| 1  | S.55  |
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| 2  | An act relating to updating Vermont's Open Meeting Law                          |
| 3  | It is hereby enacted by the General Assembly of the State of Vermont:           |
| 4  | Sec. 1. LEGISLATIVE INTENT  |
| 5  | It is the intent of the General Assembly that regardless of the form and        |
| 6  | format of a meeting, whether in-person, remote, or a hybrid fashion, that:      |
| 7  | (1) meetings of public bodies be fully accessible to members of the             |
| 8  | public who would like to attend and participate, as well as to members of those |
| 9  | public bodies who have been appointed or elected to serve their communities;    |
| 10 | (2) subject to any exceptions in the Open Meeting Law, the                      |
| 11 | deliberations and decisions of public bodies be transparent to members of the   |
| 12 | public; and   |
| 13 | (3) the meetings of public bodies be conducted using standard rules and         |
| 14 | best practices for both meeting format and method of delivery.                  |
| 15 | Sec. 2. 1 V.S.A. § 310 is amended to read:                                      |
| 16 | § 310. DEFINITIONS  |
| 17 | As used in this subchapter:   |
| 18 | (1) "Advisory body" means a public body that does not have                      |
| 19 | supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or |
| 20 | budgetary matters.  |

21

| 1  | (2) "Business of the public body" means the public body's                        |
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| 2  | governmental functions, including any matter over which the public body has      |
| 3  | supervision, control, jurisdiction, or advisory power.                           |
| 4  | (2)(3) "Deliberations" means weighing, examining, and discussing the             |
| 5  | reasons for and against an act or decision, but expressly excludes the taking of |
| 6  | evidence and the arguments of parties.   |
| 7  | (4) "Hybrid meeting" means a meeting that includes both a designated             |
| 8  | physical meeting location and a designated electronic meeting platform.          |
| 9  | (3)(5)(A) "Meeting" means a gathering of a quorum of the members of a            |
| 10 | public body for the purpose of discussing the business of the public body or for |
| 11 | the purpose of taking action.  |
| 12 | * * *  |
| 13 | (4)(6) "Public body" means any board, council, or commission of the              |
| 14 | State or one or more of its political subdivisions, any board, council, or       |
| 15 | commission of any agency, authority, or instrumentality of the State or one or   |
| 16 | more of its political subdivisions, or any committee or subcommittee of any of   |
| 17 | the foregoing boards, councils, or commissions, except that "public body" does   |
| 18 | not include councils or similar groups established by the Governor for the sole  |
| 19 | purpose of advising the Governor with respect to policy.                         |
| 20 | (5)(7) "Publicly announced" means that notice is given to an editor,             |

publisher, or news director of a newspaper or radio station serving the area of

| 1  | the State in which the public body has jurisdiction, and to any person who has    |
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| 2  | requested under subdivision 312(c)(5) of this title to be notified of special     |
| 3  | meetings.   |
| 4  | (6)(8) "Quasi-judicial proceeding" means a proceeding which that is:              |
| 5  | * * *   |
| 6  | (9) "Undue hardship" means an action required to achieve compliance               |
| 7  | would require significant difficulty or expense in light of factors including the |
| 8  | overall size of the entity, sufficient personnel and staffing availability, the   |
| 9  | entity's budget, and the costs associated with compliance.                        |
| 10 | Sec. 3. 1 V.S.A. § 312 is amended to read:  |
| 11 | § 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES                                |
| 12 | (a)(1) All meetings of a public body are declared to be open to the public at     |
| 13 | all times, except as provided in section 313 of this title. No resolution, rule,  |
| 14 | regulation, appointment, or formal action shall be considered binding except as   |
| 15 | taken or made at such open meeting, except as provided under subdivision          |
| 16 | 313(a)(2) of this title. A meeting of a public body is subject to the public      |
| 17 | accommodation requirements of 9 V.S.A. chapter 139. A public body shall           |
| 18 | electronically record all public hearings held to provide a forum for public      |
| 19 | comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall          |
| 20 | have access to copies of such electronic recordings as described in section 316   |
| 21 | of this title.  |

| 1  | (2) Participation in meetings through electronic or other means.                  |
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| 2  | * * *   |
| 3  | (D) If a quorum or more of the members of a public body attend a                  |
| 4  | meeting without being physically present at a designated meeting location, the    |
| 5  | agenda required under subsection (d) of this section shall designate at least one |
| 6  | physical location where a member of the public can attend and participate in      |
| 7  | the meeting. At least one member of the public body, or at least one staff or     |
| 8  | designee of the public body, shall be physically present at each designated       |
| 9  | meeting location. The requirements of this subdivision (D) shall not apply to     |
| 10 | advisory bodies.  |
| 11 | (3) State nonadvisory public bodies; hybrid meeting requirement. Any              |
| 12 | public body of the State, except advisory bodies, shall:                          |
| 13 | (A) hold all regular and special meetings in a hybrid fashion, which              |
| 14 | shall include both a designated physical meeting location and a designated        |
| 15 | electronic meeting platform;  |
| 16 | (B) electronically record all meetings; and                                       |
| 17 | (C) for a minimum of 30 days following the approval and posting of                |
| 18 | the official minutes for a meeting, retain the audiovisual recording and post the |
| 19 | recording in a designated electronic location.                                    |
| 20 | (4) State and local advisory bodies; electronic meetings without a                |
| 21 | physical meeting location. A quorum or more of the members of an advisory         |

| 1  | body may attend any meeting of the advisory body by electronic or other           |
|----|---|
| 2  | means without being physically present at or staffing a designated meeting        |
| 3  | location. A quorum or more of the members of any public body may attend an        |
| 4  | emergency meeting of the body by electronic or other means without being          |
| 5  | physically present at or staffing a designated meeting location.                  |
| 6  | (5) State nonadvisory public bodies; State and local advisory bodies;             |
| 7  | designating electronic platforms. State nonadvisory public bodies meeting in a    |
| 8  | hybrid fashion pursuant to subdivision (3) of this subsection and State and       |
| 9  | local advisory bodies meeting without a physical meeting location pursuant to     |
| 10 | subdivision (4) of this subsection shall designate and use an electronic platform |
| 11 | that allows the direct access, attendance, and participation of the public,       |
| 12 | including access by telephone. The public body shall post information that        |
| 13 | enables the public to directly access the designated electronic platform and      |
| 14 | include this information in the published agenda or public notice for the         |
| 15 | meeting.  |
| 16 | (6) Local nonadvisory public bodies; meeting recordings.                          |
| 17 | (A) A public body of a municipality or political subdivision, except              |
| 18 | advisory bodies, shall record, in audio or video form, any meeting of the public  |
| 19 | body and post a copy of the recording in a designated electronic location for a   |
| 20 | minimum of 30 days following the approval and posting of the official minutes     |
| 21 | for a meeting.  |

| 1  | (B) A municipality is exempt from subdivision (A) of this                       |
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| 2  | subdivision (6) if compliance would impose an undue hardship on the             |
| 3  | municipality.   |
| 4  | (C) A municipality shall have the burden of proving that compliance             |
| 5  | under this section would impose an undue hardship on the municipality.          |
| 6  | * * *   |
| 7  | (j) Request for access.   |
| 8  | (1) A resident of the geographic area in which the public body has              |
| 9  | jurisdiction, a member of a public body, or a member of the press may request   |
| 10 | that a public body designate a physical meeting location or provide electronic  |
| 11 | or telephonic access to a regular meeting, but not to a series of regular       |
| 12 | meetings, special meetings, emergency meetings, or field visits.                |
| 13 | (2) The request shall be made in writing, as specified by the public            |
| 14 | body, not less than two business days before the date of the meeting. The       |
| 15 | public body shall not require the requestor to provide a basis for the request. |
| 16 | (3) The public body shall grant the request unless:                             |
| 17 | (A) there is an all-hazards event as defined in 20 V.S.A. § 2 or a state        |
| 18 | of emergency declared pursuant to 20 V.S.A. §§ 9 and 11;                        |
| 19 | (B) there is a local incident as defined in section 312a of this                |
| 20 | subchapter; or  |
| 21 | (C) compliance would impose an undue hardship on the municipality.              |

| 1  | (4) A public body shall have the burden of proving that compliance            |
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| 2  | under subdivision (3) of this subsection would impose an undue hardship on    |
| 3  | the public body.  |
| 4  | Sec. 4. COMMUNICATIONS UNION DISTRICTS; STATE                                 |
| 5  | NONADVISORY PUBLIC BODIES; DESIGNATED PHYSICAL                                |
| 6  | MEETING LOCATION EXCEPTION  |
| 7  | Until January 1, 2025, notwithstanding the provisions of 1 V.S.A.             |
| 8  | § 312(a)(3), communications union districts and State nonadvisory public      |
| 9  | bodies shall not be required to designate a physical meeting location for     |
| 10 | regular and special meetings or hold regular and special meetings in a hybrid |
| 11 | fashion.  |
| 12 | Sec. 5. 1 V.S.A. § 312(k) is added to read:                                   |
| 13 | (k) Training.   |
| 14 | (1) Annually, the following officers shall participate in a professional      |
| 15 | training that addresses the procedures and requirements of this subchapter:   |
| 16 | (A) for municipalities and political subdivisions, the chair of the           |
| 17 | legislative body, town manager, and mayor; and                                |
| 18 | (B) for the State, the chair of any public body that is not an advisory       |
| 19 | body.   |
| 20 | (2) The Secretary of State shall develop the training required by             |
| 21 | subdivision (1) of this subsection and make the training available to         |

| 1  | municipalities and political subdivisions and public bodies. The training may    |
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| 2  | be in person, online, and synchronous or asynchronous.                           |
| 3  | Sec. 6. 1 V.S.A. § 312a is amended to read:                                      |
| 4  | § 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY                            |
| 5  | (a) As used in this section:   |
| 6  | (1) "Affected public body" means a public body:                                  |
| 7  | (A) whose regular meeting location is located in an area affected by a           |
| 8  | hazard or local incident; and  |
| 9  | (B) that cannot meet in a designated physical meeting location due to            |
| 10 | a declared state of emergency pursuant to 20 V.S.A. chapter 1 or local incident  |
| 11 | (2) "Directly impedes" means interferes or obstructs in a manner that            |
| 12 | makes it infeasible for a public body to meet either at a designated physical    |
| 13 | location or through electronic means.  |
| 14 | (3) "Hazard" means an "all-hazards" as defined in 20 V.S.A. § 2(1).              |
| 15 | (4) "Local incident" means a weather event, loss of power or                     |
| 16 | telecommunication services, public health emergency, public safety threat,       |
| 17 | received threat that a member of the public body believes may place the          |
| 18 | member or another person in reasonable apprehension of death or serious          |
| 19 | bodily injury, or other event that directly impedes the ability of a public body |
| 20 | to hold a meeting electronically or in a designated physical location.           |

designated physical meeting location.

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| 1  | (b) Notwithstanding subdivisions 312(a)(2)(D), (a)(3), and (c)(2) of this            |
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| 2  | title, during a <u>local incident or</u> declared state of emergency under 20 V.S.A. |
| 3  | chapter 1:   |
| 4  | (1) A quorum or more of an affected public body may attend a regular,                |
| 5  | special, or emergency meeting by electronic or other means without                   |
| 6  | designating a physical meeting location where the public may attend.                 |
| 7  | (2) The members and staff of an affected public body shall not be                    |
| 8  | required to be physically present at a designated meeting location.                  |
| 9  | (3) An affected public body of a municipality may post any meeting                   |
| 10 | agenda or notice of a special meeting in two publicly accessible designated          |
| 11 | electronic locations in lieu of the two designated public places in the              |
| 12 | municipality, or in a combination of a designated electronic location and a          |
| 13 | designated public place.   |
| 14 | (c) Before a public body may meet under the authority provided in this               |
| 15 | section for meetings held during a local incident, the highest ranking elected or    |
| 16 | appointed officer of the public body shall make a formal written finding and         |
| 17 | announcement of the local incident, including the basis for the finding.             |
| 18 | (d) Notwithstanding subdivision 312(a)(3) of this title, during a local              |
| 19 | incident that impedes an affected public body's ability to hold a meeting by         |
| 20 | electronic means, the affected public body may hold a meeting exclusively at a       |

| 1  | (e) when an affected public body meets electronically under subsection (t        |
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| 2  | of this section, the affected public body shall:                                 |
| 3  | (1) use technology that permits the attendance and participation of the          |
| 4  | public through electronic or other means;  |
| 5  | (2) allow the public to access the meeting by telephone; and                     |
| 6  | (3) post information that enables the public to directly access and              |
| 7  | participate in meetings electronically and shall include this information in the |
| 8  | published agenda for each meeting; and   |
| 9  | (4) if applicable, publicly announce and post a notice that the meeting          |
| 10 | will not be held in a hybrid fashion and will be held either in a designated     |
| 11 | physical meeting location or through electronic means.                           |
| 12 | (d)(f) Unless unusual circumstances make it impossible for them to do so,        |
| 13 | the legislative body of each municipality and each school board shall record     |
| 14 | any meetings held pursuant to this section.                                      |
| 15 | (e)(g) An affected public body of a municipality shall continue to post          |
| 16 | notices and agendas in or near the municipal clerk's office pursuant to          |
| 17 | subdivision 312(c)(2) of this title and shall provide a copy of each notice or   |
| 18 | agenda to the newspapers of general circulation for the municipality.            |
| 19 | Sec. 7. 1 V.S.A. § 314 is amended to read:                                       |
| 20 | § 314. PENALTY AND ENFORCEMENT   |
| 21 | * * *  |

| 1  | (e) A municipality shall post on its website, if it maintains one:                |
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| 2  | (1) an explanation of the procedures for submitting notice of an Open             |
| 3  | Meeting Law violation to the public body or the Attorney General; and             |
| 4  | (2) a copy of the text of this section.   |
| 5  | Sec. 8. 17 V.S.A. § 2640 is amended to read:                                      |
| 6  | § 2640. ANNUAL MEETINGS   |
| 7  | * * *   |
| 8  | (b)(1) When a town so votes, it may thereafter start its annual meeting on        |
| 9  | any of the three days immediately preceding the first Tuesday in March at such    |
| 10 | time as it elects and may transact at that time any business not involving voting |
| 11 | by Australian ballot or voting required by law to be by ballot and to be held on  |
| 12 | the first Tuesday in March. A meeting so started shall be adjourned until the     |
| 13 | first Tuesday in March.   |
| 14 | (2) An informational meeting held in the three days preceding the first           |
| 15 | Tuesday in March pursuant to this subsection shall be video recorded and a        |
| 16 | copy of the recording shall be posted in a designated electronic location within  |
| 17 | 24 hours until the results of the annual meeting have been certified.             |
| 18 | * * *   |
| 19 | Sec. 9. 17 V.S.A. § 2680 is amended to read:                                      |
| 20 | § 2680. AUSTRALIAN BALLOT SYSTEM; GENERAL   |
| 21 | * * *   |

| 1  | (h) Hearing.  |
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| 2  | * * *   |
| 3  | (2)(A) The hearing shall be held within the $\frac{10}{20}$ days preceding the  |
| 4  | meeting at which the Australian ballot system is to be used. The legislative    |
| 5  | body shall be responsible for the administration of this hearing, including the |
| 6  | preparation of minutes.   |
| 7  | * * *   |
| 8  | (3) A hearing held pursuant to this subsection shall be video recorded          |
| 9  | and a copy of the recording shall be posted in a designated electronic location |
| 10 | until the results of the meeting have been certified.                           |
| 11 | Sec. 10. WORKING GROUP ON PARTICIPATION AND ACCESSIBILITY                       |
| 12 | OF MUNICIPAL PUBLIC MEETINGS AND ELECTIONS;                                     |
| 13 | REPORT  |
| 14 | (a) Creation. There is created the Working Group on Participation and           |
| 15 | Accessibility of Municipal Public Meetings and Elections to study and make      |
| 16 | recommendations to:   |
| 17 | (1) improve the accessibility of and participation in meetings of local         |
| 18 | public bodies, annual municipal meetings, and local elections; and              |
| 19 | (2) increase transparency, accountability, and trust in government.             |
| 20 | (b) Membership. The Working Group shall be composed of the following            |
| 21 | members:  |

| 1  | (1) two designees of the Vermont League of Cities and Towns, who             |
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| 2  | shall represent municipalities of differing populations and geographically   |
| 3  | diverse areas of the State;  |
| 4  | (2) two designees of the Vermont Municipal Clerks' and Treasurers'           |
| 5  | Association, who shall represent municipalities of differing populations and |
| 6  | geographically diverse areas of the State;                                   |
| 7  | (3) one designee of the Vermont School Boards Association;                   |
| 8  | (4) one designee of Disability Rights Vermont;                               |
| 9  | (5) one designee of the Vermont Access Network;                              |
| 10 | (6) one member with expertise in remote and hybrid voting and meeting        |
| 11 | technology, appointed by the Secretary of State;                             |
| 12 | (7) the Chair of the Human Rights Commission or designee; and                |
| 13 | (8) the Secretary of State or designee, who shall be Chair.                  |
| 14 | (c) Powers and duties. The Working Group shall:                              |
| 15 | (1) recommend best practices for:  |
| 16 | (A) running effective and inclusive meetings and maximizing                  |
| 17 | participation and accessibility in electronic, hybrid, and in-person annual  |
| 18 | meetings and meetings of public bodies;                                      |
| 19 | (B) the use of universal design for annual meetings and meetings of          |
| 20 | public bodies;   |

| 1  | (C) training public bodies for compliance with the Open Meeting                   |
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| 2  | Law; and  |
| 3  | (D) recording meetings of municipal public bodies and the means and               |
| 4  | timeline for posting those recordings for public access.                          |
| 5  | (2) report on the findings of the Civic Health Index study by the                 |
| 6  | Secretary of State and how to reduce barriers to participation in public service; |
| 7  | (3) identify the technical assistance, equipment, and training necessary          |
| 8  | for municipalities to run effective and inclusive remote or hybrid public         |
| 9  | meetings;   |
| 10 | (4) produce a guide for accessibility for polling and public meeting              |
| 11 | locations;  |
| 12 | (5) study the feasibility of using electronic platforms to support remote         |
| 13 | attendance and voting at annual meetings;   |
| 14 | (6) analyze voter turnout and the voting methods currently used                   |
| 15 | throughout the State;   |
| 16 | (7) investigate whether increased use of resources for participants such          |
| 17 | as child care, hearing devices, translators, transportation, food, and hybrid     |
| 18 | meetings could increase participation in local public meetings; and               |
| 19 | (8) study other topics as determined by the group that could improve              |
| 20 | participation and access to local public meetings.                                |

| 1  | (d) Assistance. The Working Group shall have the administrative,                |
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| 2  | technical, and legal assistance of the Office of the Secretary of State. The    |
| 3  | Office of the Secretary of State may hire a consultant to provide assistance to |
| 4  | the Working Group.  |
| 5  | (e) Consultation. The Working Group shall consult with the Vermont Press        |
| 6  | Association, communications union districts, and other relevant stakeholders.   |
| 7  | (f) Report. On or before November 1, 2025, the Working Group shall              |
| 8  | submit a written report to the House Committee on Government Operations         |
| 9  | and Military Affairs and the Senate Committee on Government Operations          |
| 10 | with its findings and any recommendations for legislative action.               |
| 11 | (g) Meetings.   |
| 12 | (1) The Secretary of State shall call the first meeting of the Working          |
| 13 | Group to occur on or before September 1, 2024.                                  |
| 14 | (2) A majority of the membership shall constitute a quorum.                     |
| 15 | (3) The Working Group shall cease to exist on the date that it submits          |
| 16 | the report required by this section.  |
| 17 | (h) Compensation and reimbursement. The members of the Working                  |
| 18 | Group shall be entitled to per diem compensation and reimbursement of           |
| 19 | expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings.     |
| 20 | These payments shall be made from monies appropriated to the Office of the      |
| 21 | Secretary of State.   |

- 1 Sec. 11. EFFECTIVE DATES
- This act shall take effect on July 1, 2024, except that Sec. 5 (1 V.S.A.
- 3 § 312(k)) shall take effect on January 1, 2025.