

SENATE No. 2529

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Barrett

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act reducing the financial penalty imposed on customers who shift to heat pumps, electric appliances, and electric vehicles.

PETITION OF:

NAME:

Michael J. Barrett

DISTRICT/ADDRESS:

Third Middlesex

SENATE No. 2529

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 2529) (subject to Joint Rule 12) of Michael J. Barrett for legislation to reduce the financial penalty imposed on customers who shift to heat pumps, electric appliances, and electric vehicles. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act reducing the financial penalty imposed on customers who shift to heat pumps, electric appliances, and electric vehicles.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 25 of the General Laws is hereby amended by striking out section
2 18, as appearing in the 2022 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 18. For the purposes of this section, “fixed charge” shall mean any customer
5 charge, basic service fee, demand-differentiated basic service fee, demand charge, or other
6 charge that does not change substantially according to the monthly volume of electricity
7 consumed, and “income-based” shall mean a set of fixed charges that vary by income and rely on
8 no fewer than three income tiers, so that lower-income ratepayers in each service territory are
9 assessed smaller fixed charges than higher-income ratepayers. The commission may make an
10 assessment against each electric and gas company under the jurisdictional control of the
11 department and each generation company and supplier licensed by the department to do business

12 in the commonwealth, based upon the intrastate operating revenues subject to the jurisdiction of
13 the department of each such company derived from sales within the commonwealth of electric
14 and gas service, respectively, as shown in the annual report of each such company to the
15 department. Said assessments shall be made at a rate not exceeding 0.3 per cent of such intrastate
16 operating revenues, as shall be determined and certified annually by the commission as sufficient
17 to reimburse the commonwealth for funds appropriated by the general court for the operation and
18 general administration of the department, exclusive of funds appropriated by the general court
19 for the transportation division and for the cost of fringe benefits as established by the
20 commissioner of administration pursuant to section 5D of chapter 29, including group life and
21 health insurance, retirement benefits, paid vacations, holidays and sick leave. An electric
22 company recovering the costs of such assessments from customers shall recover a reasonable and
23 substantial portion of said costs in the form of income-based fixed charges. The funds may be
24 used to compensate consultants in hearings on petitions filed by companies subject to assessment
25 under this section. Assessments made under this section may be credited to the normal operating
26 cost of each company. Each company shall pay the amount assessed against it within 30 days
27 after the date of the notice of assessment from the department. Such assessments shall be
28 collected by the department and credited to the General Fund. Any funds unexpended in any
29 fiscal year for the purposes for which such assessments were made shall be credited against the
30 assessment to be made in the following fiscal year and the assessment in the following fiscal year
31 shall be reduced by any such unexpended amount.

32 For the purpose of providing the department with additional operating funds for the
33 regulation of electric companies, the commission may make a separate assessment proportionally
34 against each electric company under the jurisdictional control of the department and each

35 generation company and supplier licensed by the department to do business in the
36 commonwealth, based upon the intrastate operating revenues subject to the jurisdiction of the
37 department of each of such companies derived from sales within the commonwealth of electric
38 service, as shown in the annual report of each of such companies to the department. Such
39 assessment shall be made at a rate as shall be determined and certified annually by the
40 commission as sufficient to produce an annual amount of not less than \$2,438,000 commencing
41 in fiscal year 1998 and in each fiscal year thereafter, plus the costs of fringe benefits and indirect
42 costs as established by the commissioner of administration pursuant to section 5D of chapter 29,
43 including group life and health insurance, retirement benefits, paid vacations, holidays and sick
44 leave. An electric company recovering the costs of such assessments from customers shall
45 recover a reasonable and substantial portion of said costs in the form of income-based fixed
46 charges. The amount of such assessment may be increased by the commission annually by a rate
47 not to exceed the most recent annual consumer price index as calculated for the northeast region
48 for all urban consumers. Assessments made under this section may be credited to the normal
49 operating cost of each company. Each company shall pay the amount assessed against it within
50 30 days after the date of the notice of assessment from the department. Such assessments shall be
51 collected by the department and credited to the Department of Telecommunications and Energy
52 Trust Fund established by section 12O.

53 For the purpose of providing the department with additional operating funds for activities
54 of the department in investigating the preparation for and responses to storm and other
55 emergency events by the electric companies doing business in the commonwealth, the
56 commission may make a separate assessment proportionally against each electric company under
57 the jurisdictional control of the department, based upon the intrastate operating revenues subject

58 to the jurisdiction of the department of each of the companies derived from sales within the
59 commonwealth of electric service, as shown in the annual report of each of the companies to the
60 department. This assessment shall be made at a rate that shall be determined and certified
61 annually by the commission as sufficient to produce an annual amount of not less than \$165,000,
62 plus the costs of fringe benefits and indirect costs as established by the secretary of
63 administration and finance under section 5D of chapter 29, including group life and health
64 insurance, retirement benefits, paid vacations, holidays, and sick leave. An electric company
65 recovering the costs of such assessments from customers shall recover a reasonable and
66 substantial portion of said costs in the form of income-based fixed charges. The amount of the
67 assessment may be increased by the commission annually by a rate not to exceed the most recent
68 annual consumer price index as calculated for the northeast region for all urban consumers.
69 Notwithstanding any general or special law to the contrary, no electric company may seek
70 recovery of any assessments made under this paragraph in any rate proceeding before the
71 department. Each company shall pay the amount assessed against it within 30 days after the date
72 of the notice of assessment from the department. Such assessments shall be collected by the
73 department and credited to the Department of Public Utilities Storm Trust Fund established in
74 section 12P.

75 A schedule of filing fees shall be determined annually by the commissioner of
76 administration under the provisions of section 3B of chapter 7 for the following: (i) petitions for
77 certificates of environmental impact and public need, provided, however, that such filing fee for
78 any municipal corporation empowered to operate a municipal lighting plant under the provisions
79 of section 35 or 36 of chapter 164 shall not exceed a maximum amount; and (ii) notices of
80 intention to construct an oil facility, with a maximum amount per oil facility to be graduated in

81 accordance with the expected capital investment in the facility. An electric company recovering
82 the costs of such fees from customers shall recover a reasonable and substantial portion of said
83 costs in the form of income-based fixed charges.

84 SECTION 2. Said chapter 25 is hereby further amended by striking out section 19, as
85 appearing in the 2022 Official Edition, and inserting in place thereof the following section:-

86 Section 19. (a) For the purposes of this section, “fixed charge” shall mean any customer
87 charge, basic service fee, demand-differentiated basic service fee, demand charge, or other
88 charge that does not change substantially according to the monthly volume of electricity
89 consumed, and “income-based” shall mean a set of fixed charges that vary by income and rely on
90 no fewer than three income tiers, so that lower-income ratepayers in each service territory are
91 assessed smaller fixed charges than higher-income ratepayers. The department shall require a
92 mandatory charge, a reasonable and substantial portion of which shall be in the form of an
93 income-based fixed charge, for all electricity consumers, except those served by a municipal
94 lighting plant, to fund energy efficiency programs including, but not limited to, demand side
95 management programs. The programs shall be administered by the electric distribution
96 companies and by municipal aggregators with energy plans certified by the department under
97 subsection (b) of section 134 of chapter 164. In addition to the aforementioned mandatory
98 charge, such programs shall also be funded, without further appropriation, by: (1) amounts
99 generated by the distribution companies and municipal aggregators under the Forward Capacity
100 Market program administered by ISO-NE, as defined in section 1 of chapter 164; and (2) cap and
101 trade pollution control programs, including, but not limited to, and subject to section 22 of
102 chapter 21A, not less than 80 per cent of amounts generated by the carbon dioxide allowance
103 trading mechanism established under the Regional Greenhouse Gas Initiative Memorandum of

104 Understanding, as defined in subsection (a) of section 22 of chapter 21A, and the NOx
105 Allowance Trading Program; and (3) other funding as approved by the department after
106 consideration of: (i) the effect of any rate increases on residential and commercial consumers; (ii)
107 the availability of other private or public funds, utility administered or otherwise, that may be
108 available for energy efficiency or demand resources; and (iii) whether past programs have
109 lowered the cost of electricity to residential and commercial consumers. In authorizing such
110 programs, the department shall ensure that they are delivered in a cost-effective manner
111 capturing all available efficiency opportunities, minimizing administrative costs to the fullest
112 extent practicable and utilizing competitive procurement processes to the fullest extent
113 practicable; provided, however, that when determining cost-effectiveness, the calculation of
114 program benefits shall include calculations of the social value of greenhouse gas emissions
115 reductions, except in the cases of conversions from fossil fuel heating and cooling to fossil fuel
116 heating and cooling.

117 (b) The department may approve and fund gas energy efficiency programs proposed by
118 gas distribution companies including, but not limited to, demand side management programs.
119 Energy efficiency activities eligible for funding under this section shall include combined heat
120 and power and geothermal heating and cooling projects. Funding may be supplemented by funds
121 authorized by section 21. The programs shall be administered by the gas distribution companies.
122 In authorizing such programs, the department shall ensure that they are delivered in a cost-
123 effective manner capturing all available efficiency opportunities, minimizing administrative costs
124 to the fullest extent practicable and utilizing competitive procurement processes to the fullest
125 extent practicable; provided, however, that when determining cost-effectiveness, the calculation
126 of program benefits shall include calculations of the social value of greenhouse gas emissions

127 reductions, except in the cases of conversions from fossil fuel heating and cooling to fossil fuel
128 heating and cooling.

129 (c) Electric and gas energy efficiency program funds shall be allocated to customer
130 classes, including the low-income residential subclass, in proportion to their contributions to
131 those funds; provided, however, that at least 10 per cent of the amount expended for electric
132 energy efficiency programs and at least 20 per cent of the amount expended for gas energy
133 efficiency programs shall be spent on comprehensive low-income residential demand side
134 management and education programs. The low-income residential demand side management and
135 education programs shall be implemented through the low-income weatherization and fuel
136 assistance program network and shall be coordinated with all electric and gas distribution
137 companies in the commonwealth with the objective of standardizing implementation. Such
138 programs shall be screened only through cost-effectiveness testing which compares the value of
139 program benefits to program costs to ensure that a program is designed to obtain energy savings
140 and system benefits with value greater than the costs of the program; provided, however, that
141 when determining cost-effectiveness, the calculation of benefits shall include calculations of the
142 social value of greenhouse gas emissions reductions, except in the cases of conversions from
143 fossil fuel heating and cooling to fossil fuel heating and cooling.

144 (d) Notwithstanding any provision of this section to the contrary, the department shall
145 annually direct the electric and gas distribution companies and municipal aggregators with
146 certified energy plans to jointly transfer, on or before December 31, not less than \$12,000,000 in
147 funds collected pursuant to this section to the Massachusetts clean energy center for the clean
148 energy equity workforce and market development program pursuant to subsection (b) of section

149 13 of chapter 23J; provided, however, such transfer shall not reduce the amount expended on
150 low-income programs pursuant to subsection (c).

151 SECTION 3. Said chapter 25 is hereby further amended by striking out section 20, as
152 appearing in the 2022 Official Edition, and inserting in place thereof the following section:-

153 Section 20. (a) For the purposes of this section, “fixed charge” shall mean any customer
154 charge, basic service fee, demand-differentiated basic service fee, demand charge, or other
155 charge that does not change substantially according to the monthly volume of electricity
156 consumed, and “income-based” shall mean a set of fixed charges that vary by income and rely on
157 no fewer than three income tiers, so that lower-income ratepayers in each service territory are
158 assessed smaller fixed charges than higher-income ratepayers. The department shall require a
159 mandatory charge, a reasonable and substantial portion of which shall be in the form of an
160 income-based fixed charge, for all electricity consumers, except those served by a municipal
161 lighting plant which does not supply generation service outside its own service territory or does
162 not open its service territory to competition at the retail level, to support the development and
163 promotion of renewable energy projects. All revenues generated by the mandatory charge shall
164 be deposited into the Massachusetts Renewable Energy Trust Fund, established under section 9
165 of chapter 23J.

166 (b) Notwithstanding any general or special law to the contrary: (1) a municipal lighting
167 plant which does not supply generation service outside its own service territory or does not open
168 its service territory to competition may elect to assess and remit a mandatory charge, a
169 reasonable and substantial portion of which shall be in the form of an income-based fixed charge,
170 upon its electricity consumers on the same terms and conditions as apply to the charge imposed

171 on consumers residing in competitive distribution service territories under this section; provided,
172 however, that such an election by a municipal lighting plant shall be irrevocable and such a
173 municipal lighting plant shall not be deemed to be supplying generation service outside its
174 service territory or opening its service territory to competition at the retail level for the purposes
175 of the first sentence of subsection (a); and (2) in administering the Massachusetts Renewable
176 Energy Trust Fund, the Massachusetts clean energy technology center, shall not make any grant
177 or loan or provide any subsidy from the trust fund to any municipal lighting plant or consumer
178 residing in the distribution service territory of such municipal lighting plant unless: (A) a
179 mandatory charge, a reasonable and substantial portion of which shall be in the form of an
180 income-based fixed charge, is assessed against all consumers residing in the distribution service
181 territory and remitted to the collaborative under the first sentence of subsection (a) or clause (1);
182 or (B) the board of directors of the Massachusetts clean energy technology center, as a condition
183 precedent to any such grant, loan or subsidy, shall have determined and incorporated into the
184 minutes of its proceedings findings that: (i) any such grant, loan or subsidy is intended for the
185 principal purpose of generating public benefits for those consumers who reside in distribution
186 service territories in which the mandatory charge is so imposed and remitted and will generate
187 only incidental private benefits to the recipient or others residing in a distribution service
188 territory in which the mandatory charge is not so imposed and remitted; and (ii) the facts and
189 circumstances associated with the recipient or the residence of the recipient provide unique or
190 extraordinary opportunities to advance the public purposes of the trust fund over those
191 opportunities available through grants or subsidies made to recipients residing in distribution
192 service territories in which such a mandatory charge is assessed and remitted.

193 (c) Notwithstanding subsection (b), a municipality served by a municipal lighting plant
194 that serves multiple municipalities that does not supply generation service outside its own service
195 territory or does not open its service territory to competition at the retail level and that has not
196 elected to assess and remit a mandatory charge pursuant to said subsection (b) may adopt a
197 mandatory charge, a reasonable and substantial portion of which shall be in the form of an
198 income-based fixed charge, upon its electricity consumers on the same terms and conditions as
199 apply to the charge imposed on consumers residing in competitive distribution service territories
200 under this section; provided, however, that the municipal light plant shall collect the charge from
201 ratepayers through electric bills.

202 SECTION 4. Chapter 164 of the General Laws is hereby amended by striking out section
203 94, as appearing in the 2022 Official Edition, and inserting in place thereof the following
204 section:-

205 Section 94. For the purposes of this section, “fixed charge” shall mean any customer
206 charge, basic service fee, demand-differentiated basic service fee, demand charge, or other
207 charge that does not change substantially according to the monthly volume of electricity
208 consumed, “fixed cost” shall mean any cost that is substantially unchanged as a customer
209 increases consumption, and “income-based” shall mean a set of fixed charges that vary by
210 income and consist of no fewer than three income tiers, so that lower-income ratepayers in each
211 service territory are assessed smaller fixed charges than higher-income ratepayers. Electric
212 companies shall file with the department schedules, not less frequently than every 5 years, and
213 gas companies shall file with the department schedules, not less frequently than every 10 years,
214 under a filing schedule as prescribed by the department and in such form as the department shall
215 prescribe, showing all rates, prices and charges to be charged or collected within the

216 commonwealth for the sale and distribution of gas or electricity, together with all forms of
217 contracts to be used in connection with such schedules; provided, however, that the requirement
218 to file a schedule with the department not less frequently than every 5 or 10 years shall not apply
219 to a company or corporation as defined in section 1 of chapter 165; provided, that such rates,
220 prices, charges, and schedules thereof, shall (i) have a substantial likelihood of advancing
221 compliance with the greenhouse gas emissions limits and sublimits set by the Commonwealth
222 pursuant to chapter 21N of the General Laws; (ii) have a substantial likelihood of mitigating
223 impacts on lower-income ratepayers; and (iii) in the case of electric companies and to the extent
224 permitted by federal law, utilize income-based fixed charges, to an extent sufficient to recover
225 through such charges a reasonable and substantial portion of the fixed costs of sales, delivery,
226 and operations, including but not limited to the costs of distribution, transmission, the energy
227 efficiency and renewable energy initiatives authorized in sections 19 and 20 of chapter 25 of the
228 General Laws, metering technology, revenue decoupling, distributed solar promotion, and other
229 public policies. Rates, prices and charges in such a schedule may be changed by any such
230 company by filing a schedule setting forth the changed rates, prices and charges; provided,
231 however, that until the effective date of any such change no different rate, price or charge shall
232 be charged, received or collected by the company filing such a schedule from those specified in
233 the schedule then in effect; provided, further, that a company may: (i) continue to charge, receive
234 and collect rates, prices and charges under a contract lawfully entered into before the schedule
235 takes effect or until the department otherwise orders, after notice to the company, a public
236 hearing and makes a determination that the public interest so requires; and (ii) sell and distribute
237 gas or electricity under a special contract hereafter made at rates or prices differing from those
238 contained in a schedule in effect; provided, further, that a copy of the contract, in each instance,

239 shall be filed with the department, except that a contract of a company whose sole business in the
240 commonwealth is the supply of electricity in bulk need not file, except as may be required by the
241 department.

242 If the department receives notice of any changes proposed to be made in any schedule
243 filed under this chapter which represent a general increase in rates, prices and charges for gas or
244 electric service, it shall notify the attorney general immediately and shall hold a public hearing
245 and make an investigation as to the propriety and effectiveness of such proposed changes after
246 first causing notice of the time, place and the subject matter of such hearing to be published at
247 least 21 days before such hearing in such local newspapers as the department may select. Unless
248 the department otherwise authorizes, the rates, prices, and charges under the schedule of a gas or
249 electric company shall not become effective until the first day of the month next after the
250 expiration of 14 days from the filing of the petition; provided, that the department shall not
251 authorize rates filed by an electric company under a proposed settlement agreement more than
252 once in a 10-year period. Unless the department otherwise authorizes, the rates, prices and
253 charges set forth in the schedule of a corporation or company, as defined in said section 1 of said
254 chapter 165, shall not become effective until the first day of the month next after the expiration
255 of 14 days from the filing of the petition. Such rates, prices and charges shall apply to the
256 consumption shown by meter readings made after the effective date of such rates, prices, and
257 charges, unless the department otherwise orders. So much of said schedules shall be printed in
258 such form and distributed and published in such manner as the department may require.

259 The department, either upon complaint or upon its own motion, may investigate the
260 propriety and effectiveness of any proposed rate, price, charge, or schedule thereof, including but
261 not limited to the effectiveness of such rate, price, charge or schedule in (i) advancing

262 compliance with the greenhouse gas emissions limits and sublimits set by the Commonwealth
263 pursuant to chapter 21N of the General Laws; (ii) mitigating impacts on lower-income
264 ratepayers; (iii) in the case of electric companies and to the extent permitted by federal law,
265 utilizing income-based fixed charges, to an extent sufficient to recover through such charges a
266 reasonable and substantial portion of the fixed costs of sales, delivery, and operations, including
267 but not limited to the costs of distribution, transmission, the energy efficiency and renewable
268 energy initiatives authorized in sections 19 and 20 of chapter 25 of the General Laws, metering
269 technology, revenue decoupling, distributed solar promotion, and other public policies; and (iv)
270 phasing in any increases in rates, prices and charges for any income tier in a reasonable manner.
271 The department may, pending such investigation and decision thereon by order served upon the
272 company affected thereby, suspend the taking effect thereof, from time to time, but not for a
273 period longer than ten months beyond the time when such rate, price or charge would otherwise
274 become effective. An order by the department directing a change in any schedule filed shall have
275 the same effect as if a schedule with such changes were filed by the company and shall become
276 effective from such time as the department shall order.

277 Unless the department otherwise orders, all contracts for the sale of gas or electricity by
278 gas or electric companies, except contracts for sale by a company whose sole business in this
279 commonwealth is the supply of electricity in bulk, shall be filed with the department and shall
280 not become effective until thirty days after filing. The department may investigate the propriety
281 and effectiveness of any such contract, both before and after such contract has become effective,
282 and may, after notice and a public hearing, make such order relative to the rates, prices, charges,
283 and practices covered by such contract as the public interest requires. Any order made under the
284 provisions of this section or of section ninety-three, may be enforced as provided in section

285 seventy-nine. This section shall not apply to contracts for the sale of electricity to an electric
286 company made in accordance with the provisions of section ninety-four A except as therein
287 provided. Generation companies and suppliers shall be exempt from the provisions of this
288 section.

289 SECTION 5. (a) Notwithstanding any general or special law or regulation to the contrary
290 and any filing schedule otherwise prescribed by the department of public utilities, electric
291 companies shall, within 12 months of the effective date of this act, file a schedule of rates, prices,
292 and charges with the department that complies with section 94 of chapter 164 of the General
293 Laws, as amended by this act.

294 (b) Notwithstanding any general or special law or regulation to the contrary and any
295 filing schedule it may have otherwise prescribed, the department of public utilities shall, within
296 20 months of the effective date of this act, and with respect to each electric company over which
297 it has jurisdiction, approve or adopt rates, prices, and charges that comply with section 94 of
298 chapter 164 of the General Laws, as amended by this act.

299 SECTION 6. The department may promulgate regulations to implement this act.