TO THE HOUSE OF REPRESENTATIVES:

The Committee on Government Operations and Military Affairs to which was referred Senate Bill No. 42 entitled "An act relating to divestment of State pension funds of investments in the fossil fuel industry" respectfully reports that it has considered the same and recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PUBLIC PENSION FUNDS; FOSSIL FUELS; VERMONT PENSION INVESTMENT COMMISSION; PLAN AND REPORT

(a) Intent.

(1) It is the intent of the General Assembly that the Vermont Pension Investment Commission build upon its effective efforts to manage the State's financial risks to climate change, including investing in low carbon indexes, successfully engaging with fossil fuel and other companies, and supporting initial studies and reviews on climate change.

(2) It is also the intent of the General Assembly that, on or before December 31, 2030, the Vermont Pension Investment Commission shall, consistent with sound fiduciary practice, including consideration of any expected increased funding requirements for the actuarially determined employer contribution (ADEC) and administrative costs, and subject to any exceptions, divest the holdings of the Vermont State Employees' Retirement

System, the Vermont Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System from the fossil fuel industry.

(3) The General Assembly also intends that that the Vermont Pension Investment Commission establish a long-term goal to divest from any private investments that contain assets in the fossil fuel industry on or before December 31, 2040, if the Commission determines that such divestment is consistent with sound fiduciary practice.

(b) Definitions. As used in this section:

(1) "Carbon footprint" means the extent to which holdings are invested in stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company.

(2) "De minimis exposure" means the aggregate amount of all fossil fuel holdings in the portfolio, excluding private investments, amounting to less than 2.5 percent of the aggregate amount of all funds invested.

(3) "Private investment" means private equity, private debt, private credit, private real estate, or private infrastructure.

(c) Plan.

(1) Divestment. Except as provided in subdivision (2) of this subsection, the Commission, in accordance with sound investment criteria and consistent with fiduciary obligations, including consideration of any expected increased funding requirements for the actuarially determined employer

contribution (ADEC) and administrative costs, shall develop a plan that will divest holdings identified in the review performed pursuant to 2023 Acts and Resolves No. 78, Sec. E.134.1 on or before December 31, 2030. The Commission shall include in the plan consideration of the State's long-term goal of divestment from private investments that are exempt from the plan pursuant to subdivision (2)(B) of this subsection on or before December 31, 2040.

(2) Exemptions. The following holdings are exempt from the plan, until such time as the Commission deems divestment to be prudent and consistent with sound fiduciary practice:

(A) de minimis exposure of any funds managed by the Commission to the stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company; and

(B) private investments that contain fossil fuel company stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company.

(3) Fossil fuel company. The Commission shall include in the plan described in this subsection a definition for "fossil fuel company."

(4) Fiduciary responsibility. The requirements of this subsection shall not apply to the Commission if it decides through a majority vote that the requirements are inconsistent with sound fiduciary practice.

(d) Reporting.

(1)(A) On or before September 1, 2025, the Commission shall submit a report on the plan described in subsection (c) of this section to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and to the Joint Pension Oversight Committee. The report shall include any recommendations for legislative action, if necessary, to implement the divestment plan.

(B) Pursuant to 2 V.S.A. § 23, with approval of the Speaker of the House and the President Pro Tempore, as appropriate, the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations may each meet up to one time when the General Assembly is not in session to evaluate the report described in subdivision (A) of this subdivision (d)(1).

(2) Beginning on January 15, 2026, and annually thereafter until January 15, 2040, the Commission shall submit a report to the House Committee on Government Operations and Military Affairs, the Senate Committee on Government Operations, and the Joint Pension Oversight Committee on the progress of divestment described in this section. The report shall also include:

(A) an update on the composition and percentage of exposure of any investments exempt from the divestment plan pursuant to subdivision (c)(2) of this section; and

(B) a summary of the fee impacts and any instance of excessive charges or demands related to the rebalancing of the funds consistent with the implementation of this act.

(3) On or before January 15, 2041, the Commission shall make a final report to the House Committee on Government Operations and Military Affairs, the Senate Committee on Government Operations, and the Joint Pension Oversight Committee regarding completion of divestment described in this section.

Sec. 2. DIVESTMENT PLAN; VERMONT PENSION INVESTMENT COMMISSION; APPROPRIATION

In FY 2025, the amount of $127,000.00 is appropriated to the Vermont Pension Investment Commission to establish one staff position to support improvements and efficiencies in the administration of the Commission and to meet the review, planning, and reporting requirements of this act. The appropriation to the Commission shall be distributed from the following funding sources pursuant to the allocations set forth below:

(1) 40.86 percent from the Vermont State Retirement Fund, established in 3 V.S.A. § 473;

(2) 44.01 percent from the Vermont Teachers’ Retirement Fund, established in 16 V.S.A. § 1944; and

(3) 15.13 percent from the Vermont Municipal Employees' Retirement Fund, established in 24 V.S.A. § 5064.

Sec. 3. INDEMNIFICATION OF STATE GOVERNMENTAL ENTITIES, EMPLOYEES, AND OTHERS

(a) In a cause of action based on an action, inaction, decision, divestment, investment, financial company communication, reporting, or other determination made or taken in connection to the provisions in this act, and without regard to whether the individual performed services for compensation, the State shall indemnify and hold harmless from actual damages, court costs, and attorney's fees adjudged against, and defend:

(1) a State employee, which includes any elective or appointive officer or employee within the Legislative, Executive, or Judicial Branch of State Government or any former such employee or officer;

(2) a Commissioner or any other staff member of the Vermont Pension Investment Commission (VPIC); and

(3) a contractor retained by VPIC to carry out the requirements of this act.

(b) The provisions of this section are in addition to protections and exclusions of liability as set forth in 12 V.S.A. § 5601.

(c) The maximum liability of the State under this section shall be $500,000.00 to any one person and the maximum aggregate liability shall be $2,000,000.00 to all persons arising out of each occurrence.

(d) Notwithstanding subsections (a) and (b) of this section, no person shall be indemnified by the State pursuant to this act for a judgment or settlement that results from gross negligence or willful misconduct.

Sec. 4. NO PRIVATE CAUSE OF ACTION

(a) This act does not create a private cause of action against a person for violations of this act, including for breach of fiduciary duty, or for a violation of any constitutional, statutory, or regulatory requirement in connection with any action, inaction, decision, divestment, investment, financial company communication, report, or other determination made or taken in connection with this act.

(b) A person who files suit for a claim pursuant to this act is liable for court costs and attorney's fees incurred in violation of this section.

(Committee vote: ___________)

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Representative ___________

FOR THE COMMITTEE