



State of Vermont
OFFICE OF THE GOVERNOR

MEMORANDUM

TO: Senator Christopher Bray, Chair/Senate Natural Resources and Energy
Members of the Senate Natural Resources and Energy

FROM: Brittney L. Wilson, Deputy Chief of Staff

DATE: January 20, 2023

RE: *S.5 An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through electrification, decarbonization, efficiency, and weatherization measures*

I understand there have been questions about whether the Governor's concerns related to the Clean Heat Standard (H.715 (2022)) have been addressed in S.5.

This memo is to make it abundantly clear that his concerns have not been met in the current draft of S.5, in fact, based on an initial read it appears to actively move away from resolution of the critical issues raised by the Governor and Administration.

In vetoing H.715, the Governor said, "I have clearly, repeatedly, and respectfully asked the Legislature to include language that would require the policy and costs to come back to the General Assembly in bill form so it could be transparently debated with all the details... This is how lawmaking and governing is supposed to work and what Vermonters expect, deserve and have a right to receive." [H.715 veto Message.pdf \(vermont.gov\)](#)

Unfortunately, S.5 does not explicitly obligate the Legislature to affirm or advance the Commission's work in bill form, but simply pauses the rulemaking process during the legislative session (January 15 - June 1, 2025). That only creates an opportunity, but not an obligation to take action to enact such a major policy. A major policy on which there currently is no information on the fiscal impacts, such as the projected costs to purchase, retire, or trade clean heat credits.

Even the Global Warming Solutions Act (GWSA) acknowledges the importance of costs and requires prioritization of "... the most cost-effective, technologically feasible, and equitable greenhouse gas emissions reduction pathways..." A reasonable cost estimate is necessary to determine whether a Clean Heat Standard or "Affordable Heat Act" meets the language of the GWSA.

Additionally, the Agency of Natural Resources (ANR) and the Public Service Department (PSD) identified a number of policy issues last year in H.715 and many of those concerns still remain or have been exacerbated in S.5. I know you have asked them to testify next week, and they can explain in more detail, but I'll summarize some of our biggest concerns in addition to the concerns expressed above:

- Changes that restrict flexibility in eligible clean heat measures do a disservice to Vermonters. Diversity of eligible measures will enhance choices and reduce costs. This is particularly important in the near-term to support the transition away from more carbon-intensive fuels.
- The schedule in S.5 to reduce the carbon intensity of fuels while simultaneously increasing the generation of clean heat credits, will further complicate a complex program and unnecessarily restrict flexibility in meeting the bill's requirements -- as will supply shortages and workforce challenges which should be contemplated in this discussion.
- The provisions of H.715 that directed the Commission to recommend cost-containment mechanisms to the General Assembly for possible inclusion in statute have been eliminated in S.5.
- PSD testified on the cost to Vermonters that would be incurred if Renewable Energy Standard Tier 3 program requirements were allowed to be double-counted as eligible clean heat measures.

Having said all this, it's important to note that since the veto of H.715, with direction from the Governor, ANR and PSD staff have been working together to address the unknowns which concern the Governor.

Based on this work, we are presenting a Thermal Sector Action Plan that specifically lays out the work we are doing, the investments and work we are proposing to do, and the data and information needed to assess thermal sector reduction programs.

I know Secretary Moore touched on this while testifying last week, but I hope we can talk with the Committee in greater detail about our plan and how it aligns with and differs from S.5.

BLW/kp

cc: Senator Philip Baruth, President Pro Tempore
Senator Alison Clarkson, Majority Leader
Senator Randy Brock, Minority Leader
Senator Jane Kitchel, Chair/Senate Appropriations