Senate Calendar

WEDNESDAY, MARCH 1, 2023

SENATE CONVENES AT: 1:00 P.M.

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Report of Committee of Conference

(For report of Committee of Conference, see Addendum to Senate Calendar for March 1, 2023)

ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF TUESDAY, FEBRUARY 28, 2023

Second Reading

Favorable with Recommendation of Amendment

S. 9.

An act relating to the authority of the State Auditor to examine the books and records of State contractors.

Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 163 is amended to read:

§ 163. DUTIES OF THE AUDITOR OF ACCOUNTS

In addition to any other duties prescribed by law, the Auditor of Accounts shall:

(1) Annually perform or contract for:

(A) an audit of the basic financial statements of the State of Vermont;

(B) the financial and compliance audits of the State of Vermont's federal programs as required by federal law, except that this audit requirement shall not apply to the University of Vermont or the Vermont State Colleges; and

(C) at ~~his or her~~ the Auditor of Accounts' discretion, governmental audits as defined by governmental auditing standards issued by the U.S. Government Accountability Office (GAO) of every department, institution, and agency of the State, including contractors as it relates to the performance of the contract with the State, trustees or custodians of retirement and other trust funds held by the State or any officer or officers of the State, and ~~also including~~ every county officer who receives or disburses funds of the State or for the benefit of the State or any county.

* * *

(13) Have discretion to examine the records, accounts, books, papers, reports, and returns in all formats of any contractor that provides services to

the State, provided that the examination of records, accounts, books, papers, reports, and returns shall be limited to those that are relevant to the performance of the contract with the State. Any records, accounts, books, papers, reports, and returns acquired by the Auditor pursuant to this subdivision that are not otherwise available to the public are exempt from public inspection and copying under the Public Records Act.

Sec. 2. 32 V.S.A. § 167 is amended to read:

§ 167. RECORDS TO BE AVAILABLE FOR AUDIT

(a) For the purpose of examination and audit authorized by law, and except as provided in subdivision 163(13) of this title, all the records, accounts, books, papers, reports, and returns in all formats of all departments, institutions, and agencies of the State, including the trustees or custodians of trust funds and all municipal, school supervisory union, school district, and county officers who receive or disburse funds for the benefit of the State, shall be made available to the Auditor of Accounts. It shall be the duty of each officer of each department, institution, and agency of the State or municipality, school supervisory union, school district, or county to provide the records, accounts, books, papers, reports, returns, and such other explanatory information when required by the Auditor of Accounts.

* * *

Sec. 3. STATE CONTRACTING; SECRETARY OF ADMINISTRATION; AUDIT AUTHORITY

On or before October 1, 2023, the Secretary of Administration shall include in Administrative Bulletin 3.5 a requirement that State contracts include terms and conditions authorizing the State Auditor of Accounts to have discretion to examine the records, accounts, books, papers, reports, and returns in all formats of any contractor that provides services to the State as it relates to the performance of the contract in compliance with 32 V.S.A. § 163.

Sec. 4. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(9) The examination of financial records by, or the disclosure of financial records to, the Auditor of Accounts pursuant to the authority provided in 32 V.S.A. § 163(13) or any officer, employee, or agent of a regulatory agency for use only in the exercise of that person's duties as an officer, employee, or agent.

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-1-0)

NEW BUSINESS

Third Reading

S. 45.

An act relating to an elective pass-through entity income tax and credit.

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 4.

An act relating to reducing crimes of violence associated with juveniles and dangerous weapons.

Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 5204 is amended to read:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court if the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this

subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

(1) arson causing death as defined in 13 V.S.A. § 501;

(2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

(3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);

(4) aggravated assault as defined in 13 V.S.A. § 1024;

(5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as defined in 13 V.S.A. § 2311;

(6) manslaughter as defined in 13 V.S.A. § 2304;

(7) kidnapping as defined in 13 V.S.A. § 2405;

(8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

(9) maiming as defined in 13 V.S.A. § 2701;

(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

(11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a; ~~or~~

(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c);

(13) carrying a firearm while committing a felony in violation of 13 V.S.A. § 4005;

(14) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1;

(15) human trafficking or aggravated human trafficking in violation of 13 V.S.A. § 2652 or 2653;

(16) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3);

(17) an attempt to commit any of the offenses listed in this subsection; or

(18) a violation of a condition of release as defined in 13 V.S.A. § 7559 imposed by the Criminal Division for any of the offenses listed in this subsection or for any other offense that was transferred from the Family Division pursuant to this section, unless the proceeding is the subject of a final

order accepting the case for youthful offender treatment pursuant to subsection 5281(d) of this title.

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

(c) Upon the filing of a motion to transfer jurisdiction under subsection (b) of this section, the Family Division of the Superior Court shall conduct a hearing in accordance with procedures specified in subchapter 2 of this chapter to determine whether:

(1) there is probable cause to believe that the child committed the charged offense; and

(2) public safety and the interests of the community would not be served by treatment of the child under the provisions of law relating to the Family Division of the Superior Court and delinquent children.

(d) In making its determination as required under subsection (c) of this section, the court may consider, among other matters:

(1) the maturity of the child as determined by consideration of the child's age, home, and environment; emotional, psychological, and physical maturity; and relationship with and adjustment to school and the community;

(2) the extent and nature of the child's prior record of delinquency;

(3) the nature of past treatment efforts and the nature of the child's response to them, including the child's mental health treatment and substance abuse treatment and needs;

(4) the nature and circumstances of the alleged offense, including whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(5) the nature of any personal injuries resulting from or intended to be caused by the alleged act;

(6) the prospects for rehabilitation of the child by use of procedures, services, and facilities available through juvenile proceedings;

(7) whether the protection of the community would be better served by transferring jurisdiction from the Family Division to the Criminal Division of the Superior Court;

(8) the youth's residential housing status;

(9) the youth's employment and educational situation;

(10) whether the youth has complied with conditions of release;

(11) the youth's criminal record and whether the youth has engaged in subsequent criminal or delinquent behavior since the original charge;

(12) whether the youth has connections to the community; and

(13) the youth's history of violence and history of illegal or violent conduct involving firearms.

(e) A transfer under this section shall terminate the jurisdiction of the Family Division of the Superior Court over the child only with respect to those delinquent acts alleged in the petition with respect to which transfer was sought.

(f)(1) The Family Division, following completion of the transfer hearing, shall make findings and, if the court orders transfer of jurisdiction from the Family Division, shall state the reasons for that order. If the Family Division orders transfer of jurisdiction, the child shall be treated as an adult. The State's Attorney shall commence criminal proceedings as in cases commenced against adults.

(2) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to a transfer of jurisdiction from the Family Division at any time after a motion to transfer is made pursuant to subsection (b) of this section. The court shall not be required to make findings if the parties stipulate to a transfer pursuant to this subdivision. Upon acceptance of the stipulation to transfer jurisdiction, the court shall transfer the proceedings to the Criminal Division and the child shall be treated as an adult. The State's Attorney shall commence criminal proceedings as in cases commenced against adults.

(3) Notwithstanding subdivision (1) of this subsection, the parties may stipulate to convert the juvenile proceeding to a youthful offender proceeding under chapter 52A of this title. If the parties stipulate to convert the proceeding pursuant to this subdivision, the court may proceed immediately to a youthful offender consideration hearing under section 5283 of this title. The Court shall request that the Department complete a youthful offender consideration report under section 5282 of this title before accepting a case for youthful offender treatment pursuant to this subdivision.

* * *

Sec. 2. 18 V.S.A. § 4252 is amended to read:

§ 4252. ~~PENALTIES FOR DISPENSING OR SELLING~~ KNOWINGLY OR RECKLESSLY PERMITTING SALE OR DISPENSING OF REGULATED DRUGS IN A DWELLING

(a) No person shall knowingly or recklessly permit a dwelling, building, or structure owned by or under the control of the person to be used for the purpose of illegally dispensing or selling a regulated drug.

(b) ~~A landlord shall be in violation of subsection (a) of this section only if the landlord knew at the time he or she signed the lease agreement that the tenant intended to use the dwelling, building, or structure for the purpose of illegally dispensing or selling a regulated drug.~~ [Repealed.]

(c) A person who violates this section shall be imprisoned not more than ~~two~~ five years or fined not more than ~~$1,000.00~~ $15,000.00, or both.

(d) It shall not be a violation of this section if the person who owns or controls the dwelling, building, or structure takes action to address the unlawful activity, including reporting the unlawful activity to law enforcement or initiating eviction proceedings.

(e) As used in this section, "recklessly" means consciously disregarding a substantial and unjustifiable risk.

Sec. 3. 13 V.S.A. chapter 60, subchapter 1, is amended to read:

Subchapter 1. Criminal Acts

* * *

§ 2659. KNOWINGLY OR RECKLESSLY PERMITTING HUMAN TRAFFICKING IN A DWELLING

(a) No person shall knowingly or recklessly permit a dwelling, building, or structure owned by or under the control of the person to be used for the purpose of human trafficking or aggravated human trafficking in violation of section 2652 or 2653 of this title.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than $15,000.00, or both.

(c) It shall not be a violation of this section if the person who owns or controls the dwelling, building, or structure takes action to address the unlawful activity, including reporting the unlawful activity to law enforcement or initiating eviction proceedings.

(d) As used in this section, "recklessly" means consciously disregarding a substantial and unjustifiable risk.

Sec. 4. 13 V.S.A. § 4024 is added to read:

§ 4024. DEFACING OF FIREARM'S SERIAL NUMBER

(a) A person shall not knowingly possess a firearm that has had the importer's or manufacturer's serial number removed, obliterated, or altered.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than $50,000.00, or both.

(c) As used in this section:

(1) "Firearm" has the same meaning as in section 4017 of this title.

(2) "Importer" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution.

(3) "Manufacturer" means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution.

(d) Conduct constituting the offense of defacing a firearm's serial number may be considered a violent act for the purposes of determining whether a person is eligible for bail under section 7553a of this title.

Sec. 5. 13 V.S.A. § 4025 is added to read:

§ 4025. STRAW PURCHASING OF FIREARMS

(a) A person shall not purchase a firearm for, on behalf of, or at the request of another person if the purchaser knows or reasonably should know that the other person:

(1) is prohibited by state or federal law from possessing a firearm;

(2) intends to carry the firearm while committing a felony; or

(3) intends to transfer the firearm to another person who:

(A) is prohibited by state or federal law from possessing a firearm; or

(B) intends to carry the firearm while committing a felony.

(b) It shall not be a violation of this section if the person purchased the firearm as a result of threats or coercion by another person.

(c) A person who violates this section shall be imprisoned not more than five years or fined not more than $50,000.00, or both.

(d) As used in this section, "firearm" has the same meaning as in section 4017 of this title.

(e) Conduct constituting the offense of straw purchasing of firearms may be considered a violent act for the purposes of determining whether a person is eligible for bail under section 7553a of this title.

Sec. 6. 13 V.S.A. § 4017a is added to read:

§ 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL RELIEF FROM ABUSE OR STALKING ORDER; PERSONS CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON POSSESSION OF FIREARMS

(a) A person shall not possess a firearm if the person:

(1) is a fugitive from justice;

(2) is the subject of a final relief from abuse order issued pursuant to 15 V.S.A. § 1104;

(3) is the subject of a final order against stalking issued pursuant to 12 V.S.A. § 5133; or

(4) against whom charges are pending for:

(A) carrying a dangerous weapon while committing a felony in violation of section 4005 of this title;

(B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1; or

(C) human trafficking or aggravated human trafficking in violation of section 2652 or 2653 of this title.

(b) A person who violates this section shall be imprisoned not more than two years or fined not more than $1,000.00, or both.

(c) As used in this section:

(1) "Firearm" has the same meaning as in section 4017 of this title.

(2) "Fugitive from justice" means a person who has fled to avoid prosecution for a crime or to avoid giving testimony in a criminal proceeding.

Sec. 7. 13 V.S.A. § 4005 is amended to read:

§ 4005. WHILE COMMITTING A ~~CRIME~~ FELONY

(a) Except as otherwise provided in 18 V.S.A. § 4253, a person who carries a dangerous or deadly weapon, openly or concealed, while committing a

felony shall be imprisoned not more than five years or fined not more than $500.00, or both.

(b)(1) Carrying a firearm while committing a felony in violation of this section may be considered a violent act for the purposes of determining whether a person is eligible for bail under section 7553a of this title.

(2) An offense that is a felony rather than a misdemeanor solely because of the monetary value of the property involved shall not be considered a violent act under this subsection.

Sec. 8. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

(a) Except as otherwise provided, court and law enforcement reports and files concerning a person subject to the jurisdiction of the court shall be maintained separate from the records and files of other persons. Unless a charge of delinquency is transferred for criminal prosecution under chapter 52 of this title or the court otherwise orders in the interests of the child, such records and files shall not be open to public inspection nor their contents disclosed to the public by any person. However, upon a finding that a child is a delinquent child by reason of commission of a delinquent act that would have been a felony if committed by an adult, the court, upon request of the victim, shall make the child's name available to the victim of the delinquent act. If the victim is incompetent or deceased, the child's name shall be released, upon request, to the victim's guardian or next of kin.

* * *

(d) Such records and files shall be available to:

(1) State's Attorneys and all other law enforcement officers in connection with record checks and other legal purposes; and

(2) the National Instant Criminal Background Check System in connection with a background check conducted on a person under 21 years of age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(l).

* * *

Sec. 9. 18 V.S.A. § 13 is added to read:

§ 13. COMMUNITY VIOLENCE PREVENTION PROGRAM

(a) There is established the Community Violence Prevention Program to be administered by the Department of Health in consultation with the Department of Public Safety, the Director of Violence Prevention, and the Executive Director of Racial Equity. The Program shall work with communities to

implement innovative, evidence-based, and evidence-informed programs addressing causes of youth and community violence. Grants awarded pursuant to this section shall be at the discretion of the Commissioner of Health.

(b)(1) A Vermont municipality or nonprofit organization may submit an application for a Community Violence Prevention Program grant to the Commissioner of Health. Grants awarded under this section shall be for the purpose of funding innovative, evidence-based, or evidence-informed approaches to reducing violence and associated community harm.

(2) The Commissioner of Health, in consultation with the Department of Public Safety and the Executive Director of Racial Equity, shall develop and publish guidelines, for the award of Community Violence Prevention grants. The guidelines shall include a focus on increasing community capacity to implement approaches for human services, public health, and public safety collaboration to address root causes of community violence and substance use through data-driven projects.

(c) The Community Violence Prevention Program shall collect data to monitor youth and community violence and its related risk and protective factors and to evaluate the impact of prevention efforts and shall use the data to plan and implement programs. The Program shall use monitoring and evaluation data to track the impact of interventions.

(d) Statewide strategies organized by the Department of Health may include technical assistance contracts, statewide evaluation of the Program, or other strategies that would benefit grantees and enhance the effectiveness of the Program.

Sec. 10. APPROPRIATION

(a) The sum of $10,000,000.00 is appropriated from the General Fund to the Department of Health in fiscal year 2024 for the purpose of supporting the Community Violence Prevention Program established by 18 V.S.A. § 13. Unexpended appropriations shall carry forward into the subsequent fiscal year and remain available for use for this purpose.

(b) The Department of Health is authorized to seek and accept grant funding for the purpose of supporting the Community Violence Prevention Program to supplement State appropriations.

(c) If funding is available for the Community Violence Prevention Program from federal grants or legal settlements related to drug use or criminal activity:

(1) such federal or settlement funds shall be utilized first for the Program; and

(2) an amount of the General Fund appropriation made under subsection (a) of this section equal to the total amount of federal grants or legal settlements received by the Program shall be reverted to the General Fund.

Sec. 11. 2018 Acts and Resolves No. 201, Sec. 21, as amended by 2022 Acts and Resolves No. 160, Sec. 1, is further amended to read:

Sec. 21. EFFECTIVE DATES

* * *

(d) Secs. 17–19 shall take effect on July 1, ~~2023~~ 2024.

Sec. 12. 2020 Acts and Resolves No. 124, Sec. 12, as amended by 2022 Acts and Resolves No. 160, Sec. 2, is further amended to read:

Sec. 12. EFFECTIVE DATES

(a) Secs. 3 (33 V.S.A. § 5103(c)) and 7 (33 V.S.A. § 5206) shall take effect on July 1, ~~2023~~ 2024.

* * *

Sec. 13. PLAN FOR SECURE PLACEMENTS

On or before September 1, 2023 and December 1, 2023, the Department for Children and Families shall file a status report to the Joint Legislative Justice Oversight Committee and the Senate and House Committees on Judiciary describing the progress made toward implementing the requirement of Secs. 11 and 12 of this act that the Raise the Age initiative take effect on July 1, 2024.

Sec. 14. SENTENCING COMMISSION REPORT

On or before December 15, 2023, the Vermont Sentencing Commission shall report to the Joint Legislative Justice Oversight Committee and the Senate and House Committees on Judiciary on whether the offenses for which transfer from the Family Division to the Criminal Division is permitted under 33 V.S.A. § 5204(a) should be expanded to include:

(1) first degree arson as defined in 13 V.S.A. § 502 or second degree arson as defined in 13 V.S.A. § 503;

(2) stalking as defined in 13 V.S.A. § 1062;

(3) domestic assault as defined in 13 V.S.A. § 1042, first degree aggravated domestic assault as defined in 13 V.S.A. § 1043, and second degree aggravated domestic assault a defined in 13 V.S.A. § 1044;

(4) selling or dispensing a regulated drug with death resulting as defined in 18 V.S.A. § 4250;

(5) using a firearm while selling or dispensing a drug as defined in 18 V.S.A. § 4253;

(6) carrying a dangerous or deadly weapon while committing a felony as defined in 13 V.S.A. § 4005;

(7) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602;

(8) eluding a police officer with serious bodily injury or death resulting as defined in 23 V.S.A. § 1133(b);

(9) willful and malicious injuries caused by explosives as defined in 13 V.S.A. § 1601, injuries caused by destructive devices as defined in 13 V.S.A. § 1605, or injuries caused by explosives as defined in 13 V.S.A. § 1608;

(10) grand larceny as defined in 13 V.S.A. § 2501 or larceny from the person as defined in 13 V.S.A. § 2503;

(11) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

(12) careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(13) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);

(14) a hate-motivated crime as defined in 13 V.S.A. § 1455;

(15) conspiracy as defined in 13 V.S.A. § 1404; or

(16) a violation of an abuse prevention order as defined in 13 V.S.A. § 1030 or violation of an order against stalking or sexual assault as defined in 12 V.S.A. § 5138.

Sec. 15. SEVERABILITY

As set forth in 1 V.S.A. § 215, the provisions of this act are severable, and if a court finds any provision of this act to be invalid, or if any application of this act to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

S. 5.

An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through electrification, decarbonization, efficiency, and weatherization measures.

Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act shall be known and may be cited as the "Affordable Heat Act."

Sec. 2. FINDINGS

The General Assembly finds:

(1) All of the legislative findings made in 2020 Acts and Resolves No. 153, Sec. 2, the Vermont Global Warming Solutions Act of 2020 (GWSA), remain true and are incorporated by reference here.

(2) Under the GWSA and 10 V.S.A. § 578, Vermont has a legal obligation to reduce greenhouse gas emissions to specific levels by 2025, 2030, and 2050.

(3) The Vermont Climate Council was established under the GWSA and was tasked with, among other things, recommending necessary legislation to reduce greenhouse gas emissions. The Initial Vermont Climate Action Plan calls for the General Assembly to adopt legislation authorizing the Public Utility Commission to administer the Clean Heat Standard consistent with the recommendations of the Energy Action Network's Clean Heat Standard Working Group.

(4) As required by the GWSA, the Vermont Climate Council published the Initial Vermont Climate Action Plan on December 1, 2021. As noted in that plan, over one-third of Vermont's greenhouse gas emissions in 2018 came from the thermal sector. In that year, approximately 72 percent of Vermont's thermal energy use was fossil based, including 29 percent from the burning of heating oil, 24 percent from fossil gas, and 19 percent from propane.

(5) To meet the greenhouse gas emission reductions required by the GWSA, Vermont needs to transition away from its current carbon-intensive building heating practices to lower-carbon alternatives. It also needs to do this equitably, recognizing economic effects on energy users, especially energy-

burdened users; on the workforce currently providing these services; and on the overall economy.

(6) Vermonters have an unprecedented opportunity to invest in eligible clean heat measures with funding from new federal laws including, the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022.

Sec. 3. 30 V.S.A. chapter 94 is added to read:

CHAPTER 94. CLEAN HEAT STANDARD

§ 8121. INTENT

Pursuant to 2 V.S.A. § 205(a), it is the intent of the General Assembly that the Clean Heat Standard be designed and implemented in a manner that achieves Vermont's thermal sector greenhouse gas emissions reductions necessary to meet the requirements of 10 V.S.A. § 578(a)(2) and (3), minimizes costs to customers, and recognizes that affordable heating is essential for Vermonters. It shall enhance social equity by prioritizing customers with low income and moderate income and those households with the highest energy burdens.

§ 8122. CLEAN HEAT STANDARD

(a) The Clean Heat Standard is established. Under this program, obligated parties shall reduce greenhouse gas emissions attributable to the Vermont thermal sector by retiring required amounts of clean heat credits to meet the thermal sector portion of the greenhouse gas emission reduction obligations of the Global Warming Solutions Act.

(b) By rule or order, the Commission shall establish or adopt a system of tradeable clean heat credits earned from the delivery of clean heat measures that reduce greenhouse gas emissions.

(c) An obligated party may obtain the required amount of clean heat credits through delivery of eligible clean heat measures, through contracts for delivery of eligible clean heat measures, through the market purchase of clean heat credits, or through delivery of eligible clean heat measures by a designated statewide default delivery agent. An obligated party shall inform the Commission of how it plans to meet its obligation through the process described in section 8125 of this title.

(d) The Commission shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

§ 8123. DEFINITIONS

As used in this chapter:

(1) "Carbon intensity value" means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule (gCO2e/MJ).

(2) "Clean heat credit" means a tradeable, nontangible commodity that represents the amount of greenhouse gas reduction attributable to a clean heat measure. The Commission shall establish a system of management for clean heat credits pursuant to this chapter.

(3) "Clean heat measure" means fuel delivered and technologies installed to end-use customers in Vermont that reduce greenhouse gas emissions from the thermal sector. Clean heat measures shall not include switching from one fossil fuel use to another fossil fuel use. The Commission may adopt a list of acceptable actions that qualify as clean heat measures.

(4) "Commission" means the Public Utility Commission.

(5) "Customer with low income" means a customer with a household income of up to 60 percent of area median income as published annually by the U.S. Department of Housing and Urban Development.

(6) "Customer with moderate income" means a customer with a household income between 60 percent and 120 percent of area median income as published annually by the U.S. Department of Housing and Urban Development.

(7) "Default delivery agent" means an entity designated by the Commission to provide services that generate clean heat measures.

(8) "Energy burden" means the annual spending on thermal energy as a percentage of household income.

(9) "Entity" means any individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision, or any other form of organization.

(10) "Fuel pathway" means a detailed description of all stages of fuel production and use for any particular fuel, including feedstock generation or extraction, production, transportation, distribution, and combustion of the fuel by the consumer. The fuel pathway is used in the calculation of the carbon intensity value and lifecycle greenhouse gas emissions of each fuel.

(11) "Heating fuel" means fossil-based heating fuel, including oil, propane, natural gas, coal, and kerosene.

(12) "Obligated party" means:

(A) a regulated natural gas utility serving customers in Vermont; or

(B) for other heating fuels, the entity that imports heating fuel for ultimate consumption within the State, or the entity that produces, refines, manufactures, or compounds heating fuel within the State for ultimate consumption within the State. For the purpose of this section, the entity that imports heating fuel is the entity that has ownership title to the heating fuel at the time it is brought into Vermont.

(13) "Thermal sector" has the same meaning as the "Residential, Commercial and Industrial Fuel Use" sector as used in the Vermont Greenhouse Gas Emissions Inventory and Forecast.

§ 8124. CLEAN HEAT STANDARD COMPLIANCE

(a) Required amounts.

(1) The Commission shall establish the number of clean heat credits that each obligated party is required to retire each calendar year. The size of the annual requirement shall be set at a pace sufficient for Vermont's thermal sector to achieve lifecycle carbon dioxide equivalent (CO2e) emission reductions consistent with the requirements of 10 V.S.A. § 578(a)(2) and (3) expressed as lifecycle greenhouse gas emissions pursuant to subsection 8127(g) of this title.

(2) Annual requirements shall be expressed as a percent of each obligated party's contribution to the thermal sector's lifecycle CO2e emissions in the previous year. The annual percentage reduction shall be the same for all obligated parties. To ensure understanding among obligated parties, the Commission shall publicly provide a description of the annual requirements in plain terms.

(3) To support the ability of the obligated parties to plan for the future, the Commission shall establish and update annual clean heat credit requirements for the next 10 years. Every three years, the Commission shall extend the requirements three years; shall assess emission reductions actually achieved in the thermal sector; and, if necessary, revise the pace of clean heat credit requirements for future years to ensure that the thermal sector portion of the emission reduction requirements of 10 V.S.A. § 578(a)(2) and (3) for 2030 and 2050 will be achieved.

(4) The Commission may temporarily, for a period not to exceed 18 months, adjust the annual requirements for good cause after notice and opportunity for public process. Good cause may include a shortage of clean heat credits or undue adverse financial impacts on particular customers or

demographic segments. The Commission shall ensure that any downward adjustment does not materially affect the State's ability to comply with the requirements of 10 V.S.A. § 578(a)(2) and (3).

(b) Annual registration.

(1) Each entity that sells heating fuel into or in Vermont shall register annually with the Commission by an annual deadline established by the Commission. The first registration deadline is January 31, 2024, and the annual deadline shall remain January 31 of each year unless a different deadline is established by the Commission. The form and information required in the registration shall be determined by the Commission and shall include all data necessary to establish annual requirements under this chapter. The Commission shall use the information provided in the registration to determine whether the entity shall be considered an obligated party and the amount of its annual requirement.

(2) At a minimum, the Commission shall require registration information to include legal name; doing business as name, if applicable; municipality; state; types of heating fuel sold; and the volume of sales of heating fuels into or in the State for final sale or consumption in the State in the calendar year immediately preceding the calendar year in which the entity is registering with the Commission.

(3)(A) The Department of Taxes shall annually provide to the Commission a copy of the forms that were submitted by the entities that pay the existing fuel tax established in 33 V.S.A. § 2503(a)(1) and (2). If any form contains a Social Security number, the Department of Taxes shall redact that information before submitting a copy of the form to the Commission. Notwithstanding any other provision of law, including 33 V.S.A. § 2503(c) and any confidentiality provisions that would normally apply to tax forms, the fuel tax forms submitted pursuant to 33 V.S.A. § 2503(a)(1) and (2) shall be public documents, and the Commission shall make those documents publicly available.

(B) The Department of Taxes shall ensure that the fuel tax form required under 33 V.S.A. § 2503(a)(1) and (2) includes a prominent notice explaining that, pursuant to this section, the form will be provided to the Public Utility Commission and will be made publicly available.

(C) The Department of Taxes shall further ensure that the fuel tax form requires that each submitting entity list the exact amount of gallons of each fuel type, separated by type, that was sold in Vermont, as well as a list of the exact amount of gallons of each fuel type, separated by type, that was

purchased by the submitting entity and the name and location of the entity from which it was purchased.

(4) Each year, and not later than 30 days following the annual registration deadline established by the Commission, the Commission shall share complete registration information of obligated parties with the Agency of Natural Resources and the Department of Public Service for purposes of updating the Vermont Greenhouse Gas Emissions Inventory and Forecast and meeting the requirements of 10 V.S.A. § 591(b)(3).

(5) The Commission shall maintain, and update annually, a list of registered entities on its website that contains the required registration information.

(6) For any entity not registered on or before January 31, 2024, the first registration form shall be due 30 days after the first sale of heating fuel to a location in Vermont.

(7) Clean heat requirements shall transfer to entities that acquire an obligated party.

(8) Entities that cease to operate shall retain their clean heat requirement for their final year of operation.

(c) Early action credits. Beginning on January 1, 2023, clean heat measures that are installed and provide emission reductions are creditable. Upon the establishment of the clean heat credit system, entities may register credits for actions taken starting in 2023.

(d) Equitable distribution of clean heat measures.

(1) The Clean Heat Standard shall be designed and implemented to enhance social equity by prioritizing customers with low income, moderate income, those households with the highest energy burdens, and renter households with tenant-paid energy bills. The design shall ensure all customers have an equitable opportunity to participate in, and benefit from, clean heat measures regardless of heating fuel used, income level, geographic location, residential building type, or homeownership status.

(2) Of their annual requirement, each obligated party shall retire at least 16 percent from customers with low income and 16 percent from customers with moderate income. For each of these groups, at least one-half of these credits shall be from installed clean heat measures that require capital investments in homes, have measure lives of 10 years or more, and are estimated by the Technical Advisory Group to lower annual energy bills. Examples shall include weatherization improvements and installation of heat pumps, heat pump water heaters, and advanced wood heating systems. The

Commission may identify additional measures that qualify as installed measures.

(3) The Commission shall consider frontloading the credit requirements for customers with low income and moderate income so that the greatest proportion of clean heat measures reach Vermonters with low income and moderate income in the earlier years.

(4) With consideration to how to best serve customers with low income and moderate income, the Commission shall have authority to change the percentages established in subdivision (2) of this subsection for good cause after consultation with the Equity Advisory Group, notice, and opportunity for public process. Good cause may include a shortage of clean heat credits or undue adverse financial impacts on particular customers or demographic segments.

(5) In determining whether to exceed the minimum percentages of clean heat measures that must be delivered to customers with low income and moderate income, the Commission shall take into account participation in other government-sponsored low-income and moderate-income weatherization programs.

(6) A clean heat measure delivered to a customer qualifying for a government-sponsored, low-income energy subsidy shall qualify for clean heat credits required by subdivision (2) of this subsection.

(e) Credit banking. The Commission shall allow an obligated party that has met its annual requirement in a given year to retain clean heat credits in excess of that amount for future sale or application to the obligated party's annual requirements in future compliance periods, as determined by the Commission.

(f) Enforcement.

(1) The Commission shall have the authority to enforce the requirements of this chapter and any rules or orders adopted to implement the provisions of this chapter. The Commission may use its existing authority under this title. As part of an enforcement order, the Commission may order penalties and injunctive relief.

(2) The Commission shall order an obligated party that fails to retire the number of clean heat credits required in a given year, including the required amounts from customers with low income and moderate income, to make a noncompliance payment to the default delivery agent. The per-credit amount of the noncompliance payment shall be three times the amount established by the Commission for timely per-credit payments to the default delivery agent.

(3) False or misleading statements or other representations made to the Commission by obligated parties related to compliance with the Clean Heat Standard are subject to the Commission's enforcement authority, including the power to investigate and assess penalties, under this title.

(4) The Commission's enforcement authority does not in any way impede the enforcement authority of other entities, such as the Attorney General's office.

(5) Failure to register with the Commission as required by this section is a violation of the Consumer Protection Act in 9 V.S.A. chapter 63.

(g) Records. The Commission shall establish requirements for the types of records to be submitted by obligated parties, a record retention schedule for required records, and a process for verification of records and data submitted in compliance with the requirements of this chapter.

(h) Reports.

(1) As used in this subsection, "standing committees" means the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy.

(2) After the adoption of the rules implementing this chapter, the Commission shall submit a written report to the standing committees detailing the efforts undertaken to establish the Clean Heat Standard pursuant to this chapter.

(3) On or before January 15 of each year following the year in which the rules are first adopted under this chapter, the Commission shall submit to the standing committees a written report detailing the implementation and operation of the Clean Heat Standard. This report shall include an assessment on the equitable adoption of clean heat measures required by subsection (d) of this section, along with recommendations to increase participation for the households with the highest energy burdens. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

§ 8125. DEFAULT DELIVERY AGENT

(a) Default delivery agent designated. In place of obligated-party specific programs, the Commission shall provide for the development and implementation of Statewide clean heat programs and measures by one or more default delivery agents appointed by the Commission for these purposes. The Commission may specify that appointment of a default delivery agent to deliver clean heat services, on behalf of obligated entities who pay the per-

credit fee to the default delivery agent, satisfies those entities' corresponding obligations under this chapter.

(b) Appointment. The default delivery agent shall be one or more statewide entities capable of providing a variety of clean heat measures. The designation of an entity under this subdivision may be by order of appointment or contract. A designation, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An existing order of appointment issued by the Commission under section 209 of this title may be amended to include the responsibilities of the default delivery agent. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Commission deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Commission may amend or revoke an order of appointment.

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

(d) Use of default delivery agent.

(1) An obligated party shall meet its annual requirement through a designated default delivery agent appointed by the Commission, unless the obligated party elects to meet its requirement, in whole or in part, through one or more other mechanisms pursuant to subsection 8122(c) of this title.

(2) The Commission shall provide a form for an obligated party to indicate its election to meet its requirement. The form shall require sufficient

information to determine the nature of the credits that the default delivery agent will be responsible to deliver if the obligated party elects to meet its obligation in part. The Commission shall make such elections known to the default delivery agent as soon as practicable.

(3) The Commission shall by rule or order establish a standard timeline under which the default delivery agent credit cost or costs are established and by which an obligated party must file its election form. The Commission shall provide not less than 120 days' notice of default delivery agent credit cost or costs prior to the deadline for an obligated party to file its election form so an obligated party can assess options and inform the Commission of its intent to procure credits in whole or in part as fulfillment of its requirement.

(4) The default delivery agent shall deliver creditable clean heat measures either directly or indirectly to end-use customer locations in Vermont sufficient to meet the total aggregated annual requirement assigned to it pursuant to this subsection, along with any additional amount achievable through noncompliance payments as described in subdivision (f)(2) of this section.

(e) Budget.

(1) The Commission shall open a proceeding on or before July 1, 2023 and every three years thereafter to establish the default delivery agent credit cost or costs for the subsequent three-year period. That proceeding shall include:

(A) an initial potential study conducted by the Department of Public Service to include a quantification of available thermal resources, thermal market conditions, and Statewide and regional thermal workforce characteristics;

(B) the development of a three-year plan and associated proposed budget by the default delivery agent; and

(C) opportunity for public participation.

(2) Once the Commission provides the default delivery agent with the obligated parties' election information, the default delivery agent shall be granted the opportunity to amend its plan and budget before the Commission.

(f) Compliance funds. All funds received from noncompliance payments pursuant to section 8124 (f)(2) shall be used by the default delivery agent to provide clean heat measures to customers with low income.

(g) Specific programs. The default delivery agent shall create specific programs for multiunit dwellings, condo associations, renters, and for

manufactured homes so these groups have an equal opportunity to benefit from the Clean Heat Standard.

§ 8126. RULEMAKING

(a) The Commission shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

(b) The requirement to adopt rules does not in any way impair the Commission's authority to issue orders or take any other actions, both before and after final rules take effect, to implement and enforce the Clean Heat Standard.

(c) The Commission's rules may include a provision that allows the Commission to revise its Clean Heat Standard rules by order of the Commission without the revisions being subject to the rulemaking requirements of the 3 V.S.A. chapter 25, provided the Commission:

(1) provides notice of any proposed changes,

(2) allows for a 30-day comment period, and

(3) responds to all comments received on the proposed change.

(d) Any order issued under this chapter shall be subject to appeal to the Vermont Supreme Court under section 12 of this title, and the Commission must immediately file any orders, a redline, and clean version of the revised rules with the Secretary of State, with notice simultaneously provided to the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy.

§ 8127. TRADEABLE CLEAN HEAT CREDITS

(a) Credits established. By rule or order, the Commission shall establish or adopt a system of tradeable clean heat credits that are earned by reducing greenhouse gas emissions through the delivery of clean heat measures. While credit denominations may be in simple terms for public understanding and ease of use, the underlying value shall be based on units of carbon dioxide equivalent (CO2e). The system shall provide a process for the recognition, approval, and monitoring of the clean heat credits. The Department of Public Service shall perform the verification of clean heat credit claims and submit results of the verification and evaluation to the Commission annually.

(b) Credit ownership. The Commission, in consultation with the Technical Advisory Group, shall establish a standard methodology for determining what party or parties shall be the initial owner of a clean heat credit upon its creation. The original owner or owners may transfer those credits to a third party or to an obligated party.

(c) Credit values. Clean heat credits shall be based on the accurate and verifiable lifecycle CO2e emission reductions in Vermont's thermal sector that result from the delivery of eligible clean heat measures to existing or new end-use customer locations into or in Vermont.

(1) For clean heat measures that are installed, credits will be created for each year of the expected life of the installed measure. The annual value of the clean heat credits for installed measures in each year shall be equal to the lifecycle CO2e emissions of the fuel use that is avoided in a given year because of the installation of the measure, minus the lifecycle emissions of the fuel that is used instead in that year.

(2) For clean heat measures that are fuels, clean heat credits will be created only for the year the fuel is delivered to the end-use customer. The value of the clean heat credits for fuels shall be the lifecycle CO2e emissions of the fuel use that is avoided, minus the lifecycle CO2e emissions of the fuel that is used instead.

(d) List of eligible measures. Eligible clean heat measures delivered to or installed in Vermont shall include:

(1) thermal energy efficiency improvements and weatherization;

(2) cold-climate air, ground source, and other heat pumps, including district, network, grid, microgrid, and building geothermal systems;

(3) heat pump water heaters;

(4) utility-controlled electric water heaters;

(5) solar hot water systems;

(6) electric appliances providing thermal end uses;

(7) advanced wood heating;

(8) noncombustion or renewable energy-based district heating services;

(9) the supply of sustainably sourced biofuels;

(10) the supply of green hydrogen; and

(11) the replacement of a manufactured home with a high efficiency manufactured home.

(e) Renewable natural gas. For pipeline renewable natural gas and other renewably generated natural gas substitutes to be eligible, an obligated party shall purchase renewable natural gas and its associated renewable attributes and demonstrate that it has secured a contractual pathway for the physical

delivery of the gas from the point of injection into the pipeline to the obligated party's delivery system.

(f) Carbon intensity of fuels.

(1) To be eligible as a clean heat measure a liquid or gaseous clean heat measure shall have a carbon intensity value as follows:

(A) below 80 in 2025;

(B) below 60 in 2030; and

(C) below 20 in 2050, provided the Commission may allow liquid and gaseous clean heat measures with a carbon intensity value greater than 20 if excluding them would be impracticable based on the characteristics of Vermont's buildings, the workforce available in Vermont to deliver lower carbon intensity clean heat measures, cost, or the effective administration of the Clean Heat Standard.

(2) The Commission shall establish and publish the rate at which carbon intensity values shall decrease annually for liquid and gaseous clean heat measures consistent with subdivision (1) of this subsection as follows:

(A) on or before January 1, 2025 for 2025 to 2030; and

(B) on or before January 1, 2030 for 2031 to 2050.

(3) For the purpose of this section, the carbon intensity values shall be understood relative to No. 2 fuel oil delivered into or in Vermont in 2023 having a carbon intensity value of 100. Carbon intensity values shall be measured based on fuel pathways.

(g) Emissions schedule.

(1) To promote certainty for obligated parties and clean heat providers, the Commission shall, by rule or order, establish a schedule of lifecycle emission rates for heating fuels and any fuel that is used in a clean heat measure, including electricity, or is itself a clean heat measure, including biofuels. The schedule shall be based on transparent, verifiable, and accurate emissions accounting adapting the Argonne National Laboratory GREET Model, Intergovernmental Panel on Climate Change (IPCC) modeling, or an alternative of comparable analytical rigor to fit the Vermont thermal sector context, and the requirements of 10 V.S.A. § 578(a)(2) and (3).

(2) For each fuel pathway, the schedule shall account for greenhouse gas emissions from biogenic and geologic sources, including fugitive emissions and loss of stored carbon. In determining the baseline emission rates for clean heat measures that are fuels, emissions baselines shall fully account for

methane emissions reductions or captures already occurring, or expected to occur, for each fuel pathway as a result of local, State, or federal policies that have been enacted or adopted.

(3) The schedule may be amended based upon changes in technology or evidence on emissions, but clean heat credits previously awarded or already under contract to be produced shall not be adjusted retroactively.

(h) Review of consequences. The Commission shall biennially assess harmful consequences that may arise in Vermont or elsewhere from the implementation of clean heat measures and shall set standards or limits to prevent those consequences. Such consequences shall include deforestation, conversion of grasslands, damage to watersheds, or the creation of new methane to meet fuel demand.

(i) Time stamp. Clean heat credits shall be "time stamped" for the year in which the clean heat measure delivered emission reductions. For each subsequent year during which the measure produces emission reductions, credits shall be generated for that year. Only clean heat credits that have not been retired shall be eligible to satisfy the current year obligation.

(j) Delivery in Vermont. Clean heat credits shall be earned only in proportion to the deemed or measured thermal sector greenhouse gas emission reductions achieved by a clean heat measure delivered in Vermont. Other emissions offsets, wherever located, shall not be eligible measures.

(k) Credit eligibility.

(1) All eligible clean heat measures that are delivered in Vermont beginning on January 1, 2023 shall be eligible for clean heat credits and may be retired and count towards an obligated party's emission reduction obligations, regardless of who creates or delivers them and regardless of whether their creation or delivery was required or funded in whole or in part by other federal or State policies and programs. This includes individual initiatives, emission reductions resulting from the State's energy efficiency programs, the low-income weatherization program, and the Renewable Energy Standard Tier 3 program. Clean heat measures delivered or installed pursuant to any local, State, or federal program or policy may count both towards goals or requirements of such programs and policies and be eligible clean heat measures that count towards the emission reduction obligations of this chapter.

(2) The owner or owners of a clean heat credit are not required to sell the credit.

(3) Regardless of the programs or pathways contributing to clean heat credits being earned, an individual credit may be counted only once towards satisfying an obligated party's emission reduction obligation.

(l) Credit registration.

(1) The Commission shall create an administrative system to register, sell, transfer, and trade credits to obligated parties. The Commission may hire a third-party consultant to evaluate, develop, implement, maintain, and support a database or other means for tracking clean heat credits and compliance with the annual requirements of obligated parties.

(2) The system shall require entities to submit the following information to receive the credit: the location of the clean heat measure, whether the customer or tenant has a low or moderate income, the type of property where the clean heat measure was installed or sold, the type of clean heat measure, and any other information as required by the Commission.

(m) Greenhouse Gas Emissions Inventory and Forecast. Nothing in this chapter shall limit the authority of the Secretary of Natural Resources to compile and publish the Vermont Greenhouse Gas Emissions Inventory and Forecast in accordance with 10 V.S.A. § 582.

§ 8128. CLEAN HEAT STANDARD TECHNICAL ADVISORY GROUP

(a) The Commission shall establish the Clean Heat Standard Technical Advisory Group (TAG) to assist the Commission in the ongoing management of the Clean Heat Standard. Its duties shall include:

(1) establishing and revising the lifecycle carbon dioxide equivalent (CO2e) emissions accounting methodology to be used to determine each obligated party's annual requirement pursuant to subdivision 8124(a)(2) of this chapter;

(2) establishing and revising the clean heat credit value for different clean heat measures;

(3) periodically assessing and reporting to the Commission on the sustainability of the production of clean heat measures by considering factors including greenhouse gas emissions; carbon sequestration and storage; human health; land use changes; ecological and biodiversity impacts; groundwater and surface water impacts; air, water, and soil pollution; and impacts on food costs;

(4) setting the expected life length of clean heat measures for the purpose of calculating credit amounts;

(5) establishing credit values for each year over a clean heat measure's expected life, including adjustments to account for increasing interactions

between clean heat measures over time so as to not double-count emission reductions;

(6) facilitating the program's coordination with other energy programs;

(7) calculating the impact of the cost of clean heat credits and the cost savings associated with delivered clean heat measures on per-unit heating fuel prices;

(8) coordinating with the Agency of Natural Resources to ensure that greenhouse gas emissions reductions achieved in another sector through the implementation of the Clean Heat Standard are not double-counted in the Vermont Greenhouse Gas Emissions Inventory and Forecast;

(9) advising the Commission on the periodic assessment and revision requirement established in subdivision 8124(a)(3) of this chapter; and

(10) any other matters referred to the TAG by the Commission.

(b) Members of the TAG shall be appointed by the Commission and shall include the Department of Public Service, the Agency of Natural Resources, and parties who have, or whose representatives have, expertise in one or more of the following areas: technical and analytical expertise in measuring lifecycle greenhouse gas emissions, energy modeling and data analysis, clean heat measures and energy technologies, sustainability and non-greenhouse gas emissions strategies designed to reduce and avoid impacts to the environment, delivery of heating fuels, land use changes, deforestation, and climate change mitigation policy and law. The Commission shall accept and review motions to join the TAG from interested parties who have, or whose representatives have, expertise in one or more of the areas listed in this subsection. Members who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses under 32 V.S.A. § 1010.

(c) The Commission shall hire a third-party consultant responsible for developing clean heat measure characterizations and relevant assumptions, including CO2e lifecycle emissions analyses. The TAG shall provide input and feedback on the consultant's work. The Commission may use appropriated funds to hire the consultant.

(d) Emission analyses and associated assumptions developed by the consultant shall be reviewed and approved annually by the Commission. In reviewing the consultant's work, the Commission shall provide a public comment period on the work. The Commission may approve or adjust the consultant's work as it deems necessary based on its review and the public comments received.

§ 8129. CLEAN HEAT STANDARD EQUITY ADVISORY GROUP

(a) The Commission shall establish the Clean Heat Standard Equity Advisory Group to assist the Commission in developing and implementing the Clean Heat Standard in a manner that ensures an equitable share of clean heat measures are delivered to Vermonters with low income and moderate income and that Vermonters with low income and moderate income who are not early participants in clean heat measures are not negatively impacted in their ability to afford heating fuel. Its duties shall include:

(1) providing feedback to the Commission on strategies for engaging Vermonters with low income and moderate income in the public process for developing the Clean Heat Standard program;

(2) supporting the Commission in assessing whether customers are equitably served by clean heat measures and how to increase equity;

(3) identifying actions needed to provide customers with low income and moderate income with better service and to mitigate the fuel price impacts calculated in section 8128 of this title;

(4) recommending any additional programs, incentives, or funding needed to support customers with low income and moderate income and organizations that provide social services to Vermonters in affording heating fuel and other heating expenses;

(5) providing feedback to the Commission on the impact of the Clean Heat Standard on the experience of Vermonters with low income and moderate income; and

(6) providing information to the Commission on the challenges renters face in equitably accessing clean heat measures and recommendations to ensure that renters have equitable access to clean heat measures.

(b) The Clean Heat Standard Equity Advisory Group shall consist of up to 10 members appointed by the Commission and at a minimum shall include at least one representative from each of the following groups: the Department of Public Service; the Department for Children and Families' Office of Economic Opportunity; community action agencies; Efficiency Vermont; individuals with socioeconomically, racially, and geographically diverse backgrounds; renters; rental property owners; the Vermont Housing Finance Agency; and a member of the Vermont Fuel Dealers Association. Members who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses under 32 V.S.A. § 1010.

§ 8130. SEVERABILITY

If any provision of this chapter or its application to any person or circumstance is held invalid or in violation of the Constitution or laws of the United States or in violation of the Constitution or laws of Vermont, the invalidity or the violation shall not affect other provisions of this chapter that can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

Sec. 4. 10 V.S.A. § 582 is amended to read:

§ 582. GREENHOUSE GAS INVENTORIES; REGISTRY

(a) Inventory and forecasting. The Secretary shall work, in conjunction with other states or a regional consortium, to establish a periodic and consistent inventory of greenhouse gas emissions. The Secretary shall publish the Vermont Greenhouse Gas Emission Inventory and Forecast by ~~no~~ not later than June 1, 2010, and updates shall be published annually until 2028, until a regional or national inventory and registry program is established in which Vermont participates, or until the federal National Emissions Inventory includes mandatory greenhouse gas reporting. The Secretary of Natural Resources shall include a sensitivity analysis in the Vermont Greenhouse Gas Emissions Inventory and Forecast that measures the lifecycle greenhouse gas emissions of liquid, gaseous, and solid biogenic fuels combusted in Vermont.

* * *

Sec. 5. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

(a) No present or former officer, employee, or agent of the Department of Taxes shall disclose any return or return information to any person who is not an officer, employee, or agent of the Department of Taxes except in accordance with the provisions of this section. A person who violates this section shall be fined not more than $1,000.00 or imprisoned for not more than one year, or both; and if the offender is an officer or employee of this State, the offender shall, in addition, be dismissed from office and be incapable of holding any public office for a period of five years thereafter.

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(9) To the Public Utility Commission and the Department of Public Service for purposes of providing information related to the fuel tax imposed

under 33 V.S.A. § 2503 necessary to administer the Clean Heat Standard established in 30 V.S.A. chapter 94.

* * *

Sec. 6. PUBLIC UTILITY COMMISSION IMPLEMENTATION

(a) Commencement. On or before August 31, 2023, the Public Utility Commission shall commence a proceeding to implement Sec. 3 (Clean Heat Standard) of this act.

(b) Facilitator. The Commission may hire a third-party consultant to design and conduct public engagement. The Commission may use funds appropriated under this act on hiring the consultant.

(c) Public engagement process. Before commencing rulemaking, the Commission shall use the forms of public engagement described in this subsection to inform the design and implementation of the Clean Heat Standard. Any failure by the Commission to meet the specific procedural requirements of this section shall not affect the validity of the Commission's actions.

(1) The Commission shall allow any person to register at any time in the Commission's online case management system, ePUC, as a participant in the Clean Heat Standard proceeding. All members of the Equity Advisory Group shall be made automatic participants to that proceeding. All registered participants in the proceeding, including all members of the Equity Advisory Group, shall receive all notices of public meetings and all notices of opportunities to comment in that proceeding.

(2) The Commission shall hold at least six public hearings or workshops that shall be recorded and publicly posted on the Commission's website or on ePUC. These meetings shall be open to everyone, including all stakeholders, members of the public, and all other potentially affected parties.

(3) The Commission also shall provide at least three opportunities for the submission of written comments. Any person may submit written comments to the Commission.

(4) The Commission shall seek input from the Equity Advisory Group on organizations and communities to invite to participate in the Commission's public meetings and opportunities to comment.

(d) Advertising. The Commission shall use funding appropriated in this act on advertising the public meetings in order to provide notice to a wide variety of segments of the public.

(e) Draft proposed rules. The Commission shall publish draft proposed rules publicly and provide notice of them through the Commission's online case management system, ePUC, to the stakeholders in this rulemaking who registered their names and e-mail addresses with the Commission through ePUC. The Commission shall provide a 30-day comment period on the draft and accept written comments from the public and stakeholders. The Commission shall consider changes in response to the public comments before filing the proposed rules with the Secretary of State and the Legislative Committee on Administrative Rules.

(f) Final rules. On or before January 15, 2025, the Commission shall submit to the General Assembly final proposed rules to implement the Clean Heat Standard. The Commission shall not file the final proposed rules with the Secretary of State until June 1, 2025.

(g) Consultant. The Commission may contract with a consultant to assist with implementation of 30 V.S.A. § 8127 (clean heat credits).

(h) Funding. On or before January 15, 2024, the Commission shall report to the General Assembly on suggested revenue streams that may be used or created to fund the Commission's administration of the Clean Heat Standard program.

(i) Check-back reports. On or before February 15, 2024 and January 15, 2025, the Commission shall submit a written report to and be available to provide oral testimony to the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy detailing the efforts undertaken to establish the Clean Heat Standard. The reports shall include, to the extent available, estimates of the impact of the Clean Heat Standard on customers, including impacts to customer rates and fuel bills for participating and nonparticipating customers, net impacts on total spending on energy for thermal sector end uses, fossil fuel reductions, greenhouse gas emission reductions, and, if possible, impacts on economic activity and employment. The modeled impacts shall estimate high-, medium-, and low-price impacts. The reports shall recommend any legislative action needed to address enforcement or other aspects of the Clean Heat Standard.

(j) Assistance. The Agency of Commerce and Community Development, the Department of Public Service, and other State agencies and departments shall assist the Commission with economic modeling for the required reports and rulemaking process.

Sec. 7. PUBLIC UTILITY COMMISSION AND DEPARTMENT OF PUBLIC SERVICE POSITIONS; APPROPRIATION

(a) The following new positions are created in the Public Utility Commission for the purpose of carrying out this act:

(1) one permanent exempt Staff Attorney;

(2) one permanent exempt Analyst; and

(3) one limited-service exempt Analyst.

(b) The sum of $800,000.00 is appropriated to the Public Utility Commission from the General Fund in fiscal year 2024 for the positions established in subsection (a) of this section; for all consultants required by this act; and for additional operating costs required to implement the Clean Heat Standard, including marketing and public outreach for Sec. 6 of this act.

(c) The following new positions are created in the Department of Public Service for the purpose of carrying out this act:

(1) one permanent exempt Staff Attorney; and

(2) one permanent classified Program Analyst.

(d) The sum of $400,000.00 is appropriated to the Department of Public Service from the General Fund in fiscal year 2024 for the positions established in subsection (c) of this section, to retain consultants that may be required to support verification and evaluation required by 30 V.S.A. § 8127(a), and for associated operating costs related to the implementation of the Clean Heat Standard.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through efficiency, weatherization measures, electrification, and decarbonization.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: In Sec. 3, 30 V.S.A. chapter 94, by inserting a new section to be section 8131 to read as follows:

§ 8131. RULEMAKING AUTHORITY

Notwithstanding any other provision of law to the contrary, the Commission shall not file proposed rules with the Secretary of State or issue any orders implementing the Clean Heat Standard without specific authorization enacted by the General Assembly.

Second: In Sec. 6, Public Utility Commission implementation, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) Final rules.

(1) On or before January 15, 2025, the Commission shall submit to the General Assembly final proposed rules to implement the Clean Heat Standard. The Commission shall not file the final proposed rules with the Secretary of State until specific authorization is enacted by the General Assembly to do so.

(2) Notwithstanding 3 V.S.A. §§ 820, 831, 836–840, and 841(a), upon affirmative authorization enacted by the General Assembly authorizing the adoption of rules implementing the Clean Heat Standard, the Commission shall file, as the final proposed rule, the rules implementing the Clean Heat Standard approved by the General Assembly with the Secretary of State and Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841. The filing shall include everything that is required under 3 V.S.A. §§ 838(a)(1)–(5), (8)–(13), (15), and (16) and 841(b)(1).

(3) The review, adoption, and effect of the rules implementing the Clean Heat Standard shall be governed by 3 V.S.A. §§ 841(c); 842, exclusive of subdivision (b)(4); 843; 845; and 846, exclusive of subdivision (a)(3).

(4) Once adopted and effective, any amendments to the rules implementing the Clean Heat Standard shall be made in accordance with the Administrative Procedure Act, 3 V.S.A. chapter 25.

Third: In Sec. 3, 30 V.S.A. chapter 94, in section 8121, by inserting a new sentence after the second sentence to read as follows:

The Clean Heat Standard shall, to the greatest extent possible, maximize the use of available federal funds to deliver clean heat measures.

Fourth: In Sec. 3, 30 V.S.A. chapter 94, in section 8124, in subdivision (a)(2), following "in plain terms", by inserting the following: with translation services available

Fifth: In Sec. 3, 30 V.S.A. chapter 94, in section 8124, in subsection (d), by inserting a new subdivision (7) to read as follows:

(7) Customer income data collected shall be kept confidential by the Commission, the Department of Public Service, the obligated parties and any entity that delivers clean heat measures.

Sixth: In Sec. 3, 30 V.S.A. chapter 94, in section 8124, in subdivision (f)(2), by striking out the word "three" and inserting in lieu thereof the word four

Seventh: In Sec. 3, 30 V.S.A. chapter 94, in section 8127, in subdivision (l)(2), by inserting a new sentence after the first sentence to read as follows:

Customer income data collected shall be kept confidential by the Commission, the Department of Public Service, the obligated parties and any entity that delivers clean heat measures.

Eighth: In Sec. 6, Public Utility Commission implementation, in subsection (c), by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

(4) The Commission shall invite organizations and communities recommended by the Equity Advisory Group to participate in the Commission's public meetings and opportunities to comment.

Ninth: In Sec. 7, Public Utility Commission and Department of Public Service positions; appropriation, in subsection (b), by striking out the following: "$800,000.00" and inserting in lieu thereof the following: $825,000.00

Tenth: In Sec. 7, Public Utility Commission and Department of Public Service positions; appropriation, in subsection (c), by striking out subdivision (2) its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) two permanent classified Program Analysts.

Eleventh: In Sec. 7, Public Utility Commission and Department of Public Service positions; appropriation, in subsection (d), by striking out the following: "$400,000.00" and inserting in lieu thereof the following: $900,000.00

Twelfth: In Sec. 7, Public Utility Commission and Department of Public Service positions; appropriation, in subsection (d), following "required by 30 V.S.A. § 8127(a),", by inserting the following: for conducting the potential study,

(Committee vote: 4-3-0)

S. 37.

An act relating to access to legally protected health care activity and regulation of health care providers.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Definitions * * *

Sec. 1. 1 V.S.A. § 150 is added to read:

§ 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

(a) "Gender-affirming health care services" means all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature relating to the treatment of gender dysphoria and gender incongruence. "Gender-affirming health care services" does not include conversion therapy as defined by 18 V.S.A. § 8351.

(b)(1) "Legally protected health care activity" means:

(A) the exercise and enjoyment, or attempted exercise and enjoyment, by any person of rights to reproductive health care services or gender-affirming health care services secured by this State;

(B) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services secured by this State, provided that the provision of such a health care service by a person duly licensed under the laws of this State and physically present in this State shall be legally protected if the service is permitted under the laws of this State, regardless of the patient's location; or

(C) the provision, issuance, or use of, or enrollment in, insurance or other health coverage for reproductive health care services or gender-affirming health care services that are legal in this State, or any act to aid or encourage,

or attempt to aid or encourage, any person in the provision, issuance, or use of, or enrollment in, insurance or other health coverage for those services, regardless of the location of the insured or individual seeking insurance or health coverage, if the insurance or health coverage is permitted under the laws of this State.

(2) Except as provided in subdivision (3) of this subsection, the protections applicable to "legally protected health care activity" shall not apply to a lawsuit, judgment, or civil, criminal, or administrative action that is based on conduct for which an action would exist under the laws of this State if the course of conduct that forms the basis for liability had occurred entirely in this State.

(3) Notwithstanding subdivision (2) of this subsection, the provision of a health care service by a person duly licensed under the laws of this State and physically present in this State shall be legally protected if the service is permitted under the laws of this State, regardless of the patient's location or whether the health care provider is licensed in the state where the patient is located at the time the service is rendered.

(c) "Reproductive health care services" means all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature relating to pregnancy, contraception, assisted reproduction, pregnancy loss management, or the termination of a pregnancy.

* * * Medical Malpractice * * *

Sec. 2. 8 V.S.A. chapter 129 is amended to read:

CHAPTER 129. INSURANCE TRADE PRACTICES

* * *

§ 4722. DEFINITIONS

* * *

(4)(A) "Abusive litigation" means litigation or other legal action to deter, prevent, sanction, or punish any person engaging in legally protected health care activity by:

(i) filing or prosecuting any action in any other state where liability, in whole or part, directly or indirectly, is based on legally protected health care activity that occurred in this State, including any action in which liability is based on any theory of vicarious, joint, or several liability derived therefrom; or

(ii) attempting to enforce any order or judgment issued in connection with any such action by any party to the action or any person acting on behalf of a party to the action.

(B) A lawsuit shall be considered to be based on conduct that occurred in this State if any part of any act or omission involved in the course of conduct that forms the basis for liability in the lawsuit occurs or is initiated in this State, whether or not such act or omission is alleged or included in any pleading or other filing in the lawsuit.

(5) "Legally protected health care activity" has the same meaning as in 1 V.S.A. § 150.

* * *

§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR DECEPTIVE ACTS OR PRACTICES DEFINED

The following are hereby defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance:

* * *

(7) Unfair discrimination; arbitrary underwriting action.

(A) Making or permitting any unfair discrimination between insureds of the same class and equal risk in the rates charged for any contract of insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contracts.

* * *

(F)(i) Discriminating against a health care provider, as defined by 18 V.S.A. § 9496, or adjusting or otherwise calculating a health care provider's risk classification or premium charges on the basis that:

(I) the health care provider provides or assists in the provision of legally protected health care activity that is unlawful in another state;

(II) another state's laws create potential or actual liability for that activity;

(III) abusive litigation against a provider concerning legally protected health care activity resulted in a claim, settlement, or judgement against the provider; or

(IV) the license of the provider has been disciplined in any way by another state based solely on the provider's provision of legally protected health care activity.

(ii) For purposes of this subdivision (F), it shall not be unfairly discriminatory nor an arbitrary underwriting action against a health care provider if the risk classifications, premium charges, or other underwriting considerations are based on factors other than those listed in subdivision (i) of this subdivision (F).

* * *

* * * Insurance Coverage * * *

Sec. 3. 8 V.S.A. § 4088m is added to read:

§ 4088m. COVERAGE FOR GENDER-AFFIRMING HEALTH CARE SERVICES

(a) Definitions. As used in this section:

(1) "Gender-affirming health care services" has the same meaning as in 1 V.S.A. § 150.

(2) "Health insurance plan" means Medicaid and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this State by a health insurer as defined by 18 V.S.A. § 9402. For purposes of this section, health insurance plan includes any health benefit plan offered or administered by the State or any subdivision or instrumentality of the State. The term does not include benefit plans providing coverage for a specific disease or other limited benefit coverage, except that it includes any accident and sickness health plan.

(b) Coverage.

(1) A health insurance plan shall provide coverage for gender-affirming health care services that:

(A) are medically necessary and clinically appropriate for the individual's diagnosis or health condition; and

(B) are included in the State's essential health benefits benchmark plan.

(2) Coverage provided pursuant to this section by Medicaid or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

(3) Nothing in this section shall prohibit a health insurance plan from providing greater coverage for gender-affirming health care services than is required under this section.

(c) Cost sharing. A health insurance plan shall not impose greater coinsurance, co-payment, deductible, or other cost-sharing requirements for coverage of gender-affirming health care services than apply to the diagnosis and treatment of any other physical or mental condition under the plan.

Sec. 4. 8 V.S.A. § 4099e is added to read:

§ 4099e. COVERAGE FOR ABORTION AND ABORTION-RELATED SERVICES

(a) Definitions. As used in this section:

(1) "Abortion" means any medical treatment intended to induce the termination of, or to terminate, a clinically diagnosable pregnancy except for the purpose of producing a live birth.

(2) "Health insurance plan" means Medicaid and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this State by a health insurer as defined by 18 V.S.A. § 9402. For purposes of this section, health insurance plan shall include any health benefit plan offered or administered by the State or any subdivision or instrumentality of the State. The term shall not include benefit plans providing coverage for a specific disease or other limited benefit coverage, except that it shall include any accident and sickness health plan.

(b) Coverage. A health insurance plan shall provide coverage for abortion and abortion-related care.

(c) Cost sharing. The coverage required by this section shall not be subject to any co-payment, deductible, coinsurance, or other cost-sharing requirement or additional charge, except:

(1) to the extent such coverage would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223; and

(2) for coverage provided by Medicaid.

Sec. 5. STATE PLAN AMENDMENT

The Agency of Human Services shall seek a state plan amendment from the Centers for Medicare and Medicaid Services or federal authorities if needed to allow Vermont's Medicaid program to provide coverage consistent with this act.

* * * Professional Regulation * * *

Sec. 6. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

* * *

(f)(1) Health care providers. Notwithstanding subsection (e) of this section or any other law to the contrary, no health care provider shall be subject to professional disciplinary action by a board or the Director, nor shall a board or the Director take adverse action on an application for certification, registration, or licensure of a qualified health care provider, based solely on:

(A) the health care provider providing or assisting in the provision of legally protected health care activity; or

(B) a criminal or civil action or disciplinary action against the health care provider by a licensing board of another state based solely on the provider providing or assisting in the provision of legally protected health care activity.

(2) Definitions. As used in this subsection:

(A) "Health care provider" has the same meaning as in 18 V.S.A. § 9496.

(B) "Legally protected health care activity" has the same meaning as in 1 V.S.A. § 150.

Sec. 7. 26 V.S.A. § 1354 is amended to read:

§ 1354. UNPROFESSIONAL CONDUCT

* * *

(d)(1) Health care providers. Notwithstanding any other law to the contrary, no health care provider shall be subject to professional disciplinary action by the Board, nor shall the Board take adverse action on an application for certification, registration, or licensure of a qualified health care provider, based solely on:

(A) the health care provider providing or assisting in the provision of legally protected health care activity; or

(B) a criminal or civil action or disciplinary action against the health care provider by a licensing board of another state based solely on the provider providing or assisting in the provision of legally protected health care activity.

(2) Definitions. As used in this subsection:

(A) "Health care provider" has the same meaning as in 18 V.S.A. § 9496.

(B) "Legally protected health care activity" has the same meaning as in 1 V.S.A. § 150.

* * * Pregnancy Centers * * *

Sec. 8. 9 V.S.A. chapter 63, subchapter 11 is added to read:

Subchapter 11. Pregnancy Services Center Fraud

§ 2491. FINDINGS; LEGISLATIVE INTENT

(a) Findings. The General Assembly finds that:

(1) Centers that seek to counsel clients against abortion, often referred to as crisis pregnancy centers or limited-services pregnancy centers, have become common across the country, including in Vermont. Accurate information about the services that a limited-services pregnancy center performs, in addition to forthright acknowledgement of its limitations, is essential to enable pregnant individuals in this State to make informed decisions about their care. This includes individuals being informed of whether they are receiving services from a licensed and qualified health care provider at a limited-services pregnancy center, as this allows individuals to determine if they need to seek medical care elsewhere in order to continue or terminate a pregnancy.

(2) Although some limited-services pregnancy centers openly acknowledge in their advertising, on their websites, and at their facilities that they neither provide abortions nor refer clients to other providers of abortion services, others provide confusing and misleading information to pregnant individuals contemplating abortion by leading those individuals to believe that their facilities offer abortion services and unbiased counseling. Many limited-services pregnancy centers have promoted patently false or biased medical claims about abortion, pregnancy, contraception, and reproductive health care providers.

(3) False and misleading advertising by centers that do not offer or refer clients for abortion is of special concern to the State because of the time-sensitive and constitutionally protected nature of the decision to continue or terminate a pregnancy. When a pregnant individual is misled into believing that a center offers services that it does not in fact offer or receives false or misleading information regarding health care options, the individual loses time crucial to the decision whether to terminate a pregnancy and may lose the option to choose a particular method or to terminate a pregnancy at all.

(4) Telling the truth is how trained health care providers demonstrate respect for patients, foster trust, promote self-determination, and cultivate an environment where best practices in shared decision-making can flourish. Without veracity in information and communication, it is difficult for individuals to make informed, voluntary choices essential in fulfilling autonomy-based obligations.

(5) Advertising strategies and educational information about health care options that lack transparency, use misleading or ambiguous terminology, misrepresent or obfuscate services provided, or provide factually inaccurate information are a form of manipulation that disrespects individuals, undermines trust, broadens health disparity, and can result in patient harm.

(b) Intent.

(1) It is the intent of the General Assembly to ensure that the public is provided with accurate, factual information about the types of health care services that are available to pregnant individuals in this State. The General Assembly respects the constitutionally protected right of each individual to personal reproductive autonomy, which includes the right to receive clear, honest, and nonmisleading information about the individual's options and to make informed, voluntary choices after considering all relevant information.

(2) The General Assembly respects the right of limited-services pregnancy centers to counsel individuals against abortion, and nothing in this subchapter should be construed to regulate, limit, or curtail such advocacy.

§ 2492. DEFINITIONS

As used in this subchapter:

(1) "Abortion" means any medical treatment intended to induce the termination of, or to terminate, a clinically diagnosable pregnancy except for the purpose of producing a live birth.

(2) "Client" means an individual who is inquiring about or seeking services at a pregnancy services center.

(3) "Emergency contraception" means any drug approved by the U.S. Food and Drug Administration as a contraceptive method for use after sexual intercourse, whether provided over the counter or by prescription.

(4) "Health information" means any oral or written information in any form or medium that relates to health insurance or the past, present, or future physical or mental health or condition of a client.

(5) "Limited-services pregnancy center" means a pregnancy services center that does not directly provide, or provide referrals to clients, for

abortions or emergency contraception.

(6) "Pregnancy services center" means a facility, including a mobile facility, where the primary purpose is to provide services to individuals who are or may be pregnant and that either offers obstetric ultrasounds, obstetric sonograms, or prenatal care to pregnant individuals or has the appearance of a medical facility. A pregnancy services center has the appearance of a medical facility if two or more of the following factors are present:

(A) The center offers pregnancy testing or pregnancy diagnosis, or both.

(B) The center has staff or volunteers who wear medical attire or uniforms.

(C) The center contains one or more examination tables.

(D) The center contains a private or semiprivate room or area containing medical supplies or medical instruments.

(E) The center has staff or volunteers who collect health information from clients.

(F) The center is located on the same premises as a State-licensed medical facility or provider or shares facility space with a State-licensed medical provider.

(7) "Premises" means land and improvements or appurtenances or any part thereof.

§ 2493. UNFAIR AND DECEPTIVE ACT

(a) It is an unfair and deceptive act and practice in commerce and a violation of section 2453 of this title for any limited-services pregnancy center to disseminate or cause to be disseminated to the public any advertising about the services or proposed services performed at that center that is untrue or clearly designed to mislead the public about the nature of services provided. Advertising includes representations made directly to consumers; marketing practices; communication in any print medium, such as newspapers, magazines, mailers, or handouts; and any broadcast medium, such as television or radio, telephone marketing, or advertising over the Internet such as through websites and web ads. For purposes of this chapter, advertising or the provision of services by a limited-services pregnancy center is an act in commerce.

(b) The medical director of a pregnancy services center, or the individual charged with supervising health care services provided by center staff or volunteers at a pregnancy services center, shall be responsible, legally and

professionally, for the activities of staff and volunteers performing duties for and on behalf of the pregnancy services center. The medical director or individual shall ensure that the staff of the pregnancy services center, including the medical director or individual, and any volunteers providing health care services maintain a level of supervision, training, and practice consistent with legal requirements established under Vermont law, including those set forth in Title 26, and professional standards of practice. Failure to conduct or to ensure that health care services are conducted in accordance with State law and professional standards of practice may constitute unprofessional conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354.

(c) The Attorney General has the same authority to make rules, conduct civil investigations, and bring civil actions with respect to violations of subsection (a) of this section as provided under subchapter 1 of this chapter.

* * * Reports; Interstate Compacts * * *

Sec. 9. AGENCY OF HUMAN SERVICES; GREEN MOUNTAIN CARE BOARD; ACCESS TO REPRODUCTIVE HEALTH AND GENDER-AFFIRMING CARE SERVICES

(a) The Agency of Human Services shall include access to reproductive health care services and access to gender-affirming health care services as indicators for equitable access to health care in its Community Profiles of Health and Well-Being analysis.

(b) The Green Mountain Care Board shall include reproductive health care service and gender-affirming health care service needs in the Health Resource Allocation Plan analysis pursuant to 18 V.S.A. § 9405.

Sec. 10. BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL REGULATION; INTERSTATE COMPACTS; REPORT;

On or before November 1, 2024, the Office of Professional Regulation, in consultation with the Board of Medical Practice, shall submit a report to the House Committee on Health Care and the Senate Committee on Health and Welfare with findings and recommendations for legislative action to address any concerns regarding the State's participation, or contemplated participation, in interstate licensure compacts as a result of the provisions of this act, including the State's participation in the Nurse Licensure Compact pursuant to 26 V.S.A. chapter 28, subchapter 5 and the Interstate Medical Licensure Compact pursuant to 26 V.S.A. chapter 23, subchapter 3A.

Sec. 10a. 26 V.S.A. chapter 56 is amended to read:

CHAPTER 56. OUT-OF-STATE TELEHEALTH LICENSURE & REGISTRATION AND INTERSTATE COMPACTS

Subchapter 1. Out-of-State Telehealth Licensure And Registration

* * *

Subchapter 2. Interstate Compacts; Health Care Provider Compacts

§ 3071. HEALTH CARE PROVIDER COMPACTS; DIRECTION TO VERMONT REPRESENTATIVES

(a) The General Assembly finds that a state's prohibition of or limitation on the provision of gender-affirming health care services or reproductive health care services, or both, as defined by 1 V.S.A. § 150, prohibits health care providers from following health care best practices and is a failure on the part of the state to provide health care services that are medically necessary and clinically appropriate for its residents. Therefore, it is the General Assembly's intent to protect the ability of professionals licensed, certified, or registered in Vermont, and applicants from other member states seeking to practice a profession in Vermont pursuant to an interstate compact or agreement, to have the benefit of compacts and agreements while at the same time engaging in, providing, or otherwise facilitating, personally or professionally, gender-affirming health care and reproductive health care services.

(b) Vermont's representative or delegate for an interstate compact or agreement related to health care shall seek an amendment or exception to the compact or agreement language, rules, or bylaws, as necessary, so that if a licensee is disciplined by another state solely for providing or assisting in the provision of gender-affirming health care services or reproductive health care services that would be legal and meet professional standards of care if provided in Vermont, the compact or agreement does not require that Vermont take professional disciplinary action against the licensee.

* * * Emergency Contraception * * *

Sec. 11. 26 V.S.A. chapter 36, subchapter 1 is amended to read:

Subchapter 1. General Provisions

* * *

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(22) "Emergency contraception" means any drug approved by the U.S. Food and Drug Administration as a contraceptive method for use after sexual intercourse, whether provided over the counter or by prescription.

§ 2023. CLINICAL PHARMACY; PRESCRIBING

* * *

(b) A pharmacist may prescribe in the following contexts:

* * *

(2) State protocol.

(A) A pharmacist may prescribe, order, or administer in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

* * *

(ix) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services; ~~and~~

(x) tests for SARS-CoV for asymptomatic individuals or related serology for individuals by entities holding a Certificate of Waiver pursuant to the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a); and

(xi) emergency contraception.

* * *

Sec. 11a. 26 V.S.A. § 2077 is added to read:

§ 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

(a) A retail or institutional drug outlet licensed under this chapter or a postsecondary school, as defined in and subject to 16 V.S.A. § 176, may make over-the-counter emergency contraception and other nonprescription drugs or articles for the prevention of pregnancy or conception available through a vending machine or similar device.

(b) The Board may adopt rules in accordance with 3 V.S.A. chapter 25 to regulate the location, operation, utilization, and oversight of the vending machines and similar devices described in subsection (a) of this section in a manner that balances consumer access with appropriate safeguards for theft prevention and safety.

* * * Higher Education; Health Care Services * * *

Sec. 12. 16 V.S.A. chapter 78 is added to read:

CHAPTER 78. ACCESS TO REPRODUCTIVE AND GENDER-AFFIRMING HEALTH CARE SERVICES

§ 2501. DEFINITIONS

As used in this chapter:

(1) "Gender-affirming health care readiness" means each institution's preparedness to provide gender-affirming health care services to students or assist students in obtaining gender-affirming health care services, including having in place equipment, protocols, patient educational materials, informational websites, and training for staff; provided, however, that gender-affirming health care readiness may include the provision of gender-affirming health care services.

(2) "Gender-affirming health care services" has the same meaning as in 1 V.S.A. § 150.

(3) "Institution" means the University of Vermont or a college in the Vermont State College system.

(4) "Medication abortion" means an abortion provided by medication techniques.

(5) "Reproductive health care services" has the same meaning as in 1 V.S.A. § 150 and includes medication abortion.

(6) "Reproductive health care readiness" means each institution's preparedness to provide reproductive health care services to students or assist students in obtaining reproductive health care services, including having in place equipment, protocols, patient educational materials, informational websites, and training for staff; provided, however, that reproductive health care readiness may include the provision of reproductive health care services.

(7) "Telehealth" has the same meaning as in 26 V.S.A. § 3052.

§ 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE HEALTH CARE READINESS; REPORTS

(a) Each institution shall report to the Agency of Human Services annually, on or before November 1, on the current status of its gender-affirming health care and reproductive health care readiness, including:

(1) whether the institution has an operational health center on campus;

(2) whether the institution employs health care providers on campus;

(3) the types of gender-affirming health care services and reproductive health care services that the institution offers to its students on campus and the supports that the institution provides to students who receive those services;

(4) the institution's efforts to assist students with obtaining gender-affirming health care services and reproductive health care services from licensed health care professionals through telehealth;

(5) the institution's proximity to a hospital, clinic, or other facility that provides gender-affirming health care services or reproductive health care services, or both, that are not available to students on campus;

(6) the referral information that the institution provides regarding facilities that offer gender-affirming health care services and reproductive health care services that are not available to students on campus, including information regarding the scope of the services that are available at each such facility; and

(7) the availability, convenience, and cost of public transportation between the institution and the closest facility that provides gender-affirming health care services or reproductive health care services, or both, and whether the institution provides transportation.

(b) On or before January 31 of each year, the Agency of Human Services shall compile the materials submitted pursuant to subsection (a) of this section and report to the House Committees on Education, on Health Care, and on Human Services and the Senate Committees on Education and on Health and Welfare on the status of gender-affirming health care and reproductive health care readiness at Vermont's institutions.

Sec. 13. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE HEALTH CARE READINESS; IMPLEMENTATION

Each institution shall submit its first report on the status of its gender-affirming health care and reproductive health care readiness as required under 16 V.S.A. § 2502(a) to the Agency of Human Services on or before November 1, 2023, and the Agency shall provide its first legislative report on or before January 31, 2024.

* * * Prohibition on Disclosure of Protected Health Information * * *

Sec. 14. 18 V.S.A. § 1881 is amended to read:

§ 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION PROHIBITED

(a) As used in this section:

(1) "Business associate" has the same meaning as in 45 C.F.R. § 160.103.

(2) "Covered entity" ~~shall have~~ has the same meaning as in 45 C.F.R. § 160.103.

(3) "Legally protected health care activity" has the same meaning as in 1 V.S.A. § 150.

~~(2)~~(4) "Protected health information" ~~shall have~~ has the same meaning as in 45 C.F.R. § 160.103.

(b) A covered entity or business associate shall not disclose protected health information unless the disclosure is permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(c) In order to protect patients and providers who engage in legally protected health care activity, a covered entity or business associate shall not disclose protected health information related to a legally protected health care activity for use in a civil or criminal action; a proceeding preliminary to a civil or criminal action; or a probate, legislative, or administrative proceeding unless the disclosure meets one or more of the following conditions:

(1) The disclosure is authorized by the patient or the patient's conservator, guardian, or other authorized legal representative.

(2) The disclosure is specifically required by federal law, Vermont law, or rules adopted by the Vermont Supreme Court.

(3) The disclosure is ordered by a court of competent jurisdiction pursuant to federal law, Vermont law, or rules adopted by the Vermont Supreme Court. An order compelling disclosure under this subdivision shall include the court's determination that good cause exists to require disclosure of the information related to legally protected health care activity.

(4) The disclosure is to be made to a person designated by the covered entity or business associate and will be used solely in the defense of the covered entity or business associate against a claim that has been made, or there is a reasonable belief will be made, against the covered entity or business associate in a civil or criminal action, a proceeding preliminary to a civil or criminal action, or a probate, legislative, or administrative proceeding.

(5) The disclosure is to Vermont's Board of Medical Practice or Office of Professional Regulation, as applicable, in connection with a bona fide investigation in Vermont of a licensed, certified, or registered health care provider.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section, Sec. 1 (definitions), Sec. 2 (medical malpractice), Secs. 6 and 7 (unprofessional conduct), Sec. 8 (pregnancy services centers), Secs. 9 and 10 (reports), Sec. 11a (emergency contraception; vending machines), Secs. 12 and 13 (gender-affirming health care and reproductive health care readiness; reports), and Sec. 14 (prohibition on disclosure of protected health information) shall take effect on passage.

(b) Secs. 3 and 4 (insurance coverage) shall take effect on January 1, 2024 and shall apply to all health insurance plans issued on and after January 1, 2024 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2025.

(c) Sec. 5 (state plan amendment) shall take effect on January 1, 2024, except that the Agency of Human Services shall submit its request for approval of Medicaid coverage of the services prescribed in Sec. 4 of this act, if needed, to the Centers for Medicare and Medicaid Services on or before July 1, 2023, and the Medicaid coverage shall begin on the later of the date of approval or January 1, 2024.

(d) Sec. 10a (interstate compacts; state representatives) shall take effect on July 1, 2023.

(e) Sec. 11 (emergency contraception) shall take effect on or before September 1, 2023, on such date as the Commissioner of Health approves the State protocol.

(Committee vote: 4-1-0)

Report of Committee of Conference

H. 145.

An act relating to fiscal year 2023 budget adjustments.

(For report of Committee of Conference, see Addendum to Senate Calendar for March 1, 2023)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore,* for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and

with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

John Hollar of Montpelier – Member of the Capitol Complex Commission – By Senator Wrenner for the Committee on Institutions (2/21/23)

Mark Nicholson of West Danville – Member of the Transportation Board – By Senator Ingalls for the Committee on Transportation (2/24/23)

JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

JFO #3138: One (1) limited-service position, Statewide Grants Administrator, to the Agency of Administration, Department of Finance and Management to cover increased grant activity due to the Covid-19 pandemic. The position is funded through Act 185 of 2022. Sec G.801 of the Act appropriates ARPA funds for administrative costs related to the pandemic. This position is funded through 12/31/2026.

[Received 2/9/2023]

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill ("The Big Bill"), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills)