

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 5 entitled “An act relating to affordably meeting the mandated
4 greenhouse gas reductions for the thermal sector through electrification,
5 decarbonization, efficiency, and weatherization measures” respectfully reports
6 that it has considered the same and recommends that the bill be amended by
7 striking out all after the enacting clause and inserting in lieu thereof the
8 following:

9 Sec. 1. SHORT TITLE

10 This act shall be known and may be cited as the “Affordable Heat Act.”

11 Sec. 2. FINDINGS

12 The General Assembly finds:

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

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

19 (3) The Vermont Climate Council was established under the GWSA and
20 was tasked with, among other things, recommending necessary legislation to
21 reduce greenhouse gas emissions. The Initial Vermont Climate Action Plan

1 calls for the General Assembly to adopt legislation authorizing the Public
2 Utility Commission to administer the Clean Heat Standard consistent with the
3 recommendations of the Energy Action Network’s Clean Heat Standard
4 Working Group.

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

11 (5) To meet the greenhouse gas emission reductions required by the
12 GWSA, Vermont needs to transition away from its current carbon-intensive
13 building heating practices to lower-carbon alternatives. It also needs to do this
14 equitably, recognizing economic effects on energy users, especially energy-
15 burdened users; on the workforce currently providing these services; and on
16 the overall economy.

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

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

2 CHAPTER 94. CLEAN HEAT STANDARD

3 § 8121. INTENT

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

12 § 8122. CLEAN HEAT STANDARD

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

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

1 (c)(1) An obligated party may obtain the required amount of clean heat
2 credits through delivery of eligible clean heat measures, through contracts for
3 delivery of eligible clean heat measures, through the market purchase of clean
4 heat credits, or through delivery of eligible clean heat measures by a
5 designated statewide default delivery agent. In place of obligated-party
6 specific programs, the Commission shall provide for the development and
7 implementation of statewide clean heat programs and measures by one or more
8 default delivery agents appointed by the Commission for these purposes. The
9 Commission may specify that appointment of a default delivery agent to
10 deliver clean heat services, on behalf of obligated entities who pay the per-
11 credit fee to the default delivery agent, satisfies those entities' corresponding
12 obligations under this section. The Commission, by rule or order, shall
13 establish a process by which an obligated party may apply to the Commission
14 to self-administer clean heat programs or measures. The Commission in its
15 rules or order shall establish criteria for approval of these applications.

16 (2) The Commission, by rule or order, shall establish a process by
17 which an obligated party may apply to the Commission to self-administer clean
18 heat programs or measures. The Commission in its rules or order shall
19 establish criteria for approval of these applications.

20 (3) Appointed default delivery agent; supervision. Any entity appointed
21 by order of appointment under subdivisions (c) of this subsection that is not an

1 electric or gas utility already regulated under this title shall not be considered
2 to be a company as defined under section 201 of this title, but shall be subject
3 to the provisions of sections 18-21, 30-32, 205-208, subsection 209(a), sections
4 219, 221, and subsection 231(b) of this title, to the same extent as a company
5 as defined under section 201 of this title. The Commission and the Department
6 of Public Service shall have jurisdiction under those sections over the entity, its
7 directors, receivers, trustees, lessees, or other persons or companies owning or
8 operating the entity and of all plants, equipment, and property of that entity
9 used in or about the business carried on by it in this State as covered and
10 included in this section. This jurisdiction shall be exercised by the
11 Commission and the Department so far as may be necessary to enable them to
12 perform the duties and exercise the powers conferred upon them by law. The
13 Commission and the Department each may, when they deem the public good
14 requires, examine the plants, equipment, and property of any entity appointed
15 by order of appointment to serve as a default delivery agent.

16 (d)(1) The Commission shall adopt rules and may issue orders to
17 implement and enforce the Clean Heat Standard program.

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

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

5 (A) provides notice of any proposed changes,

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

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

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

14 § 8123. DEFINITIONS

15 As used in this chapter:

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

19 (2) “Clean heat credit” means a tradeable, nontangible commodity that
20 represents the amount of greenhouse gas reduction attributable to a clean heat

1 measure. The Commission shall establish a system of management for clean
2 heat credits pursuant to this chapter.

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

8 (4) “Commission” means the Public Utility Commission.

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

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

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

18 (8) “Energy burden” means the annual spending on thermal energy as a
19 percentage of household income.

1 (9) “Entity” means any individual, trustee, agency, partnership,
2 association, corporation, company, municipality, political subdivision, or any
3 other form of organization.

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

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

11 (12) “Obligated party” means:

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

13 (B) for other heating fuels, the entity that ~~makes the first sale of the~~
14 heating fuel into or in the State for consumption within the State **imports**
15 heating fuel for ultimate consumption within the State, or the entity that
16 produces, refines, manufactures, or compounds heating fuel within the State
17 for ultimate consumption within the State. For the purpose of this section, the
18 entity that imports heating fuel is the entity that has ownership title to the
19 heating fuel at the time it is brought into Vermont.

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

4 § 8124. CLEAN HEAT STANDARD COMPLIANCE

5 (a) Required amounts.

6 (1) The Commission shall establish the number of clean heat credits that
7 each obligated party is required to retire each calendar year. The size of the
8 annual requirement shall be set at a pace sufficient for Vermont’s thermal
9 sector to achieve lifecycle carbon dioxide equivalent (CO₂e) emission
10 reductions consistent with the requirements of 10 V.S.A. § 578(a)(2) and (3)
11 expressed as lifecycle greenhouse gas emissions pursuant to subsection 8125(f)
12 of this title.

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

19 (3) To support the ability of the obligated parties to plan for the future,
20 the Commission shall establish and update annual clean heat credit
21 requirements for the next 10 years. Every three years, the Commission shall

1 extend the requirements three years; shall assess emission reductions actually
2 achieved in the thermal sector; and, if necessary, revise the pace of clean heat
3 credit requirements for future years to ensure that the thermal sector portion of
4 the emission reduction requirements of 10 V.S.A. § 578(a)(2) and (3) for 2030
5 and 2050 will be achieved.

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

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

13 (b) Annual registration.

14 (1) Each entity that sells heating fuel into or in Vermont shall register
15 annually with the Commission by an annual deadline established by the
16 Commission. The first registration deadline is January 31, 2024, and the
17 annual deadline shall remain January 31 of each year unless a different
18 deadline is established by the Commission. The form and information required
19 in the registration shall be determined by the Commission and shall include all
20 data necessary to establish annual requirements under this chapter. The
21 Commission shall use the information provided in the registration to determine

1 whether the entity shall be considered an obligated party and the amount of its
2 annual requirement.

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

9 (3) The Department of Taxes shall annually provide a list of to the
10 Commission a copy of the forms that were submitted by the entities that pay
11 the fuel tax pursuant to 33 V.S.A. § 2503(a)(1) and (2) to the Commission. If
12 any form contains a social security number, the Department of Taxes shall
13 redact that information before submitting a copy of the form to the
14 Commission. Notwithstanding any other provision of law, including 33
15 V.S.A. §§ 2503(c) and any confidentiality provisions that would normally
16 apply to tax forms, the fuel tax forms submitted pursuant to 33 V.S.A. §§
17 2503(a)(1) and (2) shall be public documents, and the Commission shall make
18 those documents publicly available. The Department of Taxes shall ensure
19 that the fuel tax form required under 33 V.S.A. §§ 2503(a)(1) and (2) must
20 include a prominent notice explaining that, pursuant to this section, the form
21 will be provided to the Public Utility Commission and will be made publicly

1 available. The Department of Taxes shall further ensure that the fuel tax form
2 requires that each submitting entity list the exact amount of gallons of each
3 fuel type, separated by type, that was sold in Vermont, as well as a list of the
4 exact amount of gallons of each fuel type, separated by type, that was
5 purchased by the submitting entity and the name and location of the entity
6 from which it was purchased.

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

13 (5) The Commission shall maintain, and update annually, a list of
14 registered entities on its website that contains the required registration
15 information, ~~except that the public list shall not include heating fuel volumes~~
16 reported.

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

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

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

3 (c) Early action credits. Beginning on January 1, 2023, clean heat
4 measures that are installed and provide emission reductions are creditable and
5 shall count towards the future clean heat credit requirements of an obligated
6 party. Upon the establishment of the clean heat credit system, entities may
7 register credits for actions taken starting in 2023.

8 (d) Equitable distribution of clean heat measures.

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

17 (2) Of their annual requirement, each obligated party shall retire at least
18 16 percent from customers with low income and 16 percent from customers
19 with moderate income. For each of these groups, At at least one-half of these
20 credits shall be from installed clean heat measures that require capital
21 investments in homes, have measure lives of 10 years or more, and are

1 estimated by the Technical Advisory Group to lower annual energy bills.

2 Examples shall include weatherization improvements and installation of heat
3 pumps, heat pump water heaters, and advanced wood heating systems. The
4 Commission may identify additional measures that qualify as installed
5 measures.

6 ~~(3) The definitions of customer with low income and customer with~~
7 ~~moderate income shall be set by the Commission in consultation with the~~
8 ~~Equity Advisory Group and in alignment with other existing definitions.~~

9 (4) The Commission ~~may~~ shall consider frontloading the credit
10 requirements for customers with low income and moderate income so that the
11 greatest proportion of clean heat measures reach Vermonters with low income
12 and moderate income in the earlier years.

13 (5) ~~In order~~ With consideration to how to best serve customers with low
14 income and moderate income, the Commission shall have authority to change
15 the percentages established in subdivision (2) of this subsection and the criteria
16 used to define customers with low income and moderate income for good
17 cause after notice and opportunity for public process. Good cause may include
18 a shortage of clean heat credits or undue adverse financial impacts on
19 particular customers or demographic segments.

20 (6) In determining whether to exceed the minimum percentages of clean
21 heat measures that must be delivered to customers with low income and

1 moderate income, the Commission shall take into account participation in other
2 government-sponsored low-income and moderate-income weatherization
3 programs.

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

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

12 (f) Default delivery agent.

13 (1) The Commission shall designate the default delivery agent. The
14 default delivery agent shall be a single one or more statewide entity entities
15 capable of providing a variety of clean heat measures. The entity selected as
16 the default delivery agent may also be a market participant but shall not be an
17 obligated party. The designation of an entity under this subdivision may be by
18 order of appointment or contract. A designation, whether by order of
19 appointment or by contract, may only be issued after notice and opportunity for
20 hearing. An order of appointment shall be for a limited duration not to exceed
21 12 years, although an entity may be reappointed by order or contract. An order

1 of appointment may include any conditions and requirements that the
2 Commission deems appropriate to promote the public good. For good cause,
3 after notice and opportunity for hearing, the Commission may amend or revoke
4 an order of appointment.

5 (2) An obligated party may meet its annual requirement through a
6 designated default delivery agent appointed by the Commission. The default
7 delivery agent shall deliver creditable clean heat measures to Vermont homes
8 and businesses when:

9 (A) an obligated party chooses to assign its annual requirement, in
10 full or in part, to the default delivery agent; or

11 (B) an obligated party fails to produce or acquire its required amount
12 of clean heat credits as described in subdivision (g)(2) of this section.

13 (3) By rule or order, the Commission shall adopt annually the cost per
14 clean heat credit to be paid to the default delivery agent by an obligated party
15 that chooses this option. In adjusting the default delivery agent credit cost, the
16 Commission shall consider the default delivery agent’s anticipated costs to
17 deliver clean heat measures and costs borne by customers, among other factors
18 determined by the Commission. Changes to the cost of credits shall take effect
19 not less than 180 days after adoption.

1 (4) All funds received from noncompliance payments pursuant to
2 subdivision (g)(2) of this section shall be used by the default delivery agent to
3 provide clean heat measures to customers with low income.

4 (g) Enforcement.

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

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

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

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

4 (5) ~~In addition to any other applicable penalties and remedies,~~ Failure to
5 register with the Commission as required by this section is a ~~per se violation of~~
6 ~~this section and~~ of the Vermont Consumer Protection Act’s prohibition on
7 ~~unfair and deceptive acts~~ Act in 9-V.S.A. chapter 63. ~~The fact that an entity~~
8 ~~may not have known it was required to register with the Commission shall not~~
9 ~~be a defense.~~

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

14 (i) Reports.

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

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

1 (3) On or before January 15 of each year following the year in which the
2 rules are first adopted under this section chapter, the Commission shall submit
3 to the standing committees a written report detailing the implementation and
4 operation of the Clean Heat Standard. This report shall include an assessment
5 on the equitable adoption of clean heat measures required by subsection (d) of
6 this section, along with recommendations to increase participation for the
7 households with the highest energy burdens. The provisions of 2 V.S.A.
8 § 20(d) (expiration of required reports) shall not apply to the report to be made
9 under this subsection.

10 § 8125. TRADEABLE CLEAN HEAT CREDITS

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

20 (b) Credit values. Clean heat credits shall be based on the accurate and
21 verifiable lifecycle CO₂e emission reductions in Vermont’s thermal sector that

1 result from the delivery of eligible clean heat measures to existing or new end-
2 use customer locations into or in Vermont.

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

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

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

16 (1) thermal energy efficiency improvements and weatherization;

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

19 (3) heat pump water heaters;

20 (4) utility-controlled electric water heaters;

21 (5) solar hot water systems;

1 (6) electric appliances providing thermal end uses;

2 (7) advanced wood heating;

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

4 (9) the supply of sustainably sourced biofuels; and

5 (10) the supply of green hydrogen.

6 (d) Renewable natural gas. For pipeline renewable natural gas and other
7 renewably generated natural gas substitutes to be eligible, an obligated party
8 shall purchase renewable natural gas and its associated renewable attributes
9 and demonstrate that it has secured a contractual pathway for the physical
10 delivery of the gas from the point of injection into the pipeline to the obligated
11 party's delivery system.

12 (e) Carbon intensity of fuels.

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

15 (A) below 80 in 2025;

16 (B) below 60 in 2030; and

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

1 carbon intensity clean heat measures, cost, or the effective administration of
2 the Clean Heat Standard.

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

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

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

8 (3) For the purpose of this section, the carbon intensity values shall be
9 understood relative to No. 2 fuel oil delivered into or in Vermont in 2022 2023
10 having a carbon intensity value of 100. Carbon intensity values shall be
11 measured based on fuel pathways.

12 (f) Emissions schedule.

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

1 (2) For each fuel pathway, the schedule shall account for greenhouse gas
2 emissions from biogenic and geologic sources, including fugitive emissions.
3 In determining the baseline emission rates for clean heat measures that are
4 fuels, emissions baselines shall fully account for methane emissions reductions
5 or captures already occurring, or expected to occur, for each fuel pathway as a
6 result of local, State, or federal policies that have been enacted or adopted.

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

10 (g) Review of consequences. The Commission shall periodically assess
11 harmful consequences that may arise in Vermont or elsewhere from the
12 implementation of clean heat measures and shall set standards or limits to
13 prevent those consequences. Such consequences may include deforestation,
14 conversion of grasslands, or the creation of new methane to meet fuel demand.

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

20 (i) Delivery in Vermont. Clean heat credits shall be earned only in
21 proportion to the deemed or measured thermal sector greenhouse gas emission

1 reductions achieved by a clean heat measure delivered in Vermont. Other
2 emissions offsets, wherever located, shall not be eligible measures.

3 (j) Credit eligibility. All eligible clean heat measures that are delivered in
4 Vermont beginning on January 1, 2023 shall be eligible for clean heat credits
5 and may be retired and count towards an obligated party's emission reduction
6 obligations, regardless of who creates or delivers them and regardless of
7 whether their creation or delivery was required or funded in whole or in part by
8 other federal or State policies and programs. This includes individual
9 initiatives, emission reductions resulting from the State's energy efficiency
10 programs, the low-income weatherization program, and the Renewable Energy
11 Standard Tier 3 program.

12 (k) Credit registration.

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

18 (2) The system shall require entities to submit the following information
19 to receive the credit: the location of the clean heat measure, whether the
20 customer or tenant has a low or moderate income, the type of property where

1 the clean heat measure was installed or sold, the type of clean heat measure,
2 and any other information as required by the Commission.

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

7 § 8126. CLEAN HEAT STANDARD TECHNICAL ADVISORY GROUP

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

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

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

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

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

3 (5) establishing credit values for each year over a clean heat measure’s
4 expected life, including adjustments to account for increasing interactions
5 between clean heat measures over time so as to not double-count emission
6 reductions;

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

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

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

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

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

18 (b) Members of the TAG shall be appointed by the Commission and shall
19 include the Department of Public Service, the Agency of Natural Resources,
20 and parties who have, or whose representatives have, expertise in one or more
21 of the following areas: technical and analytical expertise in measuring

1 lifecycle greenhouse gas emissions, energy modeling and data analysis, clean
2 heat measures and energy technologies, sustainability and non-greenhouse gas
3 emissions strategies designed to reduce and avoid impacts to the environment,
4 delivery of heating fuels, and climate change mitigation policy and law. The
5 Commission shall accept and review motions to join the TAG from interested
6 parties who have, or whose representatives have, expertise in one or more of
7 the areas listed in this subsection. Members who are not otherwise
8 compensated by their employer shall be entitled to per diem compensation and
9 reimbursement for expenses under 32 V.S.A. § 1010.

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

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

21 § 8127. CLEAN HEAT STANDARD EQUITY ADVISORY GROUP

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

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

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

13 (3) identifying actions needed to provide customers with low income
14 and moderate income with better service and to mitigate the fuel price impacts
15 calculated in section 8126 of this title;

16 (4) assisting the Commission in defining customers with low income
17 and moderate income;

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

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

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

7 (b) The Clean Heat Standard Equity Advisory Group shall consist of up to
8 10 members appointed by the Commission and at a minimum shall include at
9 least one representative from each of the following groups: the Department of
10 Public Service; the Department for Children and Families' Office of Economic
11 Opportunity; community action agencies; Efficiency Vermont; individuals
12 with socioeconomically, racially, and geographically diverse backgrounds;
13 renters and rental property owners; the Vermont Housing Finance Agency; and
14 a member of the Vermont Fuel Dealers Association. Members who are not
15 otherwise compensated by their employer shall be entitled to per diem
16 compensation and reimbursement for expenses under 32 V.S.A. § 1010.

17 § 8128. SEVERABILITY

18 If any provision of this chapter or its application to any person or
19 circumstance is held invalid or in violation of the Constitution or laws of the
20 United States or in violation of the Constitution or laws of Vermont, the
21 invalidity or the violation shall not affect other provisions of this chapter that

1 can be given effect without the invalid provision or application, and to this end,
2 the provisions of this chapter are severable.

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

4 § 582. GREENHOUSE GAS INVENTORIES; REGISTRY

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

16 * * *

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

18 § 3102. CONFIDENTIALITY OF TAX RECORDS

19 (a) No present or former officer, employee, or agent of the Department of
20 Taxes shall disclose any return or return information to any person who is not
21 an officer, employee, or agent of the Department of Taxes except in

1 accordance with the provisions of this section. A person who violates this
2 section shall be fined not more than \$1,000.00 or imprisoned for not more than
3 one year, or both; and if the offender is an officer or employee of this State, the
4 offender shall, in addition, be dismissed from office and be incapable of
5 holding any public office for a period of five years thereafter.

6 * * *

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

8 * * *

9 (9) To the Public Utility Commission and the Department of Public
10 Service for purposes of providing information related to the fuel tax imposed
11 under 33 V.S.A. § 2503 necessary to administer the Clean Heat Standard
12 established in 30 V.S.A. chapter 94.

13 * * *

14 Sec. 6. PUBLIC UTILITY COMMISSION IMPLEMENTATION

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

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

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

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

14 (2) The Commission shall hold at least six public meetings hearings or
15 workshops, and of those meetings, at least three shall allow members of the
16 public to participate in person and remotely. The meetings shall be held in at
17 least six different geographically diverse counties of the State. The meetings
18 that shall be recorded and publicly posted on the Commission’s website or on
19 ePUC. These meetings shall be open to everyone, including all stakeholders,
20 members of the public, and all other potentially affected parties.

1 ~~(2) Of the six meetings, the Commission, with the assistance of the~~
2 ~~consultant, shall also use deliberative polling or another method of receiving~~
3 ~~focused feedback from specific constituents during at least two meetings. The~~
4 ~~facilitator shall assist the Commission in developing a format for soliciting~~
5 ~~feedback at the meetings. Each of these meetings shall focus on seeking input~~
6 ~~from a specific group, which may include heating fuel dealers; customers with~~
7 ~~low income, moderate income, and fixed income and their advocates; and~~
8 ~~customers who use large amounts of heating fuel.~~

9 ~~(3) The Commission shall hold at least two workshops to solicit the~~
10 ~~input of potentially affected parties. To facilitate participation, the~~
11 ~~Commission shall provide notice of the workshops on its website, shall publish~~
12 ~~the notice once in a newspaper of general circulation in each county of~~
13 ~~Vermont, and shall also provide direct notice to any person that requests direct~~
14 ~~notice or to whom the Commission may consider direct notice appropriate.~~
15 ~~The Commission also shall provide an at least three opportunities for the~~
16 ~~submission of written comments, which the notice shall include. Any person~~
17 ~~may submit written comments to the Commission.~~

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

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

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

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

17 (g) Consultant. The Commission may contract with a consultant to assist
18 with implementation of 30 V.S.A. § 8125 (clean heat credits).

19 (h) Funding. On or before January 15, 2024, the Commission shall report
20 to the General Assembly on suggested revenue streams that may be used or

1 created to fund the Commission’s administration of the Clean Heat Standard
2 program.

3 (i) Check-back reports. On or before February 15, 2024 and January 15,
4 2025, the Commission shall submit a written report to and be available to
5 provide oral testimony to the House Committee on Environment and Energy
6 and the Senate Committees on Finance and on Natural Resources and Energy
7 detailing the efforts undertaken to establish the Clean Heat Standard. The
8 reports shall include, to the extent available, estimates of the impact of the
9 Clean Heat Standard on customers, including impacts to customer rates and
10 fuel bills for participating and nonparticipating customers, net impacts on total
11 spending on energy for thermal sector end uses, fossil fuel reductions,
12 greenhouse gas emission reductions, and, if possible, impacts on economic
13 activity and employment. The modeled impacts shall estimate high-, medium-,
14 and low-price impacts. The reports shall recommend any legislative action
15 needed to address enforcement of the Clean Heat Standard.

16 (j) The Commission may rely on the Agency of Commerce and
17 Community Development, the Department of Public Service, and other State
18 agencies and departments shall assist the Commission with economic modeling
19 for the required reports and rulemaking process.

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

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

3 (1) one permanent exempt Staff Attorney;

4 (2) one permanent exempt Analyst; and

5 (3) one limited-service exempt Analyst.

6 (b) The sum of \$800,000.00 is appropriated to the Public Utility

7 Commission from the General Fund in fiscal year 2024 for the positions

8 established in subsection (a) of this section; for all consultants required by this

9 act; and for additional operating costs required to implement the Clean Heat

10 Standard, including marketing and public outreach for Sec. 6 of this act.

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

13 (1) one permanent exempt Staff Attorney; and

14 (2) one permanent classified Program Analyst.

15 (d) The sum of \$400,000.00 is appropriated to the Department of Public

16 Service from the General Fund in fiscal year 2024 for the positions established

17 in subsection (c) of this section, to retain consultants that may be required to

18 support verification and evaluation required by 30 V.S.A. § 8125(a), and for

19 associated operating costs related to the implementation of the Clean Heat

20 Standard.

21 **Sec. 8. SECTORAL PROPORTIONALITY REPORT**

1 Sec. 8. EFFECTIVE DATE

2 This act shall take effect on passage.

3 and that after passage the title of the bill be amended to read: “An act
4 relating to affordably meeting the mandated greenhouse gas reductions for the
5 thermal sector through efficiency, weatherization measures, electrification, and
6 decarbonization”

7

8

9 (Committee vote: _____)

10

11

Senator _____

12

FOR THE COMMITTEE