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Senator Brian Campion, Chair  
Senator Cheryl Hooker, Vice-Chair  
Senator Andrew Perchlik, Clerk  
Senator Ginny Lyons  
Senator Thomas Chittenden  
Senator Joshua Terenzini

Re: School district withdrawal section of H.727

Dear Senators,

My name is Herb Olson. I live in the Town of Starksboro, Addison County, and I am a member of the Starksboro Save Our Schools Committee. In past lives I was a staff attorney on the Vermont Legislative Council, General Counsel to the Vermont Department of Financial Services, and an Assistant Attorney General.

We ask for your help in protecting our equitable, effective and treasured elementary school, by opposing the school district withdrawal section of H.727.

Our school is a very good school, with a family and community based learning environment. For generations, the school has done a great job of educating all of our students, including the over 45% who are eligible for free or reduced lunch. Students go on to successful careers, and are integrally involved in the social and community life of our town. There is no data suggesting our students will be better off if moved to other schools in our district, and good reason for concern they will be worse off. It will be devastating for student learning and our community if we lose our school.

Our story. Powerful forces are seeking to make it virtually impossible to withdraw from a school district, without appreciating the harm they may cause to our students and our small town. In December 2020 our school district proposed to close three of our five elementary schools. The District's reasoning was that without closing schools the district would face either astronomical tax increases, or devastating losses of teachers and other staff. These predictions turned out to be unfounded when Nate Levenson, the consultant

hired by the District, concluded the District can remain financially viable and educationally effective without closing schools. Mr. Levenson identified over \$2.7 million in potential savings, driven mainly by administrative and central office management cost savings. The District has since paused in its plan to close schools.

Meanwhile, the District formed a Merger Study Committee with a neighboring school district. An important issue in merger discussions is that under our current Articles of Agreement, an elementary school cannot be closed without the approval of the voters in the town where the school is located. However, a new, merged district will have its own Articles of Agreement. The Merger Study Committee has made clear it has no intention to carry forward the existing guarantee of school closure and town approval into Articles of Agreement in a new, merged district. Our town feels that the promise made when our district was formed has been circumvented and broken.

In response to these threats to our elementary school, and after months of effort to persuade these entities to change direction, Starksboro has warned a special meeting on May 10, 2022 for the voters to decide whether to withdraw from the District in order to save our school. We have no burning desire to withdraw, but we feel this is our last remaining option to save our school. Unfortunately, the withdrawal sections of H.727 would nullify Starksboro's vote, even though conducted properly under the law in effect when the vote is taken.

The flaws in the proposed withdrawal section. We urge that you not approve Section 724 of H.727 as it is currently drafted. This is not just a local concern. We see some important state policy issues at stake relating to Vermont's commitment to student equity and democracy.

- There are many towns in Vermont with a similar demographic profile as Starksboro, a rural town with a high percentage of students eligible for free or reduced lunch. Losing a family- and community-based approach for these students' educational and emotional needs places their education at risk.
- Democracy and strong voting rights are all about accountability to the public. H.727 undermines public accountability by making it very difficult for town

voters to withdraw from a school district, even if the town has good reason to do so. In any other state, in any foreign country, this is called voter suppression.

- The bill places an extraordinary number of new requirements in the withdrawal process. At least 10+ new requirements are added by the bill, beyond what is already required under current law.
- Current law requires signatures of 5% of the voters of a town to file a withdrawal petition. Under this bill, signatures of 5% of the voters in each town in the school district are required before the withdrawal process can even begin.
- The bill exponentially increases the time necessary for a town to withdraw from a union school district. Why create a process requiring years to complete, unless you want the process to never be completed?
- The bill imposes a huge obstacle before a town seeking to withdraw from a union school district, by requiring the town to show it has a commitment from a school district to explore or provide supervisory services, such as special education, transportation, and book-keeping. As we have seen with the Town of Ripton, a neighboring town to Starksboro, this requirement empowers a school district to try to veto a town's withdrawal, by refusing to negotiate in good faith with the withdrawing town over supervisory services. Why should a school district be able to deny supervisory services to a withdrawing town, even if properly compensated for those services? These services are not private property. These are public assets paid for by taxpayers.
- A supermajority of 60% is needed for a town to withdraw over the objection of the State Board of Education. According to testimony in the House Education Committee, in no other circumstances is a vote prompted by a petition subject to a supermajority requirement. We know from past statements that the State Board will want to object to most

withdrawals, so most proposed withdrawals will be subject to the supermajority requirement.

- The bill will render null and void a town vote to withdraw, if the vote occurs before July 1, 2022 and a ratification vote has been scheduled but has yet to take place. The vote will be thrown out even if it was conducted properly in accordance with applicable law. It is astonishing that state leaders would consider disenfranchising voters in this manner, yet that will be the result if H.727 as introduced is enacted.

A number of misleading or unfounded claims have been made in support of the new section 724, the withdrawal provisions of H.727.

First claim. Proponents who want to severely limit or prevent any school district withdrawals argue that a unified district provides better education to students, especially at-risk students. The state has a compelling interest in providing high quality education to all students and promoting student equity.

- Our school has proven that it can provide a successful learning environment for all our students, especially the more than 45% who are in poverty. Of course, there are unified school districts who have been able to provide great educational opportunities for students, but in our situation our students will be worse off if their school is closed.

Second claim. It is suggested that withdrawal from a unified school district is unfair to the other towns in the district, because their taxes will increase.

- In evaluating this topic before our neighbor Lincoln's withdrawal, our school district concluded that Lincoln's withdrawal would have a negligible impact on the school district's finances. Based on past statements of the school district, we anticipate similar results in the event of a Starksboro withdrawal.

Third claim. Are withdrawals unfair to the Superintendent's Office, due to the time and effort needed to prepare analysis related to the proposed withdrawal?

- The burden on a Superintendent's Office of supporting a Withdrawal Study Committee for upwards of two years, as proposed in the new section 724, is significantly greater than under the current law.

Fourth claim. Towns proposing to withdraw may lack the size and resources to provide supervisory services, such as student transportation, business office functions, and special education.

- The absence of supervisory services for a withdrawing town is a problem fabricated by the State Board of Education. When deliberating on our neighbor Ripton's proposed withdrawal, the State Board had two options under section 261 of Title 16: first, the Board could have adjusted supervisory district boundaries to include the withdrawing town; second, the Board could have designated the withdrawing town as its own supervisory district, but only if the withdrawing town will "provide for the education of all resident students in prekindergarten through grade 12 and is large enough to support the planning and administrative functions of a supervisory union." 16 V.S.A. section 261(c). The Board chose to designate Ripton as its own supervisory district, even though it may not be large enough.
- Our proposed amendment will ensure that the State Board will follow existing law when ensuring that all students have access to supervisory services.
- In the case of Starksboro, our choices post-withdrawal will include: requesting supervisory services from our current school district or a neighboring school district, purchasing supervisory services, or forming a supervisory district with Lincoln and Ripton. In no case will students be deprived of supervisory services, including special education for our most vulnerable students.

Fifth claim. Some claim that withdrawal is bad public policy because it will promote school choice, and therefore increase the potential for school choice to undermine public schools.

- In our case, we are dedicated to supporting public schools. Saving our public elementary school is critical to supporting public schools in our town and others. We will need to tuition our high school students to other schools, and while a new school board ultimately will make these decisions, we are confident our town will choose to identify one or more designated high schools, rather than unlimited school choice.

Sixth claim. The State has an interest in ensuring that students are well educated, and that state financial resources are used appropriately.

- Current law, section 724, already conditions approval on the withdrawing town demonstrating that it can provide an education to its students that meet the Education Quality Standards of the Vermont Agency of Education. Current law under our amendment would also require a showing of compliance with federal special education standards. We have yet to see any rigorous financial analysis of withdrawals and state finances suggesting a meaningful adverse impact to state finances if a handful of towns withdraw from their school district.

Seventh claim. A prominent argument in the House was that withdrawing towns do not have expertise to know whether withdrawal is in their best interests, leading to emotional, impulsive and irrational decisions.

- This argument suggests that state leaders and the educational establishment should not trust local voters to make prudent, rational decisions on issues impacting the education of the town's students. On the contrary, the schools that have withdrawn, or are in the process of withdrawing (Westminster, Ripton, and Lincoln) had good reasons to withdraw, either because of a poor practical fit

with the school district in one case, or because the school district threatened to close the town's elementary school in the others. Detailed programmatic and financial information was provided in advance of approval by voters. Other proposed withdrawals did not receive the approval of voters. Local voters are not ignorant, and are very motivated to act in the best interests of their students.

Eighth claim. Voters need good, accurate information and analysis before they are asked whether or not to withdraw. If some towns which have withdrawn have been able to satisfy the new information and analysis requirements, towns seeking to withdraw in the future should be able to do so as well.

- As noted above, in the three towns that have voted to withdraw, voters have been provided detailed financial and programmatic information on the potential impact of withdrawal. I suspect in towns that have voted not to withdraw, voters did not feel that the information provided to them adequately supported the plan to withdraw.
- We agree it would be sensible for section 724 to be amended to identify the information and analysis voters should have available before they are asked to vote on withdrawal. We object to the new proposed process that adds unnecessary significantly more requirements and obstacles, thereby making it virtually impossible for a town to consider withdrawing.

Ninth claim. Opponents of the current withdrawal statute argue that a limited number of "self-selected" residents of a town should not be allowed to start a withdrawal process, to the detriment of the district and the other towns. Rather, the withdrawal process should be "transparent and accountable" by placing the process in the hands of a public body.

- Our constitution has long held sacred the right of voters to petition the government for redress of legitimate grievances. Vermont's municipal election laws, incorporated into the withdrawal process,

embodies that fundamental right by allowing 5% of the voters in a town to petition their government to warn a vote on whether to withdraw. Those citizens are not asked to make public decisions; rather the petition is intended simply to warn a vote. If the town vote is in the affirmative, then and only then do the other towns have an opportunity to weigh in to decide whether withdrawal might have an adverse impact on the district. In the case of the three towns that have voted to withdraw, and after information and analysis provided by the school district, all three groups of remaining towns have decided that the withdrawing town should be allowed to do so.

Tenth claim. It has been suggested that withdrawals should be discouraged because teachers might lose employment rights based on the existing school district contract.

- Each withdrawal situation will be different. In our case, there are many teachers who are not happy with the manner in which the school district is administered and managed. There are more than a few teachers who might prefer leaving a top-down, centralized control and management environment for the opportunity to work with students in a more effective manner.

Eleventh claim. Some have raised a “straw man” argument that at no time can the State Board stop the withdrawal process, and therefore towns will still be able to withdraw under the new section 724.

- The original draft of section 724 of the House Education Committee’s committee bill, sponsored by the State Board of Education, would have conferred on the State Board the ability to directly disapprove a proposed withdrawal. That provision was later revised to remove the direct State Board veto, and in its place construct a cumbersome, time-consuming and fraught process that makes it virtually impossible for a town to withdraw.



A better approach. The new withdrawal section proposed in H.727 is based on a flawed approach to student learning, and contradicts the legitimate rights and expectations of voters in a vibrant, strong democratic society. A better approach is simply to clearly and directly address any problems perceived in the current law:

First Amendment. The first, three-page amendment would accomplish the following:

1. In section 724(a), on page 1, the withdrawal statute will apply to any school district, not just districts formed voluntarily by member towns. This change is designed to address the problem faced by Stowe, and the statutory construction which suggested that an involuntary merger should be treated differently from a voluntary merger for withdrawal purposes. The change also ensures that in the case of a second merger, a school district member town will have the same rights as a town in a district under the initial merger.
2. In section 724(b)(1), one page 1, a time frame is included on when a ratification vote must take place.
3. In section 724(b)(2), those residents petitioning for withdrawal must provide a withdrawal impact report with credible information and analysis to voters. The school district must provide information to the petitioners, but is not obligated to conduct analysis of the information. The withdrawal impact report must include:
  - Why withdrawal is being considered.
  - The impact of withdrawal on education programs in the reconstituted district.
  - The impact of withdrawal on education spending and property taxes.
  - Where elementary school, middle school and high school students will be educated.
  - The options for how transportation, special education, and other supervisory services will be provided.
  - The impact on school staff in any facility serving students in the reconstituted district.

- A withdrawal time-line of events from the warning to the estimated operational date of the reconstituted district.
4. In section 724(b)(3), page 2, the school district must provide a district withdrawal impact report with credible information and analysis to voters in the remaining towns. The school district must provide information necessary to evaluate the district withdrawal impact report, but is not obligated to conduct analysis of the information. The district withdrawal impact report must include:
    - A response by the district to the information and analysis in the town or city withdrawal impact report.
    - The impact of withdrawal on educational programs in the school district.
    - The impact of withdrawal on education spending and property taxes in the district.
    - The impact on school staff in facilities in the school district.
  5. In section 724(c), page 2, the State Board must review and decide on the proposed withdrawal within 60 days of notice of the ratification vote.
  6. In section 724(c)(1), page 2, in addition to compliance with State Education Quality Standards, a withdrawing town must demonstrate to the State Board that it will be in compliance with federal special education standards.
  7. In section 724(3), page 2, the requirements of section 261 of Title 16 are incorporated and clarified, so that the State Board must either assign the reconstituted school district to a supervisory district, or designate the reconstituted school district as its own supervisory district, but only if the reconstituted district is large enough to provide necessary supervisory services. Without these amendments, a school district holds a veto over withdrawal. The school district and the reconstituted district would be obligated to negotiate in good faith the terms of any supervisory services agreement.
  8. In Sec. 7, page 3, the legislation would take effect at the usual date, July 1, 2022. Towns that have begun the withdrawal process by a warned vote of approval before July 1, 2022 would follow the process laid out in current law, except that:

- The obligations of the State Board and school districts relating to supervisory services would apply to those towns who have started the withdrawal process also.
- A town such as Stowe which was merged involuntarily by the State Board would be allowed to utilize the current withdrawal statute.

Second amendment. The second, one page amendment is a fall-back position, should the provisions of section 724 in H.727 move forward. The second amendment would accomplish the following:

- Starksboro has warned a vote on May 10, 2022 on whether to withdraw from our school district. Because H.727, Sec. 6 as passed by the House only recognizes a withdrawal vote if followed by a ratification vote before July, 1, 2022, the combination of Sec. 6 and Sec. 7 in H.727 would nullify Starksboro's vote, even though lawfully conducted under existing law.
- This amendment would ensure that our town's vote would be recognized by the laws of the state of Vermont, so that the withdrawal process could proceed under current law.
- This amendment would prevent a town's voters from being disenfranchised.

Thank you for your consideration of these matters,

Herb Olson