| 1 | TO THE HONORABLE SENATE: |
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| 2 | The Committee on Economic Development, Housing and General Affairs to |
| 3 | which was referred Senate Bill No. 102 entitled "An act relating to expanding |
| 4 | employment protections and collective bargaining rights" respectfully reports |
| 5 | that it has considered the same and recommends that the bill be amended by |
| 6 | striking out all after the enacting clause and inserting in lieu thereof the |
| 7 | following: |
| 8 | Sec. 1. 21 V.S.A. § 4950 is added to read: |
| 9 | § 4950. EMPLOYER COMMUNICATIONS RELATING TO RELIGIOUS |
| 10 | OR POLITICAL MATTERS; EMPLOYEE RIGHTS |
| 11 | (a) An employer, or an employer's agent, shall not discharge, discipline, |
| 12 | penalize, or otherwise discriminate against, or threaten to discharge, discipline, |
| 13 | penalize, or otherwise discriminate against, an employee: |
| 14 | (1) because the employee declines: |
| 15 | (A) to attend or participate in an employer-sponsored meeting that |
| 16 | has the primary purpose of communicating the employer's opinion about |
| 17 | religious or political matters; or |
| 18 | (B) to view or participate in communications with or from the |
| 19 | employer or the employer's agent that have the primary purpose of |
| 20 | communicating the employer's opinion about religious or political matters; or |
| 21 | (2) as a means of requiring an employee to: |

| 1 | (A) attend an employer-sponsored meeting that has the primary |
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| 2 | purpose of communicating the employer's opinion about religious or political |
| 3 | matters; or |
| 4 | (B) view or participate in communications with or from the employer |
| 5 | or the employer's agent that have the primary purpose of communicating the |
| 6 | employer's opinion about religious or political matters. |
| 7 | (b) Nothing in this section shall be construed to: |
| 8 | (1) limit an employee's right to bring a civil action for wrongful |
| 9 | termination; or |
| 10 | (2) diminish or limit any rights provided to an employee pursuant to a |
| 11 | collective bargaining agreement or employment contract. |
| 12 | (c) Nothing in this section shall be construed to prohibit an employer that is |
| 13 | a religious or denominational institution or organization, or any organization |
| 14 | operated for charitable or educational purposes, that is operated, supervised, or |
| 15 | controlled by or in connection with a religious organization, from: |
| 16 | (1) communicating with its employees regarding the employer's opinion |
| 17 | on religious matters; |
| 18 | (2) requiring its employees to attend a meeting regarding the employer's |
| 19 | opinion on religious matters; or |

| 1 | (3) requiring its employees to view or participate in communications |
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| 2 | from the employer or the employer's agent regarding the employer's opinion |
| 3 | on religious matters. |
| 4 | (d) Nothing in this section shall be construed to prohibit an employer that is |
| 5 | a political organization, a political party, or an organization that engages, in |
| 6 | substantial part, in political matters from: |
| 7 | (1) communicating with its employees regarding the employer's opinion |
| 8 | on political matters; |
| 9 | (2) requiring its employees to attend a meeting regarding the employer's |
| 10 | opinion on political matters; or |
| 11 | (3) requiring its employees to view or participate in communications |
| 12 | from the employer or the employer's agent regarding the employer's opinion |
| 13 | on political matters. |
| 14 | (e) Nothing in this section shall be construed to prohibit an employer or the |
| 15 | employer's agent from: |
| 16 | (1) communicating information to an employee: |
| 17 | (A) that the employer is required to communicate pursuant to State or |
| 18 | federal law; or |
| 19 | (B) that is necessary for the employee to perform the employee's job |
| 20 | functions or duties; |

| 1 | (2) requiring an employee to attend a meeting to discuss issues related to |
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| 2 | the employer's business or operation when the discussion is necessary for the |
| 3 | employee to perform the employee's job functions or duties; or |
| 4 | (3) offering meetings, forums, or other communications about religious |
| 5 | or political matters for which attendance or participation is entirely voluntary. |
| 6 | (f)(1) The penalty and enforcement provisions of section 495b of this |
| 7 | subchapter shall apply to this section. |
| 8 | (2) The provisions against retaliation in subdivision 495(a)(8) of this |
| 9 | subchapter shall apply to this section. |
| 10 | (g) As used in this section: |
| 11 | (1) "Political matters" means matters relating to political affiliation, |
| 12 | elections for political office, political parties, legislative proposals, proposals |
| 13 | to change rules or regulations, and the decision to join or support any political |
| 14 | party or political, civic, community, fraternal, or labor organization. |
| 15 | (2) "Religious matters" means matters relating to religious affiliation |
| 16 | and practice and the decision to join or support any religious or denominational |
| 17 | organization or institution. |
| 18 | Sec. 2. 21 V.S.A. § 1502 is amended to read: |
| 19 | § 1502. DEFINITIONS |
| 20 | As used in this chapter: |
| 21 | * * * |

| 1 | (6) "Employee" includes any employee, and is not limited to the |
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| 2 | employees of a particular employer unless this chapter explicitly states |
| 3 | otherwise, and includes any individual whose work has ceased as a |
| 4 | consequence of, or in connection with, any current labor dispute or because of |
| 5 | any unfair labor practice and who has not obtained any other regular and |
| 6 | substantially equivalent employment, but does not include an individual; |
| 7 | (A) employed as an agricultural laborer; |
| 8 | (B) employed by his or her the individual's parent or spouse; |
| 9 | (C) employed in the domestic service of any family or person at his |
| 10 | or her home; |
| 11 | (D)(B) having the status of an independent contractor; |
| 12 | (E)(C) employed as a supervisor; |
| 13 | (F)(D) employed by an employer subject to the Railway Labor Act as |
| 14 | amended from time to time; or |
| 15 | (G)(E) employed by any other person who is not an employer as |
| 16 | defined in subdivision (7) of this section. |
| 17 | * * * |
| 18 | Sec. 3. 3 V.S.A. § 941 is amended to read: |
| 19 | § 941. UNIT DETERMINATION, CERTIFICATION, AND |
| 20 | REPRESENTATION |
| 21 | * * * |

(e)(1) Whenever, on the basis of a petition pursuant to subdivision (d)(1) of this section or a hearing pursuant to subdivision (d)(2) of this section, the Board finds substantial interest among employees in forming a bargaining unit or being represented for purposes of collective bargaining, a secret ballot election shall be conducted by the Board not more than 23 business days after the petition is filed with the Board except as otherwise provided pursuant to subdivision (4) of this subsection and subdivision (g)(4) of this section.

* * *

(g)(1) In determining the representation of State employees in a collective bargaining unit, the Board shall conduct a secret ballot of the employees within the time period set forth in subdivision (e)(1) of this section, unless the time to conduct the election is extended pursuant to subdivision (e)(4) of this section, and certify the results to the interested parties and to the State employer. The original ballot shall be so prepared as to permit a vote against representation by anyone named on the ballot. No representative will be certified with less than a majority of the votes cast by employees in the bargaining unit.

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(4)(A) Notwithstanding any other provision of this subsection (g), if the Board determines that a petition to be represented for collective bargaining filed pursuant to subsection (c) of this section, which identifies a proposed exclusive representative of the employees in the bargaining unit, bears the

| 1 | signatures of at least 50 percent plus one of the employees in a bargaining unit |
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| 2 | deemed appropriate by the Board pursuant to this section, the Board shall |
| 3 | certify the person or labor organization as the exclusive representative of the |
| 4 | bargaining unit. |
| 5 | (B) Certification of a collective bargaining representative shall only |
| 6 | be available pursuant to this subdivision (g)(4) when no other person or labor |
| 7 | organization is currently certified or recognized as the exclusive representative |
| 8 | of the employees in the bargaining unit. |
| 9 | (h) A representative chosen by secret ballot for the purposes of collective |
| 10 | bargaining by a majority of the votes cast by secret ballot or certified pursuant |
| 11 | to subdivision (g)(4) of this section shall be the exclusive representative of all |
| 12 | the employees in such the bargaining unit for a minimum of one year. Such |
| 13 | The representative shall be eligible for reelection or for recertification pursuant |
| 14 | to subdivision (g)(4) of this section. |
| 15 | * * * |
| 16 | Sec. 4. 16 V.S.A. § 1992 is amended to read: |
| 17 | § 1992. REFERENDUM PROCEDURE FOR REPRESENTATION |
| 18 | (a)(1) An organization purporting to represent a majority of all of the |
| 19 | teachers or administrators employed by the school board may be recognized by |
| 20 | the school board without the necessity of a referendum upon the submission of |
| 21 | a petition bearing the valid signatures of a majority of the teachers or |

| administrators employed by that school board. Within 15 calendar days after |
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| receiving the petition, the school board shall notify the teachers or |
| administrators of the school district in writing of its intention to either require |
| or waive a secret ballot referendum. If the school board gives notice of its |
| intention to waive a referendum and recognize an organization, 10 percent of |
| the teachers or administrators employed by the school board may submit a |
| petition within 15 calendar days thereafter, objecting to the granting of |
| recognition without a referendum, in which event a secret ballot referendum |
| shall be held in the district for the purpose of choosing an exclusive |
| representative as provided pursuant to the provisions of this section The |
| school board and the organization purporting to represent a majority of the |
| teachers or administrators shall, within 10 business days after the petition is |
| submitted, agree on an impartial third party to examine the petition and |
| determine whether a majority of the teachers or administrators support the |
| organization. If the parties fail to agree on an impartial third party within |
| 10 business days, the Vermont Labor Relations Board shall examine the |
| petition and determine whether a majority of the teachers or administrators |
| support the organization. If the impartial party or the Board determines that a |
| majority of the teachers or administrators support the organization, it shall |
| certify the organization as the exclusive representative of the teachers or |
| <u>administrators</u> . |

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| 2 | (b) Recognition granted to Certification of a negotiating unit as exclusive |
| 3 | representative shall be valid and not subject to challenge by referendum |
| 4 | petition or otherwise for the remainder of the fiscal year in which recognition |
| 5 | is granted the certification occurs and for an additional period of 12 months |
| 6 | after final adoption of the budget for the succeeding fiscal year and shall |
| 7 | continue thereafter until a new referendum is called for. |
| 8 | (c)(1)(A) A secret ballot referendum shall be held not more than 21 |
| 9 | calendar days after 20 percent of the teachers or administrators employed by |
| 10 | the school board present a petition requesting a referendum on the matter of |
| 11 | representation, except during a period of prior recognition certification, as |
| 12 | provided pursuant to subsection (b) of this section. |
| 13 | * * * |
| 14 | Sec. 5. 21 V.S.A. § 1581 is amended to read: |
| 15 | § 1581. PETITIONS FOR ELECTION; FILING, INVESTIGATIONS, |
| 16 | HEARINGS, DETERMINATIONS |
| 17 | * * * |
| 18 | (b)(1) The Board shall investigate the petition and if it has reasonable cause |
| 19 | to believe that a question of representation exists shall provide for an |
| 20 | appropriate hearing before the Board itself, a Board member thereof, or its |
| 21 | agents appointed for that purpose upon due notice. Written notice of the |

| 1 | hearing shall be mailed by certified mail to the parties named in the petition |
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| 2 | not less than seven days before the hearing. |
| 3 | (2) If the Board finds upon the record of the hearing that a question of |
| 4 | representation exists, it shall conduct an election by secret ballot marked at the |
| 5 | place of election and certify to the parties, in writing, the results thereof of the |
| 6 | election. |
| 7 | (3)(A) If the Board finds upon the record of the hearing that a petition to |
| 8 | be represented for collective bargaining filed pursuant to subdivision (a)(1)(A) |
| 9 | of this section, which identifies a proposed bargaining representative, bears the |
| 10 | signatures of at least 50 percent plus one of the employees in the bargaining |
| 11 | unit, the Board shall certify the individual or labor organization identified as |
| 12 | the bargaining representative. |
| 13 | (B) Certification of a representative shall only be available pursuant |
| 14 | to this subdivision (B) when no other individual or labor organization is |
| 15 | currently certified or recognized as the bargaining representative. |
| 16 | (c) In determining whether or not a question of representation exists, it the |
| 17 | Board shall apply the same regulations and rules of decision regardless of the |
| 18 | identity of the persons filing the petition or the kind of relief sought. |
| 19 | * * * |
| 20 | Sec. 6. 21 V.S.A. § 1584 is amended to read: |
| 21 | § 1584. PETITIONS AND ELECTION TO RESCIND |

| 1 | REPRESENTATIVE'S AUTHORITY |
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| 2 | * * * |
| 3 | (b) No election may shall be conducted under this section in a bargaining |
| 4 | unit or a subdivision within which in the preceding 12 months a valid election |
| 5 | or certification of a representative pursuant to this subchapter has been held |
| 6 | occurred. |
| 7 | Sec. 7. 21 V.S.A. § 1724 is amended to read: |
| 8 | § 1724. CERTIFICATION PROCEDURE |
| 9 | * * * |
| 10 | (e)(1) In Except as otherwise provided pursuant to subsection (h) of this |
| 11 | section, in determining the representation of municipal employees in a |
| 12 | collective bargaining unit, the Board shall conduct an election by secret ballot |
| 13 | of the employees and certify the results to the interested parties and to the |
| 14 | employer. The election shall be held not more than 23 business days after the |
| 15 | petition is filed with the Board except as otherwise provided pursuant to |
| 16 | subdivision (4) of this subsection. |
| 17 | * * * |
| 18 | (h)(1) Notwithstanding subsections (e)–(g) of this section, if following its |
| 19 | investigation pursuant to subsection (b) of this section the Board determines |
| 20 | that a petition to be represented for collective bargaining filed pursuant to |

subsection (a) of this section, which identifies a proposed bargaining agent,

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| 1 | bears the signatures of at least 50 percent plus one of the employees in the |
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| 2 | bargaining unit, the Board shall certify the individual or labor organization |
| 3 | identified as the bargaining agent. |
| 4 | (2) Certification of a bargaining agent shall only be available pursuant to |
| 5 | this subsection when no other individual or labor organization is currently |
| 6 | certified or recognized as the agent of the employees in the bargaining unit. |
| 7 | (i) No election may shall be conducted under this section in a bargaining |
| 8 | unit or a subdivision within which in the preceding 12 months a valid election |
| 9 | has been held. |
| 10 | Sec. 8. EFFECTIVE DATE |
| 11 | This act shall take effect on July 1, 2023. |
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| 13 | |
| 14 | |
| 15 | (Committee vote:) |
| 16 | |
| 17 | Senator |
| 18 | FOR THE COMMITTEE |