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## TESTIMONY

**Testimony To:** Senate Education Committee

**Respectfully Submitted by:** Heather A. Bouchey, Ph.D., Interim Secretary of Education

**Subject:** Agency of Education Testimony on H.874

**Date:** April 11, 2024

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Chair Campion and Members of Senate Education Committee:

Thank you for the opportunity to testify on the latest version of H.874 An, an act relating to miscellaneous changes in education laws, as passed by the House. The bill covers significant ground in Title 16 and would instantiate some major changes as currently written. Below, I provide specific testimony on each of the sections that we have feedback and suggestions on. I want to acknowledge Division Director Jess DeCarolis for her technical and writing assistance in portions of this testimony.

A. In Sec. 1, 16 V.S.A. § 945,

(a) following “shall maintain an Adult Diploma Program (ADP)” by striking out “, which shall be an assessment process”

### Concerns:

Striking this language from the statute has three consequences:

(1) it removes the State’s ability to calculate the necessary funds for the program as delineated in 16 V.S.A. 4011 (“for each student who completed(s) the diagnostic portion(s) of the program”),

(2) it removes the AOE’s ability to use an assessment process of any kind to determine a student’s educational needs or whether they have met secondary proficiencies to graduate with a diploma (and thus potentially the necessity of §945 altogether), and

(3) it directly contradicts federal requirements for Title II recipients and the competitive grant program and grant agreements that determine who is an AEL provider in the state.

**Recommendation:** Maintain “which shall be an assessment program.”

This section also appears to be cleaning up the qualification criteria delineating which students are eligible for Adult Education (now called



Adult Education and Secondary Credential Program). AOE has no concerns, particularly as we agree with Section 2 of the bill that repeals the High School Completion program; those services have historically started at age 16.

- (b) Same cleanup language for the GED program; no concerns
- (c) No concerns

(d) The diagnostic portion of the Program referenced in subsection 4011(f) of this title shall be used as a tool to evaluate the educational needs of and skills gained by individual students, but shall not be used to exclude individuals from the Program or to condition payments to local education and literacy providers.

**Observation:**

Adding the language “*shall not be used to exclude individuals from the Program*” is consistent with current expectations under federal and state law and current grant agreements. However, the clause that follows - or to condition payments to local education and literacy providers. - negates the addition of that statement as it removes the AOE's ability to use grant procedures (outlined in State Bulletin 5.0 as well as federal requirements) that would ensure compliance and/or an avenue for recourse in the event that students are excluded from programs and services.

**Concerns:**

If this language remains (*shall not be used to [...] condition payments to local education and literacy providers.*) this will mean:

1. The AOE has no legal authority to engage in state granting procedures that are the fundamental mechanism for ensuring that taxpayer dollars are used as expected and recipients meet the obligations outlined in their grant agreements; and
2. with no mechanism for oversight and or legal authority to regulate the use of these funds, if AEL providers do not meet the federal regulations that actually make them AEL providers (including engaging in required assessments that must be reported annually) this will put WIOA Title II (AEFLA) funds at risk for the state (as well as potentially WIOA funds for other title programs overseen by the State Workforce Development Board).

**Recommendation:**

Strike the language indicated below:

(d) *The diagnostic portion of the Program referenced in subsection 4011(f) of this title shall be used as a tool to evaluate the educational needs of and skills gained by*

*individual students, but shall not be used to exclude individuals from the Program ~~or to condition payments to local education and literacy providers.~~*

### **B. 16 V.S.A. § 4011. Education Payments**

*(f) Annually, the Secretary shall pay to a ~~department or agency~~ local adult education and literacy provider as defined under § 942 of this title, that provides an ~~adult diploma program~~ Adult Education and Secondary Credential Program an amount equal to 26 percent of the base education amount for each student who completed ~~(s)~~ the diagnostic portion(s) of the program, based on an average of the previous two years. 40 percent of the payment required under this subsection shall be from State funds appropriated from the Education Fund and 60 percent of the payment required under this subsection shall be from State funds appropriated from the General Fund”.*

#### **Concerns:**

1. Granting of Education Fund dollars to non-LEA (16 VSA § 4025) entities (e.g., AEL providers) and the
2. Explicit exclusion of ADP/AEL programs which, under federal law, are workforce development programs.
3. This has fiscal implications for both the AOE and local providers when it comes to the laborious invoicing and reconciliation process.

#### **Recommendation:**

Maintain General Funds as the sole source of funding. (Note: This issue has been debated back and forth over several years, creating stress and funding concerns for the field. We strongly recommend staying with the current allocation structure in place.)

### **C. 16 V.S.A. § 4011. Education Payments**

*C. Sec. E.504.1 EDUCATION – FLEXIBLE PATHWAYS (a) Notwithstanding any provision of 16 V.S.A. § 4025 to the contrary, of the appropriation in Sec. B.504.1 of this act, \$2,518,755 Education Fund dollars shall be allocated to the Agency of Education for distribution to adult education and literacy providers pursuant to the program established in 16 V.S.A. § 945.*

### **D. Sec. E.504.1 EDUCATION – FLEXIBLE PATHWAYS**

*(a) Notwithstanding any provision of 16 V.S.A. § 4025 to the contrary, of the appropriation in Sec. B.504.1 of this act, \$2,518,755 Education Fund dollars shall be allocated to the Agency of Education for distribution to adult education and literacy providers pursuant to the program established in 16 V.S.A. § 945.*

**Recommendation:**

We propose that the repealed High School Completion Amount (\$1.9M) in the budget be returned to the Education fund, particularly given the funding crisis this year.

**E. Sec. 3 Community Schools; Funding**

We are still trying to decipher what the funding mechanism is for this section. It appears that this section aims to continue in perpetuity AOE's work on community schools funded through ESSER dollars, with no concomitant increase in staffing levels. Making this work permanent will have significant impact on two of our Divisions (Flexible Pathways and Data Management) with no additional resources provided. Although we support community schools and know that they are doing good things in some communities, in this time of fiscal austerity, funding them was not included in the Governor's budget. In essence, this is an ESSER-funded program that is unfortunately falling prey to the ESSER cliff.

We do not support taking money from either Early College or dual enrollment programs, as the latest version of H.874 seems to contemplate (as best we can tell). These are long-standing programs in our state, have won us national recognition, and would have a significant impact on families' ability to access college-going courses. In addition, we still have much work to do in this space—our college enrollment rates in Vermont are still lagging behind other states. We do not agree that reducing funding for early college and dual enrollment will solve this problem. We do agree that, as a state, we need to do a better job of enticing more young people from historically marginalized backgrounds to enroll in dual enrollment, early college, and postsecondary endeavors.

Also, overall student metrics for participation in these programs can be misleading. We recommend speaking with Joyce Judy/CCV, who can provide detailed information on the demographic characteristics and success stories of the students currently served in these programs. CCV students form the large majority of participants.

**F. Sec. 10, Post-Graduation Career and Settlement Behaviors**

In general, AOE is in favor of the overall approach and goals for this section. However, the section has been significantly expanded to include several new metrics, cross-sector metrics, etc. At present, AOE (and perhaps none of the State Agencies identified) are sufficiently staffed to carry out this level of work in the timeframe specified (in about one year, once bill is passed, etc.).

In addition, our initial proposal of this work was to leverage partnerships with our in-

state colleges and universities to build programs focused on keeping their graduates in state. This focus seems to have been pushed out in favor of a major data collection and reporting effort.

Recommendations: extend the timeframe for the required data collections, include VSAC, colleges. The AOE cannot lift this on its own, even for technical support, as written.