

# Ethan Allen Institute

Newsletter – May 2021 (Printer Edition)

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Top Story: Rob Roper Joins Governor Jim Douglas to Discuss “Cancel Culture” on Travels with Charlie



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## Commentary:

### How Government Expands, and Liberty Contracts

*By John McClaughry*

A bill to register building contractors is just the first step toward eventual licensing even for local handymen, and enforced compliance with energy conservation building standards to defeat climate change, no matter what the cost.

A bill making its way through the Vermont legislature offers yet another example of government's steady march toward regulating more of our economy and our lives.

The bill (H.157) aims to establish state control over contractors who do residential construction. The bill's lead sponsor is Rep. Scott Campbell (D-St. Johnsbury). On April 6 the House advanced the bill on a vote of 97 to 52 and sent it to the Senate.

In March 2019 first-term Rep. Campbell, whose business career includes 22 years building and weatherizing housing, introduced a bill (H.534) to "create an enforcement mechanism for building energy standards, create minimum competency requirements for building contractors" and "create a building general contractor licensing system." However, it received no consideration.

Meanwhile, in April 2019 the Senate passed a public health bill of which mandatory contractor registration was a part, but the House failed to act on it. This year, reelected, Rep. Campbell introduced his current bill. It contains the mandatory contractor registration requirements from the Senate-passed bill: any contractor must register with the Office of Professional Regulation (OPR) before contracting for more than \$3500 to undertake every imaginable variety of residential construction.

The requirement stops short of full-bore licensing, but the contractor has to give proof of liability insurance, have written contracts with customers, manage down payments acceptably, and comply with other similar provisions. Failure to register becomes an "unauthorized practice" subject to a civil penalty. The contractor faces disciplinary action for "unprofessional conduct", each violation carrying a civil fine of up to \$5,000. The bill gives OPR two new employees, one for managing the registration paperwork and one for enforcing against alleged violators. Total cost: \$200,000 per year, raised by fees ultimately paid by the contractor's customers.

Many of the unprofessional conduct prohibitions are, to be sure, not unreasonable on their face. The OPR promises to use a "light touch" in carrying out its duties under the bill. But there's a new finding in Rep. Campbell's bill that will undoubtedly influence how "light" a touch future OPR regulators employ.

That finding is that "improving energy performance is a key strategy for meeting the requirements of the Global Warming Solutions Act". That's the law, ardently championed by Rep. Campbell, that the legislature passed over Gov. Scott's veto last September.

Why is this a game changer? Because the OPR will come under steady pressure from the legislators who passed the GWSA, their lobby group allies, and the partisan Secretary of State who supervises the Office, to use its powers to crack down on building contractors. They will be pressured if not required to build to energy conservation standards that will stiffen year by year, as required by the GWSA Climate Action Plan to emerge by the end of this year.

It's not enough that the customer knows what he or she wants, and the contractor offers to provide it at an agreed price. It's not enough that Better Business Bureaus, the experience of friends and neighbors, and online resources provide information about contractor competence and reliability.

The regulatory power of the State must be mobilized to entangle and control especially the small-scale local handyman and fixer-upper contractor, which means there will soon be fewer of them. As Rep. Marcia Martel (R-Waterford) told the House after

voting no: “This bill just kills any chance of being a small caring contractor in your own community. ....”

In the bill’s defense, Rep. Campbell promises consumer protection against incorrectly done work. He states that “fears of compulsory licensing, bureaucratic exams of contractor competency, and blocking home sales until expensive work is done” are simply “groundless”.

Oh? Maybe he has forgotten that he himself sponsored two bills in the previous biennium: one to “create a building general contractor licensing system” with minimum competency requirements (H.534), and one to prohibit occupancy or marketable title for sale of a single family residence not certified to be in compliance with approved energy standards (H.719), which assuredly will be set forth in the coming GWSA Climate Action Plan.

Rep. Campbell, by all accounts an intelligent and well-meaning man, is on a mission to defeat climate change, and in particular to make sure no construction or even sales of single family homes can be allowed in Vermont without the approval of a state government controlled by people whose careers depend on making Vermont the Perfect Little Climate Conscious State. That mission has become so important to him that he can dismiss any dissenting predictions, no matter how well founded on legislation that he himself has sponsored, as “groundless”.

The larger issue is, what will become of Vermont and Vermonters when our every activity, our every transaction, comes under the reproving eye of a coercive state government determined to have its way?

- *John McClaughry is vice president of the Ethan Allen Institute*

[https://www.ethanallen.org/commentary\\_how\\_government\\_expands\\_and\\_liberty\\_contracts](https://www.ethanallen.org/commentary_how_government_expands_and_liberty_contracts)

## Commentary:

### The Least Secure Voting System in the Nation

*By Rob Roper*

Vermont is on the cusp of having the least secure election system in the nation.

The bill that passed the Vermont senate 27-3 (S.15) is now under consideration in the house. It would make permanent the temporary, COVID-emergency provisions adopted for the 2020 general election, including the policy of mailing “live” ballots to all voters who are active on the voter checklist, regardless of whether or not the voter requests an absentee ballot.

Proponents argue that they are trying to “create a balance” between making it easy to vote and maintaining ballot security. That’s the rhetoric, but the truth is that should S.15 become law Vermont would have no effective security mechanisms to verify the validity of an absentee ballot, and the objective is to have everyone vote absentee (though that is not required). There is no balance, nor any attempt to create any.

Proponents argue that five states (Colorado, Washington, Oregon, Utah and Hawaii) conduct elections by mail with no problems. Maybe, but it is also true that those states employ rigorous ballot security measures for mail in votes, including mandatory voter ID provisions such as signature matching (the signature on the ballot return envelope must match one on file with election officials), or the requirement that the

absentee ballot be returned with a driver's license number or the last four digits of a social security number. There needs to be some sort of verifiable information that allows election officials to have a high degree of confidence that the vote being counted was actually cast by the person to whom the vote is being attributed. Vermont would have no such security measures.

States that conduct voting by mail also ban large scale "ballot harvesting", the controversial practice of candidates, parties or special interest groups systematically collecting and returning absentee ballots. In Colorado, the gold standard in mail in voting, for example, it is illegal for anyone to collect and turn in more than ten ballots. In Vermont, large scale ballot harvesting is legal. Though a provision in S.15 prohibits candidates and their paid staffers from engaging in ballot harvesting, it is a largely meaningless. Most state house and senate candidates don't have paid staff. However, unions, activist organizations, political parties, and lobbyists do, and they would be free to ballot harvest to their hearts' – and budgets' – content.

The National Conference of State Legislatures keeps track of voting laws in all fifty states and notes the pros and cons regarding voter access vs. ballot security for each, such as all-mail voting, voter ID requirements, ballot harvesting, early voting, "same day" registration, and automatic voter registration. If S.15 becomes law, Vermont would be the only state in the union to adopt all of the access policies – mostly in their most extreme iterations -- and none of the security provisions. In other words, we would have no balance at all between access and security, and the least secure voting system in the country.

In fact, if one were designing a voting system specifically for people who wanted to cheat in an election, it would be hard to come up with a better system than Vermont's. We will mail live ballots to all active voters, putting between 100,000 and 200,000 unclaimed or unwanted ballots into circulation. Special interest groups would be free to systematically harvest those ballots, and with Vermont's 45 days of early voting, would have the maximum time available to organize and execute this activity. Automatic voter registration maximizes the number of potential unwanted/unclaimed ballots to target by registering people who are disinterested in voting. Because Vermont has no verifiable ID requirements for validating absentee ballots or identifying fraudulently cast ballots, bad actors could be extremely confident that they would not be caught committing fraud. And, with 30 days of early processing of absentee ballots, even if fraudulent votes were flagged because the real voter showed up at the polls, there is no way to remove the bad votes from the final count.

Election officials at the state and local levels admit, when pressed, that they have no way to verify who actually filled out an absentee ballot. When asked how he would be able to catch someone fraudulently casting someone else's unclaimed/unwanted ballot, Montpelier City Clerk John Odum said, "No, we can't necessarily stop them." This is unacceptable.

For citizens to have confidence that election results are accurate and fair, election officials have to have the tools to verify that the votes cast and counted are actually the votes of the people to whom the votes are being attributed and ensure "one person one vote." If S.15 becomes law, this will not be the case.

*- Rob Roper is president of the Ethan Allen Institute.*

[https://www.ethanallen.org/the\\_least\\_secure\\_voting\\_system\\_in\\_the\\_nation](https://www.ethanallen.org/the_least_secure_voting_system_in_the_nation)

To watch Rob Roper interviewed on this topic by True North Reports' Matthew Strong, [CLICK HERE](#).

## Commentary: Federal Crackdown on Vermont's Failing Special Education

*By David Flemming*

The US Department of Education (USDE) recently found that Vermont is [one of only two states](#) which “needs intervention in implementing the requirements of Part B Individuals with Disabilities Education Act (IDEA).” This shatters the myth that Vermont offers disabled students a superior education.

According to the USDE, “if a State needs intervention for 3 consecutive years, the Department must take one or more enforcement actions, including among others, requiring a corrective action plan or compliance agreement, or withholding further payments to the State.” One year down, two to go. If the feds took any of the [\\$100 or so million](#) they have given Vermont annually in the past few years, that could be fiscally disastrous, since Vermont spends [double the national average](#) per student on special education.

The structure of IDEA was federally inaugurated in 1975 to provide “educational benefit to the child.” Part B of IDEA “serves students with disabilities, ages 3 through 21.” According to the USDE, Vermont is failing to provide this benefit.

21 states “meet the requirements” of the IDEA Part B, including half of New England: New Hampshire, Maine and Massachusetts. The USDE classified 27 states, including Connecticut and Rhode Island, as “needing assistance.” The federal government has no mandate to act on states needing assistance. But states receiving the worst designation “needs intervention” better be on their toes.

Only [Vermont and New York](#) appeared on this ‘Intervention List,’ both for the first time. Though this should not come as entirely as a surprise. Both Vermont and New York “needed assistance” according to the [2019 determinations](#). “Needing intervention” was the next step backwards.

In the [USDE's 2020 IDEA annual report](#), the USDE assigned “Intervention” and “Assistance” designations using equally weighted “Results” and “Compliance” Matrixes. The USDE Compliance Matrix for the 2021 annual report, rates the 50 states with the following data:

- Whether the state reported valid and reliable data to the federal government for F2018
- The state's timeliness and accuracy of complaint and due process decisions for disabled students
- Whether the state corrected “findings of noncompliance” from F2018 and prior years
- The USDE Results Matrix similarly rates the 50 states on disabled children's academic performance in 2019:
  - % of 4th & 8th grade “disabled children” taking NAEP and statewide tests
  - % of 4th & 8th grade “disabled children” scoring at “basic or above” on NAEP math and reading tests

- % of disabled children exiting school by dropping out, and % graduating with a high school diploma

The USDE doesn't inform us how states did on each matrix, but our Results Matrix is likely poor. In 2019, Vermont sat in the middle of the pack for 8th grade NAEP math and reading tests. And were [far below average](#) for 4th grade NAEP math and reading tests.

Sadly, Vermont's poor NAEP scores are even worse than what the USDE IDEA determination would indicate, because the USDE doesn't look at student demographic differences in its determinations. Nationally, white students [score higher](#) on NAEP tests than minority students. As one of the whitest states in the country, you would expect Vermont's scores to be high. Instead, states like West Virginia, Kentucky and Georgia all received much higher USDE determinations than Vermont did for 2020. Their white students score better than Vermont's white students. Their minority students score better than Vermont's minority students.

We've heard of families moving to Vermont to get their disabled child the attention the child needs to succeed. If this trend continues, perhaps families will leave Vermont so their disabled student can escape an education system that doesn't give them life skills.

Nationwide surveys consistently rank Vermont within the top 10 states on K-12 education in the country, because our education spending dwarfs most other states. But many of those studies [confuse inputs](#) (money spent) with outputs (student achievement). It doesn't matter how much you spend on education if Vermont students are failing to learn how to do math as well as their peers.

A [2016 UVM study](#) signified the "need to reform the State's special education funding formula." That is one suggestion. Studying states which get better results for less money is another. But something must be done, now that our rate of failure is bad enough to draw federal attention. The status quo is to ignore the needs of Vermont's disabled students.

-- *David Flemming is a policy analyst for the Ethan Allen Institute*

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## Events

**Stay Tuned:** Annual Jefferson Day Event. Each year since 1993 the Institute has sponsored a Jefferson Day event in the month of his birth (April). Last year, because of COVID, we pushed our event back to November (featuring a virtual Art Woolf, available on our website. This year we face the same problem, so we're postponing our 28th annual event to the late fall, in the hope that we can have an in-person dinner event once again. Meanwhile, suggestions for a speaker or program will be gratefully received by [john@ethanallen.org](mailto:john@ethanallen.org). "Error may be tolerated when reason is left free to combat it."

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## April Roll Calls!



[House Creates Pension Task Force and Changes the Duties of Pension Commission \(125-22\), 2021](#)

[House Opposes Exempting \\$30,000 of Military Pensions from Income Tax \(55-79\), 2021](#)

[House votes for \\$14 million/year tax on “cloud-based” software services \(96-44\), 2021](#)

[House Expands 5¢ Bottle Deposit Fees to \(Almost\) All Beverage Containers \(99-46\), 2021](#)

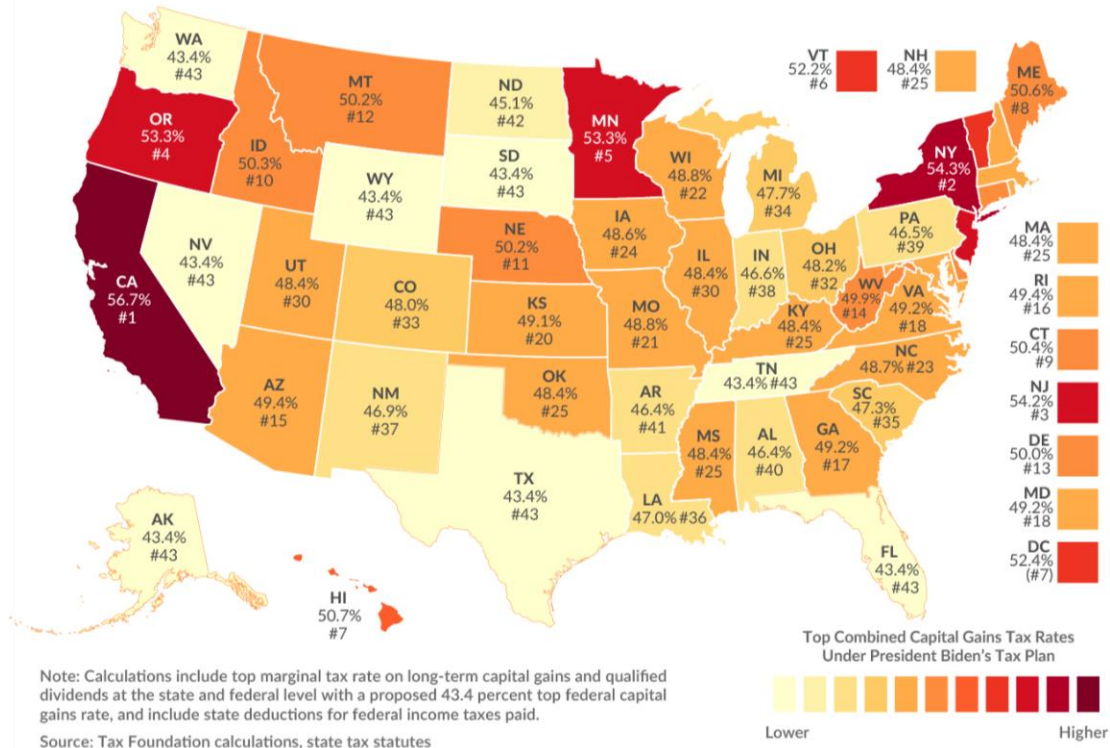
[House Criminalizes “Handshake” Deals for Residential Construction Projects over \\$3500 \(97-52\), 2021](#)

[Senate Advances Constitutional Amendment Guaranteeing Abortion from Conception to Birth \(26-4\), 2021](#)

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## News & Views

**VT With a 52% Cap Gains Tax?** According to the Tax Foundation, if President Biden’s tax plan becomes law, Vermont would have the sixth highest combined capital gains tax in the country at 52.2%. This is a confiscatory rate. ([Tax Foundation, 4/30/21](#))



**Black Leaders Support Voter ID.** “[A] recent Rasmussen Reports poll found that 69% of Blacks and 82% of nonwhite minorities support voter ID. Another [poll](#) taken even

more recently by the Atlanta Journal-Constitution found that a full two-thirds of Blacks in Georgia support voter ID. The data seems clear: A majority of Black Americans support voter ID laws. This shouldn't be surprising. Blacks know the value of the right to vote. We struggled to win that right in a country that for too long treated us as second-class citizens. We shed our blood so we could partake in American elections just like every other American citizen. We want to make sure that sacred right to vote, and the integrity of those elections, are protected.” (From the open letter, “[Why Black Leaders Support Voter ID](#),” multiple authors)

**Common Sense About Voting.** “In-person voting is good for two things. It makes it possible for independent monitors physically to observe who votes. It makes it possible for them to observe how ballots are handled and stored. The flaw in mass mail-in voting, which Democrats would make universal, is that nothing is observable except the counting. You can't see who votes; you can't see how ballots are collected, transported or stored. Every election in the future, in effect, would be decided by mail-in ballots opaquely delivered to the counting table. Never again might a candidate see a personal upside to conceding that a close defeat was fairly arrived at.” - Holman Jenkins. March 26, 2021

**Another Study: School Choice Works.** “Teachers unions claim that school choice is a zero-sum game, but evidence is mounting to the contrary. The latest is a study that finds a positive correlation between the education options states offer and test results on the National Assessment of Education Progress (NAEP). Researchers at the University of Arkansas's School Choice Demonstration Project developed an Education Freedom Index to measure school-choice environments in the states and Washington, D.C. The index considers offerings for private school choice like vouchers and tax-credit scholarships, home-schooling, public school choice (i.e., ability to switch schools or districts), and charter schools.... The study finds the rankings strongly correlate with state NAEP scores for 8th grade math and reading. ”Higher levels of education freedom,” [the authors write](#), “are significantly associated with higher NAEP achievement levels and higher NAEP achievement gains” between 2003 and 2019 in all of their models.” ([WSJ Editorial Board, 3/26/21](#))

**Gov. Mitch Daniels Explains School Choice.** “Providing poor and minority families the same choice of schools that their wealthier neighbors enjoy is the purest example of ‘social justice’ in our society today.” (WSJ, 4/23/21)

**Good News on School Choice in VT.** “The State Board of Education on Wednesday ordered three Vermont school districts to reimburse families who live in “choice” towns for the tuition they paid out of pocket this year for their children to attend religious schools.” ([VT Digger, 4/21/21](#))

**Science.** “President Biden's climate czar, John Kerry, admitted Wednesday that the US reducing its emissions to zero wouldn't make much of a difference in the global climate change fight — before pushing domestic manufacturing of electric cars and solar panels in favor of energy production.... ‘Not when almost 90 percent of all of the planet's global emissions come from outside of US borders. We could go to zero tomorrow and the



problem isn't solved,' Kerry conceded.” ([NY Post, 1/27/21](#)). But let's spend trillions of dollars to accomplish nothing anyway.

**Lunatic legislation.** Congressman Welch is one of thirty liberal Democrat cosponsors of H.R.1794. It lists 35 varieties of supposed consequences of climate change and directs the President to declare a national emergency and initiate “massive, comprehensive and urgent governmental action” to do something and everything to defeat it. Two distinguished atmospheric scientists reply: “There is no climate emergency. Americans should not be stampeded into a disastrous climate crusade. The medieval crusades did far more harm than good, destroying the lives of many decent people of all faiths, and leaving a bitter legacy that complicates international relations and social harmony to this day. A climate crusade that destroys economies and ultimately lives will be as bad, or worse.” – Richard Lindzen (MIT) and William Happer (Princeton), (NR 4/16/21).

**When Bill Maher Is Saying This!...** “So, when you say ‘you’re old, you don’t get it’, get what? Abolish the police? ...and the Border Patrol? ... and Capitalism? ... and cancel Lincoln? No, “I get it”... the problem isn’t that I don’t get what you’re saying or that I’m old. The problem is that your ideas are stupid. 20% of Gen Z agree with the statement that “society would be better off if all property was owned by the public and managed by the government” and another 29% say ‘they don’t know if that’s a good idea’... Here’s who does know... anyone who wasn’t born yesterday!” -- Bill Maher ([YouTube](#))

**And When Cornell West Is Saying This!....** “West, a philosophy professor at Harvard, tied the importance of the classics to civil rights leaders like Frederick Douglass and Martin Luther King, who “mentions Socrates three times in his 1963 ‘Letter From Birmingham Jail.’” He said eliminating the classics is therefore evidence of ‘spiritual decay, moral decline and a deep intellectual narrowness running amok in American culture.’” ([Daily Caller, 4/20/21](#))

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## **Book of the Month: Cynical Theories**

*How Activist Scholarship Made Everything about Race, Gender, and Identity—and Why This Harms Everybody*

By Helen Pluckrose, James A. Lindsay

Pitchstone Publishing, 2020

352 Pages

<https://cynicaltheories.com/>

If you look around at the world today, with riots in our cities, biological males competing in women’s sports, safe spaces and speech codes on college campuses, everything accused of being racist, and ask how in the heck did we get to this – and you want to fight back -- *Cynical Theories* is a must read book.

The authors, Helen Pluckrose and James A. Lindsay, take us through an extensive history of the philosophies and movements that have metacriticized into the Critical Race Theory and Social Justice Warriors of today. They take an equally detailed dive into what’s so terribly wrong, hypocritical, and ultimately destructive about this world

outlook. And finally, they share some thoughts and strategies for fighting back. Fight back we must!

One key argument the authors explore is how anti-science the philosophy actually is. It is actively hostile to reason – the basis of all science – which it considers a construct of White/Western oppression. According to Critical Race Theory, facts are not as important as someone’s feelings and “lived experience,” and the validity of lived experience is based on the oppressed status on the feeler. Of course, based on such a system of determining reality a society could never have advancements in medicine, technology, or anything that requires that learning and truth be based on a rational use of trial and error that stands up in practice.

This and other inconsistencies in the Theory is why the authors believe Critical Race Theory will ultimately fail. However, if left unchecked, it can do a lot of societal damage along the way. They point out the absurdity of the idea that a movement concerned with ending racism can do so, “through the unlikely means of making everyone more aware of race at all times and places.” And, “If we train young people to read insult, hostility, and prejudice into every interaction, they may increasingly see the world as hostile to them and fail to thrive in it.”

A good summary paragraph in the book notes, “It is bad psychology to tell people who do not believe that they are racist—who may even actively despise racism—that there is nothing they can do to stop themselves from being racist—and then ask them to help you. It is even less helpful to tell them that even their own good intentions are proof of their latent racism. Worst of all is to set up double-binds, like telling everyone that if they notice race it is because they are racist, but if they don’t notice race it’s because their privilege affords them the luxury of not noticing race, which is racist...Such an obsessive focus on race, combined with a critique of liberal universalism and individuality...is not likely to end well—neither for minority groups nor for social cohesion more broadly. Such attitudes tear at the fabric that holds contemporary societies together.”

The authors mount a strong defense of Western classical liberalism, citing the many examples of how reason and a societal focus on individual rights (as opposed to group identity politics) has ended slavery, extended rights to women, sexual minorities, and allowed for tremendous advancements that have increased peace, prosperity and a rising standard of living across the globe, all in a historically speaking very short period of time.

They acknowledge that this has not been a perfect process, and some experiments have gone awry (fascism and eugenics for examples), but Western liberalism has within it the mechanisms for correcting such mistakes. Totalitarian systems like those of Critical Race Theory, which do not allow for debate, free expression, or disagreement of any kind, have no such mechanisms. The faster we defeat this growing societal cancer the better.

*- Review by Rob Roper, president of the Ethan Allen Institute*

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## The Final Word

### **May Survey: Non-Citizens and Youth Voting**

Should non-citizens and children between 16 and 17 years old be allowed to vote in local (but not state or federal) elections?

- Yes, both groups should be allowed to vote in local elections.
- Just adult non-citizens should be allowed to vote in local elections.
- Just 16 and 17 year old citizens should be allowed to vote in local elections.
- No, only adults who are U.S. citizens should be allowed to vote in any elections.

Click [HERE](#) to take the survey.

<https://www.surveymonkey.com/r/noncitizen-youth-voting>

### **April Survey Results: Who Pays to Fix Pensions?**

Who should be primarily responsible for shouldering the costs of fixing/reforming Vermont's underfunded and unsustainable public pension programs?

- The State Legislature out of existing revenue sources. 59.% (19)
- State & Municipal Employees/Pensioners through increased payments and/or lower benefits. 41% (13)
- Vermont taxpayers through new and/or higher taxes. 0% (0)