

## MEMORANDUM

To: The Senate Committee on Government Operations  
 From: Tim Devlin, Legislative Counsel  
 Date: January 12, 2024  
 Subject: Summary of the Impeachment Process Under the Vermont Constitution

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The Vermont Constitution controls the manner in which officers of the State may be removed from office, through a process called “impeachment.”<sup>1</sup> To summarize the process, the House of Representatives investigates an officer and brings articles of impeachment (“charges”) by a vote of two-thirds of its members, after which the Senate then “tries” the officer and convicts the officer by a vote of two-thirds of the members present, which removes that officer from office. Importantly, the Legislature has the sole power to determine impeachment proceedings,<sup>2</sup> including what is considered impeachable conduct.<sup>3</sup>

The Impeachment Process in the House: Articles of impeachment are introduced by resolution in the House. The House may adopt a resolution to identify or create a committee to investigate and recommend to the entire chamber whether to proceed with articles of impeachment. The committee’s procedures and investigatory powers (i.e. subpoena authority and authority to administer oaths and affirmations) would also be established by resolution or rules adopted by the committee itself. After articles of impeachment are introduced, there is debate and possible amendment. Articles “ordering” impeachment are adopted by *two-thirds of the members of the House* (at least 100 members), at which point the officer is “impeached.” See [Vt. Const. Ch. II, § 57](#).

The Impeachment Process in the Senate: If the House impeaches an officer, the matter then goes to the Senate. The Senate “tries” the officer and decides whether to “convict” the officer, which removes the impeached officer from office.<sup>4</sup> See [Vt Const. Ch. II, § 58](#). The Senate adopts rules governing its own impeachment proceedings regarding the hearings, rules of evidence, and other elements of process. The Speaker of the House appoints House members to serve as managers to present resolutions and articles of impeachment to the Senate, and, like a trial, the House managers act as prosecutors to present evidence and call witnesses. The impeached officer may represent themselves or obtain their own legal counsel and may present evidence and call witnesses. Conviction requires the concurrence of *two-thirds of the members present*. See [Vt Const. Ch. II, § 58](#). For example, if all 30 senators were present, then 20 senators would have to vote affirmatively; if only 21 senators were present, then only 14 senators would have to vote affirmatively; if 16 senators were present, then only 11 senators would have to vote affirmatively, etc. Under Section 58, the Senate’s “judgment” or decision is limited to removing the officer from office and disqualifying the officer from holding any future office in Vermont.

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<sup>1</sup> The impeachment provisions of the Vermont Constitution are found in [Chapter II, Sections 14, 57, and 58](#).

<sup>2</sup> *Mayo v. State*, 138 Vt. 419, 420, 415 A.2d 1061, 1062 (1980) (holding “an ‘impeachment proceeding’ is a constitutionally established procedure before the legislature, which has sole power in this respect”).

<sup>3</sup> See [June 1, 2023 memorandum on the topic written by Director of Legislative Counsel, Jen Carbee](#).

<sup>4</sup> A Senate “trial” is not a judicial proceeding, rather impeachment exists apart from civil or criminal trials because it is purely political in nature. See *Mayo*, 138 Vt. at 420 (an impeachment proceeding “is not a ‘suit’ or an ‘action, which terms connote the demand of a right in a court of justice, or in some tribunal as condition precedent to giving court jurisdiction of subject matter”).