (1) all taxes, penalties, and fees received by the Commissioner of
5 Motor Vehicles except those relating to motorboats imposed under 23 V.S.A.
6 chapter 29 which shall be expended pursuant to 23 V.S.A. § 3319;

7 (2) the revenue derived from the taxes on motor fuel as provided for by
8 Title 23;

9 (3) all grants from the federal government and regional associations for
10 transportation purposes except for snowmobiles and motorboats;

11 (4) monies received from the sales and use tax on aviation jet fuel and
12 on natural gas used to propel a motor vehicle under 32 V.S.A. chapter 233;

13 (5) receipts from pilot and aircraft license fees;

14 (6) all penalties and fines imposed under this title and Titles 5 and 23;

15 (7) both statewide and departmental indirect cost recoveries from federal
16 sources by the Agency of Transportation;

17 (8) monies received from carbon pollution tax revenues allocated under
18 32 V.S.A. § 8810(b) to the reduction of the sales and use tax; and

19 (9) other miscellaneous sources, including the sale of maps, plans, and
20 reports, fees collected by the Travel Information Council, leases for property at
21 State-owned airports and railroads, proceeds from the sale of State surplus

1 property under the provisions of 29 V.S.A. §§ 1556 and 1557, and proceeds
2 from the sale of recycled materials.

3 Sec. 5. 32 V.S.A. § 435 is amended to read:

4 § 435. GENERAL FUND

5 (a) There is established a General Fund which shall be the basic operating
6 fund of the State. The General Fund shall be used to finance all expenditures
7 for which no special revenues have otherwise been provided by law.

8 (b) The General Fund shall be composed of revenues from the following
9 sources:

10 (1) ~~Alcoholic~~ alcoholic beverage tax levied pursuant to 7 V.S.A.
11 chapter 15;

12 (2) ~~[Repealed.]~~ 65 percent of the carbon pollution tax revenues
13 allocated under subsection 8810(b) of this title to the reduction of the sales and
14 use tax and all of the revenues allocated under that subsection to credits and
15 rebates under sections 5828d and 8811 of this title;

16 (3) ~~Electrical~~ electrical energy tax levied pursuant to chapter 213 of
17 this title;

18 (4) ~~Corporate~~ corporate income and franchise taxes levied pursuant to
19 chapter 151 of this title;

20 (5) ~~Individual~~ individual income taxes levied pursuant to chapter 151 of
21 this title;

- 1 (6) ~~All~~ all corporation taxes levied pursuant to chapter 211 of this title;
- 2 (7) ~~Meals~~ meals and rooms taxes levied pursuant to chapter 225 of
3 this title;
- 4 (8) [Repealed.]
- 5 (9) ~~Revenues~~ revenues from the Racing Fund consistent with 31 V.S.A.
6 § 611;
- 7 (10) 33 percent of the revenue from the property transfer taxes levied
8 pursuant to chapter 231 of this title and the revenue from the gains taxes levied
9 each year pursuant to chapter 236 of this title;
- 10 (11) 65 percent of the revenue from sales and use taxes levied pursuant
11 to chapter 233 of this title;
- 12 (12) ~~All~~ all other revenues accruing to the State not otherwise required
13 by law to be deposited in any other designated fund or used for any other
14 designated purpose.

15 * * * Reduction of Sales and Use Tax * * *

16 Sec. 6. 32 V.S.A. § 9771 is amended to read:

17 § 9771. IMPOSITION OF SALES TAX

18 (a) Except as otherwise provided in this chapter, there is imposed a tax on
19 retail sales in this State. The rate of this tax shall be 5.5 percent during the first
20 fiscal year in which this section is effective, decreasing by one-quarter percent
21 on July 1 of each subsequent fiscal year until reaching five percent. The tax

1 shall be paid ~~at the rate of six percent of~~ by applying this rate to the sales price
2 charged for but in no case shall any one transaction be taxed under more than
3 one of the following:

4 * * *

5 (b) On or before May 1 of each year, the Commissioner shall publish the
6 sales tax rate that will be in effect during the following fiscal year. This annual
7 duty to publish shall cease once the sales tax rate reaches five percent.

8 Sec. 7. 32 V.S.A. § 9773 is amended to read:

9 § 9773. IMPOSITION OF COMPENSATING USE TAX

10 (a) Unless property or telecommunications service has already been or will
11 be subject to the sales tax under this chapter, there is imposed on every person
12 a use tax at the rate of six percent set forth in subsection (b) of this section for
13 the use within this State, except as otherwise exempted under this chapter:

14 * * *

15 (b) The rate of this use tax shall be 5.5 percent during the first fiscal year in
16 which this section is effective, decreasing by one-quarter percent on July 1 of
17 each subsequent fiscal year until reaching five percent.

18 (c) On or before May 1 of each year, the Commissioner shall publish the
19 use tax rate that will be in effect during the following fiscal year. This annual
20 duty to publish shall cease once the use tax rate reaches five percent.

1 * * * Use of Carbon Pollution Tax Proceeds for Programs * * *

2 Sec. 8. 33 V.S.A. § 2501 is amended to read:

3 § 2501. HOME WEATHERIZATION ASSISTANCE FUND

4 (a) There is created in the State Treasury a fund to be known as the Home
5 Weatherization Assistance Fund to be expended by the Director of the State
6 Office of Economic Opportunity in accordance with federal law and this
7 chapter.

8 (b) The Fund shall be composed of the receipts from the gross receipts tax
9 on retail sales of fuel imposed by section 2503 of this title, ~~such~~ the monies
10 allocated to the Fund from the carbon pollution tax under 32 V.S.A. § 8810,
11 any funds as may be allocated from the Oil Overcharge Fund, ~~such~~ any funds
12 ~~as may be~~ allocated from the federal Low Income Energy Assistance Program,
13 and ~~such~~ any other funds as may be monies appropriated to the Fund by the
14 General Assembly.

15 (c) All balances in the Fund at the end of any fiscal year shall be carried
16 forward and remain part of the Fund. Interest earned by the Fund shall be
17 deposited into the Fund. Disbursements from the Fund shall be made by the
18 State Treasurer on warrants drawn by the Commissioner of Finance and
19 Management. Disbursements may be made from the Fund only to support the
20 programs established by this chapter or otherwise as authorized by this chapter.

1 Sec. 9. 30 V.S.A. chapter 89, subchapter 2 is amended to read:

2 Subchapter 2. ~~Clean Energy Development~~ Independence Fund

3 § 8015. VERMONT ~~CLEAN ENERGY DEVELOPMENT~~

4 INDEPENDENCE FUND

5 (a) Creation of Fund.

6 (1) There is established the Vermont ~~Clean Energy Development~~

7 Independence Fund to consist of each of the following:

8 (A) ~~The~~ the proceeds due the State under the terms of the
9 memorandum of understanding between the Department of Public Service and
10 Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered
11 under Public Service Board docket 6812; together with the proceeds due the
12 State under the terms of any subsequent memoranda of understanding entered
13 before July 1, 2005 between the Department of Public Service and Entergy
14 Nuclear VY and Entergy Nuclear Operations, Inc.;

15 (B) the monies to be transferred to the Fund under the terms of the
16 memorandum of understanding among the Department of Public Service, the
17 Agency of Natural Resources, Entergy Nuclear VY, and Entergy Nuclear
18 Operations, Inc. that was entered under Public Service Board docket 7682;

19 (C) the monies allocated to the Fund from the carbon pollution tax
20 under 32 V.S.A. § 8810;

1 (D) ~~Any~~ any other monies that may be appropriated to or deposited
2 into the Fund.

3 * * *

4 (b) Definitions. ~~For purposes of~~ as used in this section, the following
5 definitions shall apply:

6 (1) “Clean energy resources” means electric power supply and
7 demand-side resources, ~~or~~ thermal energy or geothermal resources, thermal
8 energy efficiency resources, or transportation measures that are “combined
9 heat and power facilities,” “cost-effective energy efficiency resources,” ~~or~~
10 “renewable energy” resources, ~~or~~ “sustainable transportation resources.”

11 (2) “Combined heat and power (CHP) facility” means a generator that
12 sequentially produces both electric power and thermal energy from a single
13 source or fuel. In order for a fossil fuel-based CHP system to participate in the
14 ~~clean energy~~ program set out in this section, at least 20 percent of its fuel’s
15 total recovered energy must be thermal and at least 13 percent must be electric,
16 the design system efficiency (the sum of full load design thermal output and
17 electric output divided by the heat input) must be at least 65 percent, and it
18 must meet air quality standards established by the Agency of Natural
19 Resources.

20 (3) “Cost-effective energy efficiency” means those energy efficiency
21 and conservation measures that would qualify as part of a utility’s least-cost

1 integrated plan under section 218c of this title or that would be an eligible
2 expenditure under section 209(d) of this title.

3 (4) ~~“Emerging energy efficient technologies” means technologies that~~
4 ~~are both precommercial but near commercialization and that have already~~
5 ~~entered the market but have less than five percent of current market share; that~~
6 ~~use less energy than existing technologies and practices to produce the same~~
7 ~~product or otherwise conserve energy and resources, regardless of whether or~~
8 ~~not they are connected to the grid; and that have additional non-energy benefits~~
9 ~~such as reduced environmental impact, improved productivity and worker~~
10 ~~safety, or reduced capital costs.~~

11 (5) ~~“Renewable energy” has~~ shall have the same meaning established
12 ~~under subdivision 8002(17) as in section 8002~~ of this title, and shall include
13 the following: solar photovoltaic and solar thermal energy; wind energy;
14 geothermal heat pumps; farm, landfill, and sewer methane recovery; low
15 emission, advanced biomass power, and combined heat and power
16 technologies using biomass fuels such as wood, agricultural or food wastes,
17 energy crops, and organic refuse-derived waste, but not municipal solid waste;
18 advanced biomass heating technologies and technologies using
19 biomass derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

20 (5) “Sustainable transportation resources” means measures related to the
21 movement of people and goods that, on a life-cycle basis, will result in a net

1 reduction in greenhouse gas emissions and the consumption of fossil fuels.

2 They include public transportation, care sharing infrastructure, pedestrian and

3 bicycle infrastructure, electric vehicles and associated charging stations, and

4 motor vehicles that are more energy efficient than the typical new vehicle in

5 their class.

6 (6) "VEIB" means the Vermont Energy Independence Board established

7 under this section.

8 (c) Purposes of Fund. The purposes of the Fund shall be to promote the
9 development and deployment of cost-effective and environmentally sustainable

10 ~~electric power and thermal energy or geothermal~~ clean energy resources for the

11 long-term benefit of Vermont consumers, ~~primarily with respect to renewable~~

12 ~~energy resources~~, and the use of combined heat and power technologies. The

13 Fund shall allocate its monies in an equitable manner among programs that

14 reduce fossil fuel consumption, with a focus on reductions in buildings and in

15 the transportation sector, and particular emphasis on supporting fossil fuel

16 reductions in public buildings and in public transportation fleets. ~~The Fund~~

17 ~~also may be used to support natural gas and electric vehicles in accordance~~

18 ~~with subdivisions (d)(1)(K) and (L) of this section, respectively.~~ The General

19 Assembly expects and intends that the Public Service Board, Public Service

20 Department, and the State's power and efficiency utilities will actively

21 implement the authority granted in this title to acquire all reasonably available

1 cost-effective energy efficiency resources for the benefit of Vermont
2 ratepayers and the power system.

3 (d) Expenditures authorized.

4 (1) Projects for funding may include the following, if they constitute
5 clean energy resources:

6 (A) projects that will sell power in commercial quantities;

7 ~~(B) among those projects that will sell power in commercial~~
8 ~~quantities, funding priority will be given~~ which the Fund shall give priority to
9 those projects that commit to sell power to Vermont utilities on favorable
10 terms;

11 (B) weatherization and other thermal energy efficiency projects;

12 (C) projects to benefit publicly owned or leased buildings;

13 (D) renewable energy projects on farms, which may include any or
14 all costs incurred to upgrade to a three-phase line to serve a system on a farm;

15 (E) small scale renewable energy in Vermont residences, institutions,
16 and businesses:

17 (i) generally; and

18 (ii) through the Small-scale Renewable Energy Incentive Program;

19 (F) projects under the agricultural economic development special
20 account established under 6 V.S.A. § 4710(g) to harvest biomass, convert
21 biomass to energy, or produce biofuel;

1 (G) ~~until December 31, 2008 only,~~ super-efficient buildings;

2 (H) projects to develop and use thermal or geothermal energy,
3 regardless of whether they also involve the generation of electricity;

4 (I) ~~emerging energy-efficient technologies~~ public transportation
5 projects;

6 (J) ~~effective projects that are not likely to be established in the~~
7 ~~absence of funding under the program~~;

8 (K) ~~natural gas vehicles and associated fueling infrastructure if each~~
9 ~~such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the~~
10 ~~vehicle's emissions will be lower than commercially available vehicles using~~
11 ~~other fossil fuel, and any such infrastructure will deliver gas without~~
12 ~~interruption of flow~~;

13 (L) ~~electric vehicles and associated charging stations~~; and

14 (K) effective projects that are not likely to be established in the
15 absence of funding under the program.

16 (2) If during a particular year, the Commissioner of Public Service
17 determines that there is a lack of high value projects eligible for funding, as
18 identified in the five-year plan, or as otherwise identified, the Commissioner
19 shall consult with the ~~Clean Energy Development Board~~ VEIB, and shall
20 consider transferring funds to the Energy Efficiency Fund established under
21 the provisions of subsection 209(d) of this title. Such a transfer may take place

1 only in response to an opportunity for a particularly cost-effective investment
2 in energy efficiency, and only as a temporary supplement to funds collected
3 under that subsection, not as replacement funding.

4 ~~(3) A grant in lieu of a solar energy tax credit in accordance with~~
5 ~~32 V.S.A. § 5930z(f). Of any Fund monies unencumbered by such grants, the~~
6 ~~first \$2.3 million shall fund the Small scale Renewable Energy Incentive~~
7 ~~Program described in subdivision (1)(E)(ii) of this subsection.~~

8 ~~(4) A sum equal to the cost for the 2010 and preceding tax years of the~~
9 ~~business solar energy income tax credits authorized in 32 V.S.A. §§ 5822(d)~~
10 ~~and 5930z(a), net of any such costs for which a transfer has already been made~~
11 ~~under this subdivision and of the cost of any credits in lieu of which the~~
12 ~~taxpayer elects to receive a grant, shall be transferred from the Clean Energy~~
13 ~~Development Fund to the General Fund.~~

14 (e) Management of Fund.

15 (1) This Fund shall be administered by the Department of Public Service
16 to facilitate the development and implementation of clean energy resources.
17 The Department is authorized to expend monies from the ~~Clean~~ Vermont
18 Energy Development Independence Fund in accordance with this section. The
19 Commissioner of ~~the Department~~ Public Service shall make all decisions
20 necessary to implement this section and administer the Fund except those
21 decisions committed to the ~~Clean Energy Development Board~~ VEIB under this

1 subsection. The Department shall ensure an open public process in the
2 administration of the Fund for the purposes established in this subchapter.

3 (2) ~~During fiscal years after FY 2006, up~~ Up to five percent of amounts
4 appropriated to the ~~Public Service~~ Department from the Fund may be used for
5 administrative costs related to the ~~Clean Energy Development~~ Fund.

6 (3) There is created the ~~Clean~~ Vermont Energy ~~Development~~
7 Independence Board, which shall consist of ~~seven~~ nine persons appointed in
8 accordance with subdivision (4) of this subsection.

9 (A) The ~~Clean Energy Development Board~~ VEIB shall have
10 decision-making and approval authority with respect to the plans, budget, and
11 program designs described in subdivisions (7)(B)–(D) of this subsection. The
12 ~~Clean Energy Development Board~~ VEIB shall function in an advisory capacity
13 to the Commissioner on all other aspects of this section's implementation.

14 (B) During a Board member's term and for a period of one year after
15 the member leaves the Board, the ~~Clean Energy Development~~ Fund shall not
16 make any award of funds to and shall confer no financial benefit on a company
17 or corporation of which the member is an employee, officer, partner,
18 proprietor, or Board member or of which the member owns more than 10
19 percent of the outstanding voting securities. This prohibition shall not apply to
20 a financial benefit that is available to any person and is not awarded on a
21 competitive basis or offered only to a limited number of persons.

1 (4) The Commissioner of Public Service ~~shall appoint three members of~~
2 ~~the Clean Energy Development Board~~, and the chairs of the House and Senate
3 Committees on Natural Resources and Energy each shall appoint ~~two~~ three
4 members of the ~~Clean Energy Development Board~~ VEIB. At least one
5 member shall have expertise on comprehensive energy efficiency and at least
6 one member shall have expertise on sustainable transportation resources. The
7 terms of the members of the ~~Clean Energy Development Board~~ VEIB shall be
8 four years, except that when appointments to this Board are made for the first
9 time after the effective date of this act, each appointing authority shall appoint
10 one member for a two-year term and the remaining members for four-year
11 terms. When a vacancy occurs in the Board during the term of a member, the
12 authority who appointed that member shall appoint a new member for the
13 balance of the departing member's term.

14 (5) Except for those members of the ~~Clean Energy Development Board~~
15 VEIB otherwise regularly employed by the State, the compensation of the
16 members shall be the same as that provided by 32 V.S.A. § 1010(a).

17 (6) In performing its duties, the ~~Clean Energy Development Board~~
18 VEIB may utilize the legal and technical resources of the Department of Public
19 Service. The Department of Public Service shall provide the ~~Clean Energy~~
20 ~~Development Board~~ VEIB with administrative services.

1 (7) The Department shall perform each of the following:

2 (A) By January 15 of each year, provide to the House and Senate
3 Committees on Natural Resources and Energy, the Senate Committee on
4 Finance, and the House Committee on Commerce and Economic Development
5 a report for the fiscal year ending the preceding June 30 detailing the activities
6 undertaken, the revenues collected, and the expenditures made under this
7 subchapter. The provisions of 2 V.S.A. § 20(d)(expiration of required reports)
8 shall not apply to the report to be made under this subdivision.

9 (B) Develop, and submit to the ~~Clean Energy Development Board~~
10 VEIB for review and approval, a five-year strategic plan and an annual
11 program plan, both of which shall be developed with input from a public
12 stakeholder process and shall be consistent with State energy planning
13 principles.

14 (C) Develop, and submit to ~~Clean Energy Development Board~~ VEIB
15 for review and approval, an annual operating budget.

16 (D) Develop, and submit to the ~~Clean Energy Development Board~~
17 VEIB for review and approval, proposed program designs to facilitate clean
18 energy market and project development (including use of financial assistance,
19 investments, competitive solicitations, technical assistance, and other incentive
20 programs and ~~strategies~~); strategies. Prior to any approval of a new program or
21 of a substantial modification to a previously approved program of the ~~Clean~~

1 ~~Energy Development~~ Fund, the Department of Public Service shall publish
2 online the proposed program or modification, shall provide an opportunity for
3 public comment of no less than 30 days, and shall provide to the ~~Clean Energy~~
4 ~~Development Board~~ VEIB copies of all comments received on the proposed
5 program or modification. In this subdivision (D), “substantial modification”
6 shall include a change to a program’s application criteria or application
7 deadlines and shall include any change to a program if advance knowledge of
8 the change could unfairly benefit one applicant over another applicant. For the
9 purpose of 3 V.S.A. § 831(c) (initiating rulemaking on request), a new
10 program or substantial modification of a previously approved program shall be
11 treated as if it were an existing practice or procedure.

12 (8) At least annually, the ~~Clean Energy Development Board~~ VEIB and
13 the Commissioner or designee jointly shall hold a public meeting to review and
14 discuss the status of the Fund, Fund projects, the performance of the Fund
15 Manager, any reports, information, or inquiries submitted by the Fund ~~manager~~
16 Manager or the public, and any additional matters they deem necessary to
17 fulfill their obligations under this section.

18 (f) ~~Clean Energy Development~~ Fund Manager. The ~~Clean Energy~~
19 ~~Development~~ Fund shall have a Fund Manager who shall be an employee of
20 the Department of Public Service.

1 (g) Bonds. The Commissioner of Public Service, in consultation with the
2 ~~Clean Energy Development Board~~ VEIB, may explore use of the Fund to
3 establish one or more loan-loss reserve funds to back issuance of bonds by the
4 State Treasurer otherwise authorized by law, including Clean Renewable
5 Energy Bonds, that support the purposes of the Fund.

6 * * *

7 Sec. 10. STRATEGIC PLAN REVISION

8 On or before December 31, 2016, the Department of Public Service shall
9 submit a revised strategic plan under 30 V.S.A. § 8015 to the Vermont Energy
10 Independence Board (VEIB). This revised plan shall set out a proposal for the
11 Vermont Energy Independence Fund's (the Fund) investment of the additional
12 revenues to the Fund under this act. The VEIB shall review that plan in
13 accordance with the provisions of 30 V.S.A. § 8015, including the conduct of a
14 public stakeholder process for development of a strategic plan. The VEIB
15 shall provide notice and an opportunity to participate in this process to affected
16 Vermont agencies and departments such as the Agency of Transportation and
17 the Office of Economic Opportunity; Vermont's retail electricity and natural
18 gas providers and efficiency utilities; business organizations such as
19 Associated Industries of Vermont, Renewable Energy Vermont, and the
20 Vermont Chamber of Commerce; the Vermont League of Cities and Towns;
21 environmental and consumer advocacy organizations such as the Vermont

1 Natural Resources Council, the Vermont Public Interest Research Group, and
2 the Conservation Law Foundation; and to any other person that requests direct
3 notice or to whom the VEIB may consider direct notice appropriate. The
4 VEIB also shall provide an opportunity for submission of written comments,
5 which the notice shall include. On or before July 1, 2016, the VEIB shall
6 complete its review and issue a revised strategic plan to guide the Fund's
7 investment of its additional revenues under this act.

8 Sec. 11. STATUTORY REVISION

9 During statutory revision, the Office of Legislative Council shall replace, in
10 the Vermont Statutes Annotated, references to "Clean Energy Development
11 Fund" and "Clean Energy Development Board" with references, as
12 appropriate, to "Vermont Energy Independence Fund," "Vermont Energy
13 Independence Board" or "VEIB."

14 * * * Effective Dates * * *

15 Sec. 12. EFFECTIVE DATES

16 (a) This section shall take effect on passage.

17 (b) Secs. 1 through 8 shall take effect on July 1, 2017, except that on
18 passage, the Commissioner of Taxes shall have authority to adopt, for effect on
19 January 1, 2018, rules to implement 32 V.S.A. §§ 5828d and 8811.

20 (c) Secs. 9 through 11 shall take effect on July 1, 2015.