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March 12, 2025

To: Hon. Matthew Birong, Chair
House Committee on Government Operations and Military Affairs

From: S. Lauren Hibbert, Deputy Secretary of State
Sean Sheehan, Director, Elections and Campaign Finance

Re: Misc. Elections Bill: 25-0242 Draft 1.6

Dear Committee Members:

Thank you for the opportunity to testify about this year's Elections Bill.

Section 1: Report

As stated in previous testimony, the Vermont Secretary of State (VTSOS) strongly supports the adoption of RCV for the 2028 presidential primary. We believe this session is the optimal time to pass legislation in order to give our office ample lead time to educate clerks and voters. Vermont would not be creating an implementation plan from whole cloth. Indeed, our neighbors in Maine have used RCV for years, and Alaska, New York City, and nearly two dozen cities in Utah have adopted it more recently. As you heard in testimony last month, most voters found RCV ballots to be intuitive, however voter education has still been a priority in each jurisdiction. The [Center for Civic Design](#) and the [Ranked Choice Voting Resource Center](#) have studied lessons learned for voter education, and we would use the lead time to implement best practices here in Vermont.

If the committee is not prepared to adopt RCV this year, but instead calls for a written report, the VTSOS will prepare the report as directed. We accept the wording in its current form, with the one exception being that we assume the desired due date is January 2026 rather than 2025.

Sections 2, 3, 4, 5, 6, and 7: Ending Fusion Candidates

17 V.S.A. § 2381, 17 V.S.A. § 2386, 17 V.S.A. § 2472, 17 V.S.A. § 2474 – Fusion voting allows more than one political party to nominate the same candidate. The practice was common across the country in the 19th century, but most states no longer allow it. In some states that still allow it, such as NY and CT, the candidate is listed multiple times – once with each party. In others, including Vermont, the candidate is listed once and then can display multiple party affiliations. This bill would prohibit candidates from

displaying multiple party affiliations on the ballot and thus add Vermont to the ranks of the majority of states that disallow the practice.

VTSOS sees these sections as a policy decision for the legislature. Our office is equipped to implement the change or to maintain current practice.

Section 8: *Universal Vote-by-Mail for the August Primary*

17 V.S.A. § 2537a VTSOS strongly supports “universal vote-by-mail” (UVBM) but does not support this section at this time.

One of our main missions is to increase Vermonters’ participation in elections by making voting easy, accessible, and convenient. The “vote-by-mail” system, whereby a ballot for an election is mailed proactively to all active registered voters, serves all of those goals. The fact that Vermont achieved its two highest voter turnouts in the 2020 and 2024 general elections – over 70% in each – speaks volumes about the power of vote-by-mail to advance our mission.

In addition, we have heard from clerks and the public that one of the biggest sources of confusion is the fact that Vermont conducts its three elections in three different ways. We support the goal of bringing more consistency to the way we do elections, and expanding UVBM to the August primary would bring consistency to our August and November elections.

At the same time, however, financial and logistical considerations suggest that other changes must be made to the primary before we could support the expansion of UVBM. We do not support mailing 1.35 million ballots - three ballots to 450,000 voters. Possible changes could include one or more of the following:

- **Offer party registration.** This approach is taken in UVBM state Oregon. If you are registered with a party, you only get that party’s ballot. If you don't consider yourself part of a political party, you don't automatically get a primary ballot.
- **Raise the standard for major party status.** Primaries are fundamentally a partisan exercise that was not always a state function. Between 1850 and 1900, most states began conducting state-run primaries for parties to nominate candidates for the General Election. If fewer than 500 people are going to vote in a party’s primary, the legislature might consider whether it is appropriate for the State to pay to print 450,000 extra ballots that are not used.
- **Non-partisan or top-two primary.** Everyone goes on the same ballot and the top two advance.

VTSOS doesn't have a sense that there is a consensus on any of these changes. Given the uncertainty on continued federal funding for elections, which constitutes 60% of our elections budget, we recommend exploring whether Vermonters might support one or more of these changes to save money while increasing voter participation.

We recommend the Committee read [our report on expanding universal vote-by-mail](#) that we submitted in 2023. Additionally, VTSOS recommends that the Committee request a fiscal note on this initiative, so the true fiscal impacts are understood.

Section 9: *REPORT*

This section calls for VTSOS to submit a report on electronic ballot return in November 2025. We ask that the due date for this report be amended to November 15, 2026. We typically do not move election policy in an election year.

VTSOS agrees with the Committee and does not recommend moving forward with electronic ballot returns this session.. While we agree it's wise to monitor developments, we recommend postponing this report to 2026 to assess three considerations:

- 1) Reports from the Cybersecurity and Infrastructure Security Agency (CISA) identify areas that need to be tightened up before we can have full confidence in the security of electronic ballot return. Given the current federal posture that elections are no longer considered critical infrastructure, it is unlikely a standard for security will be developed in the next couple years that will give us confidence in this technology at this time. We recommend monitoring what other states are doing, including assessing how many adopt or discontinue EBR, and report back in a couple years if there are changes in the landscape around security best practices and guidance.
- 2) The Agency of Digital Services should be involved in assessing security provisions and Vermont's level of preparation.
- 3) Changes of this nature should be enacted in an odd-numbered year to allow VTSOS and clerks ample time to prepare for the change. An ideal time for a report would therefore be late in an even-numbered year or early in an odd-numbered year.

Sections 10, 11, and 12: Candidate Demographic Information

VTSOS supports the proposal for legislation to direct our office to collect voluntary demographic information, to leave the specifics for how it is collected out of statute so that we can adapt policies to collect it in the most effective manner, and to exempt such information from Public Records Act queries.

We recommend amending section 12 and removing sections 10 and 11. Our recommendation is as following:

~~Sec. 10. 17 V.S.A. § 2359 is amended to read:~~

~~§ 2359. NOTIFICATION TO SECRETARY OF STATE~~

~~a. Within three days after the last day for filing petitions, all town and county clerks who have received petitions shall notify file with the Secretary of State of the names of all candidates, a list containing the name, gender, age, race or ethnicity, mailing address, and email address of all candidates, to the extent this information is provided by candidates; the offices for which they the candidates have filed; and whether each candidate has submitted a sufficient number of valid signatures to comply with the requirements of section 2355 of this title. Town and county clerks shall also notify the Secretary of State of any petitions found not to conform to the requirements of this chapter and returned to a candidate under section 2358 of this title, and shall notify the Secretary of State of the status of such petition petitions not later than two days after the last day for filing supplementary petitions.~~

~~b. Information of a candidate's gender, age, or race or ethnicity collected pursuant to subsection (a) of this section is exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Secretary of~~

~~State may publish information pertaining to candidates' gender, age, or race or ethnicity in aggregate form.~~

Sec. 11. 17 V.S.A. § 2361 is amended to read:

~~§ 2361. CONSENT OF CANDIDATE~~

~~• * *~~

~~(b)(1) The consent shall set forth the name of the candidate, candidate's name as the candidate wishes to have it printed on the ballot, the candidate's gender, age, or race or ethnicity, town of residence, and correct mailing address, and email address. A candidate who does not provide information pertaining to gender, age, or race or ethnicity may still appear on the ballot if all other requirements are met.~~

~~• * *~~

Sec. 12. 17 V.S.A. § 2665 is amended to read:

§ 2665. NOTIFICATION TO SECRETARY OF STATE

~~(a) The town clerk shall file with the Secretary of State a list candidates, of the names and addresses of the selectboard members elected and containing the name, gender, age, race or ethnicity, and candidates' street address and email address, to the extent the information is provided by the candidate, and the end date of the term of office of each selectboard member, city councilor, village trustee, and mayor elected. The town clerk shall not be required to ask the candidate for information pertaining to gender, age, or race or ethnicity if this information is not provided to the town clerk. The town clerk shall notify the Secretary of State of any changes in the list as filed.~~

~~(b) Candidates can voluntarily provide information about the candidate's gender, age, race or ethnicity in the format provided by the Secretary of State. A candidate who does not provide information pertaining to gender, age, or race or ethnicity may still appear on the ballot if all other requirements are met.~~

~~(c) Data collected pursuant to this subsection is exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Secretary of State may publish information pertaining to candidates' gender, age, or race or ethnicity in aggregate form.~~

Sections 13, 14, and 15: Write-in Candidates

Sec. 13: 17 V.S.A. § 2370 VTSOS supports this change, which creates a registration process for write-in candidates in the statewide primary who would consent to serving, if elected. This change will make the election results process for clerks and local officials more efficient, consistent, and error-free, while still allowing access to late aspiring candidates.

Sec. 14: 17 V.S.A. § 2472 VTSOS supports this change, which extends the same registration process for write-in candidates in the general election.

Sec. 15: 17 V.S.A. § 2587 This language addresses how write-in votes will be counted and reported. VTSOS recommends changing the current draft to report on aggregate votes for unregistered candidates instead of adding those votes to the blank category. This adjustment could be made simply by changing, on Page 14, line 12, the end of 17 V.S.A. § 2587(e)(3) from "write-ins" to "other write-ins" and changing 17 V.S.A. § 2587(e)(3)(B) to "Names of persons who are not registered write-in candidates shall not be

listed individually and shall be recorded on the tally sheet ~~as a blank vote~~ **in the aggregate as 'other write-ins.'**"

This adjustment will clarify the proper process for counting write-in votes and provide greater transparency in reporting results by distinguishing between actual blank votes and votes for unregistered candidates.

Sections 16, 17, 18, and 19: Campaign Finance

We are asking for minor amendments to these sections. We will likely ask for further minor amendments on the Senate side. We heard further feedback from the Attorney General's Office yesterday. We need to meet with them further before recommending changes.

Sec 16: 17 V.S.A. § 2921 [candidate registration]

Sec. 17: 17 V.S.A. § 2964 [campaign reports]

VTSOS supports this change, which eliminates the \$500 registration threshold and thus requires all candidates to register with the VTSOS prior to filing their consent form. This change enables several process improvements with benefits for the candidate and for transparency. First, it will allow VTSOS to send courtesy filing deadline reminders from the new campaign finance system to candidates, thus decreasing the likelihood of candidates inadvertently overlooking filing deadlines. Second, it will prevent candidates from slipping through the cracks of public awareness and will enable easier searching of the new campaign finance system, as the format of the candidate's name on the consent form and ballot will match with the format on the campaign finance site.

Sec. 18: 17 V.S.A. § 2901 [definitions]

§ 2901. DEFINITIONS

(15) "Public question campaign" means a political campaign, **specifically an effort to influence an election**, that conducts its activities entirely independent of candidates; **does not give contributions to candidates, political committees, or political parties; does not make any "related campaign expenditures," as defined in section 2944(b) of this title**; and is not closely related to a political party or to a political committee that makes contributions to candidates or makes related expenditures. **Includes campaigns making independent expenditures as defined by 52 U.S.C. § 30101.**

Sec. 19: Repeal 2970 and amend 2971

VTSOS supports these changes which replace "independent expenditure-only political committees" with "public question campaigns." The former had presented inconsistencies in campaign finance reporting requirements by not having to list a treasurer or report contributions. These changes will provide greater consistency in requirements for campaigns and improve public transparency.

§ 2971. Report of mass media activities

(d)(1) In addition to the reporting requirements of this section, **an independent expenditure only political committee a public question campaign** that makes an expenditure for any one mass media

activity totaling \$5,000.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each such activity and within 24 hours of the expenditure or activity, whichever occurs first, file ~~an independent expenditure-only political committee~~ **a public question campaign** mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

Section 20: Audit of Voter Checklists and District Boundaries

VTSOS filed [separate testimony](#) on this topic. We support an audit and a report issued by the Secretary of State's Office on Checklists and District Boundaries. We are seeking an amendment to this section. Our amendment is drafted to address the following concerns:

- 1) Voter checklists and district boundaries are the responsibility of town clerks and BCAs. The primary audit responsibility should lie with them. VTSOS can collect and collate audit results and prepare a report for the Legislature.
- 2) Currently, this section is drafted to require an audit of ALL voter checklists. VTSOS does not think a full review of every checklist is required. We do think it is appropriate to do a selective audit on multi-district towns. Single-district towns do not risk having voters in the wrong district.

We propose this section be amended to read:

The Secretary of State, or the Secretary's designee, **shall collect audit information from in consultation with** town clerks and local boards of civil authority, **shall perform an audit of all voter checklists for** from municipalities with multiple representative districts or senatorial districts to ensure that those checklists accurately correspond to the prescribed district boundaries. On or before November 15, 2025, the Secretary shall submit a written report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with the **Secretary's** findings.

Sections 21 and 22: Voter Fraud

Sec. 21: 17 V.S.A. § 1971 VTSOS supports clear language to prohibit someone voting more than once in the same election, whether it be more than once in Vermont, or for the same office in both Vermont and in another state. This language is clear and a strong improvement over previous language.

Sec. 22: 17 V.S.A. § 1973 VTSOS supports repeal of the previous language prohibiting voting in more than one place, as long as Section 25 passes as worded above. The amended language to 17 V.S.A. § 1971 would make 17 V.S.A. § 1973 redundant.

Section 23: Campaign Finance and Public Question Campaigns

17 V.S.A. § 2103 [campaign finance definitions]

VTSOS supports this alignment of the definition of campaign and suggests further aligning the language to mimic 17 V.S.A. § 2901 definition of a political committee which includes "individuals or a corporation, labor organization, public interest group, or other entity, not including a political party" instead of "persons."

Section 24: Review Period to Examine Petitions

17 V.S.A. § 2358 When petitions are filed, the receiving officer must examine them and determine whether they contain a sufficient number of legible signatures. The VTSOS supports this proposal, which changes the review period from 72 hours to two business days. The current timeline presents a crunch for officers when petitions are filed on Thursday or Friday and thus due Sunday or Monday. On the other hand, the change will require that filings made between Monday and Wednesday receive a faster turnaround.

Section 25: Contact Information in Certificate of Organization for State Committee of Party

17 V.S.A. § 2313, [committee organization, file officers with VTSOS] Within 10 days after the first meeting of the State committee of a party, the chair and secretary of the party are required to file a certificate to VTSOS stating that the party has completed its organization for the ensuing two years. This section proposes adding the names and address of the town and county committee members.

VTSOS supports the change in principle and – in the age of electronic communication – recommends the following slight modification which would allow the Secretary of State to direct members to provide a more preferred and accessible contact, such as a phone number or an email address. This change could be as simple as:

§ 2313. FILING OF CERTIFICATE OF ORGANIZATION * * *

(f) At the same time of filing the certificate of organization, the chair and secretary shall file with the Secretary of State a single machine-readable electronic document containing a list of the names and addresses **and contact information, in a format specified by the Secretary of State**, of the town and county committee members from those towns and counties that have organized pursuant to this chapter.

Section 26: Nomination of JPs Deadline

17 V.S.A. § 2413, [nomination of JPs] Recognizing the heavy workload facing clerks immediately after the August primary and the tight turnaround to print ballots, VTSOS supports pulling back the JP nomination deadline to the third Monday in July. This will make work easier for clerks and reduce the chance of errors and risks to the universal general election mailing schedule.

Section 27: Post Election Audit

17 V.S.A. § 2493: VTSOS supports this change, which aligns with how audits have been conducted after general elections. VTSOS will produce a policy detailing how random selection is used to ensure all jurisdictions have risk of audit, while also ensuring diversity of size and geographic distribution.

Section 28: Opening Ballots

17 V.S.A. § 2546: Allows town clerks to open ballots beginning 45 days before election day.

VTSOS supports the cleanup of this statute which seems to have been an oversight in the past. By updating to 45 days to align with UOCAVA and universal vote-by-mail ballots, this change will eliminate confusion by clerks on what to do in 45-31 day out window.

Section 29: OML and Annual Meeting

1 V.S.A. §310: Expressly exempts annual meeting from Open Meeting Law.

VTSOS supports this change to more explicitly align with how VTSOS and VLCT have traditionally interpreted annual meetings as distinct from public meetings subject to Open Meetings Law. Per 17 V.S.A. § 2640, annual meetings are meetings of the legal voters in each town, which is distinct from both the State and local “nonadvisory” and “advisory” public bodies to which OML applies.

Sections 30, 31, 32, 33, 34, 35, and 36: Provisions related to local government, including Cannabis Establishment Vote, Annual Meeting, Withdrawal of Petitioned Articles, and Local Officials

VTSOS generally sees changes to these sections as statutory clean up and policy decisions for the legislature. We did hope to hear more about the rationale for the changes in 17 V.S.A. 2681(a) to shorten by a week the window clerks have to receive petitions for municipal officers and prepare ballots. Given the burden on clerks, and the general movement statewide and nationally to allow more time for early voting, we encourage the committee to make sure this change is workable for clerks, especially for those in municipalities that conduct townwide mailing of ballots.

Section 37: Effective date

VTSOS supports making these laws effective on passage.

Additional feedback

VTSOS supports the reinstatement of a proposed change to 17 V.S.A. § 2703 - the presidential primary nominating petition - that was in Section 2 of version 1.5 of this bill but absent from version 1.6. This change did not relate to ranked choice voting, but rather would have created a registration process for write-in candidates in the presidential primary who would consent to being a candidate, if nominated. This change aligned with similar changes to three other sections that remained in version 1.6 of this draft bill – in Section 13 for the statewide primary, Section 14 for the general election, and Section 15, which addresses how write-in votes are counted and reported. This change will make the election results process for clerks and local officials more efficient, consistent, and error-free, while still allowing access to late aspiring candidates.

Similarly, VTSOS supports the reinstatement of a proposed change to 17 V.S.A. § 2704 – the presidential primary petition examination process - that was in Section 2 of version 1.5 of this bill but absent from version 1.6. When petitions for presidential primary candidates are filed, the receiving officer must examine them and determine whether they contain a sufficient number of legible signatures. The VTSOS supports this proposal, which changes the review period from 72 hours to two business days. The current timeline presents a crunch for officers when petitions are filed on Thursday or Friday and thus due Sunday or Monday. On the other hand, the change will require that filings made between Monday and Wednesday receive a faster turnaround. This change aligned with a similar changes that remained in Section 24 of version 1.6 of this draft bill.

Finally, VTSOS supports the reinstatement of a proposed change in Section 11 of version 1.5 of this bill that was absent from version 1.6. 17 V.S.A. § 2539: Delivery of ballots

This section includes changes related to two separate issues.

1) It includes language related to the universal mailing of primary ballots, thus ensuring consistency with the general election if Sec. 8 above is included. If Sec. 8 is omitted from the final bill, this set of changes should be omitted.

2) Clarifies the definition of overseas voters and extends the delivery of electronic ballots to the Address Confidentiality Program (Safe at Home).

VTSOS supports the clarification of who is an "overseas voter." We suggest a slight change that would better align with the federal definition: "Overseas voters,' as used in this section, means a person who was last domiciled in Vermont before leaving the United States and resides outside the United States."

VTSOS supports extending electronic delivery of ballots to the Safe at Home population to preserve their ability to vote and protect their privacy. The mail-forwarding process used by this population can lead to a 7-10 day delay in mail delivery. Add in existing issues with postal delivery and it can be a challenge to return a voted ballot by election day. This population would still need to physically return their voted ballot to their clerk, just as the overseas population does. However, the time savings of receiving the blank ballot electronically on the front end provides ample time to vote and return their ballot before election day. This change is not creating a new process, but rather is extending an existing process to a small but vulnerable population. (around 200 Vermonters currently)