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**April 1, 2025**

**To: Hon. Matthew Birong, Chair**  
**House Committee on Government Operations**

**From: Jenny Prosser, General Counsel, Secretary of State's Office**

**Re: S.59 – An act relating to amendments to Vermont's Open Meeting Law**

Dear Committee,

Thank you for inviting us to testify today. The Secretary of State supports the passage of this bill. We frequently field calls from municipal and State officials and members of the public who would like further clarification about how recent Open Meeting Law amendments apply to meetings in which they participate.

### **General Sections of Law**

Sec. 1: SOS supports clarifying the definition of "undue hardship" as proposed.

Sec. 2: SOS supports eliminating the term "nonadvisory body" and instead establishing general requirements for public bodies and exceptions for advisory bodies. We think this shift in focus makes the law simpler to understand and follow.

SOS supports excluding *statutory* site inspections and field visits from otherwise applicable electronic participation requirements and recording and posting requirements. We recognize the practical and potential legal difficulties imposed by these requirements, especially for inspections of private property. To ensure balanced limits on this exception, we recommend restricting it to site inspections and field visits mandated by statute and/or to those that occur as part of a quasi-judicial proceeding. We also recommend clarifying that the public body may not take testimony, admit evidence, or make any decisions during excluded site inspections or field visits. Finally, we suggest considering extending a similar exception for municipal public bodies, with regards to electronic recording and posting requirements.

SOS supports clarifying the municipal requirement for posting electronic recordings of meetings by removing the terms "approval" and "official," as these are inapplicable to many municipal public bodies. For clarity, we suggest also specifying a deadline by which the electronic recordings must be posted.

SOS supports providing additional statutory guidance about agenda content, both to assist public bodies in creating useful agendas and to help ensure that members of the public have access to needed

information about what will occur at a meeting. When we receive questions about agenda content, we advise that an agenda should be crafted with an eye towards allowing interested members of the public to be reasonably informed about what specific topics will be discussed, and, to the extent foreseeable, what actions may be taken in relation to these topics.

Sec. 3: SOS frequently receives inquiries about the mechanics and appropriateness of executive sessions. We generally suggest that executive sessions be used sparingly, subject to careful balancing of the public's right to know with law or policy outside the OML that may make protections necessary or advisable. In fielding inquiries about exiting executive session, we currently confirm that a public body must re-enter open session if it wishes to take a vote or consider any other matter, and we recommend as best practice finding some consistent way to inform interested members of the public if and when open session will resume, in order to avoid inadvertently excluding the public from public portions of the meeting.

We have not fielded calls about info relating to interest rates for publicly financed loans in this context, and so at this time we do not have a recommendation about adding this topic to the list of permissible reasons for executive session.

Sec. 4: SOS supports an on-passage effective date.