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Notes re: the Sunset Advisory Commission Meeting on Aug. 21, 2019

The Sunset Advisory Commission (SAC) met on Wednesday, August 21, 2019 beginning at 10:00 a.m. in the Ethan Allen Room of the Vermont State House.

Members present: Gannon, White, Krauss, LaClair, and Zeller

I. Review of BAW notes.

- The Commission reviewed my draft minutes of its meeting of July 31, 2019.
- The Commission discussed that these are more in the nature of notes, rather than minutes.
- The Commission asked that I continue to maintain these notes regarding its meetings in order to provide details of each meeting, but the Commission will not need to approve them as minutes.

II. Discussion of Information Technology.

- The Commission plans to have a roundtable discussion with Sen. Brock, Rep. Sibilis, Rep. Briglin, Sec. of Digital Services John Quinn, and perhaps IT specialists.
 - The discussion would be regarding not only IT board and commission governance, but also substantive IT regulatory needs.
- The November meeting would work for the non-Commission legislators. The Commission plans to schedule this discussion at beginning of the November meeting.

III. Review of Boards and Commissions Associated with the Agency of Education.

Witness: Ted Fisher, Agency of Ed; *see* [handout](#)

- ***State Board of Education.***
 - Meets at least monthly (more due to Act 46)
 - Eight adult members and two student members, one of whom is non-voting and must be able to serve at least two years.
 - Members are entitled to receive the standard \$50 per diem.
 - The Board approves independent schools and content standards for curriculum (often, in recent years, based on national standards).
 - Currently, the Board is in a strategic vision planning process in the post-Act 46 environment.
 - The Commission discussed that the Board used to appoint the Commissioner of Education, but that duty was transferred to the Gov to appoint the Secretary of Education when the Department of Education was elevated to the Agency of Education.
 - Moreover, the Commission discussed that it may be premature for it to make recommendations regarding the Board, if the Board is currently in the process of analyzing what its role should be.

- The Board no longer has substantive regulatory duties.
- [16 V.S.A. § 163](#) provides that the Board shall have adequate staff, but it relies on Agency of Education staff. Moreover, there are places in statute requiring the Board to take certain actions, but in reality, the Agency of Education performs those actions.
- Suggests that the SAC also hear from the Acting Chair of the Board.
- The Agency of Education respectfully declined to answers certain questions regarding the Board, such as how well the Board is performing.
 - Commissioner Krauss wonders how much the two entities coordinate.
 - Co-Chair White thinks the Agency of Education should be able to evaluate the Board; the Board needs to be accountable.
 - Commissioner LaClair thinks the Board perhaps should not be evaluating itself.
 - Commissioner Krauss suggests that a Board representative provide testimony to SAC on its questions
 - Co-Chair Gannon would welcome Board testimony, but SAC has also been wanting to hear agencies' perspectives on the boards attached to them, in order to hear testimony from a non-board source with direct knowledge of how well a board is functioning.
 - **Co-Chair White: SAC will ask these questions to be answered both by the Agency of Education and by the Board, so that SAC can hear the two perspectives.**
 - **SAC recommendation: Invite Chair of Board to answer the SAC questions re: the Board.**
- ***Vermont Standards Board for Professional Educators (SBPE).***
 - Provides standards to professionally regulate teachers and administrators.
 - However, the Agency of Education provides staffing to the Board.
 - Agency of Education thinks the Board is performing well.
 - It was created in addition to the State Board of Education, when the State Board had greater responsibilities.
 - SBPE is funded through licensing fees.
 - Commissioner Zeller wonders if OPR could perform the administrative licensing functions.
 - **SAC recommendation: Keep.**
- ***Hearing Panels for Professional Public Educators.***
 - Staffs hearing panels for individual unprofessional conduct cases.
 - Allows the Agency of Education to begin an investigation re: alleged unprofessional conduct.
 - Agency of Education conducts the investigation of licensees.
 - State charges the licensee, and the case is heard before this Panel.
 - Commissioner Krauss questions whether this Panel is necessary (since it meets so infrequently), and whether instead the SBPE would be able to handle these disciplinary matters.

- Witness responds that one can't predict how many charges will go to hearing, and it becomes a capacity question for the SBPE. The Panel has many members for availability purposes and in order to avoid conflicts of interest. Conversely, the SBPE is one cohesive group; moreover, they might grant a waiver and then have to hear a subsequent disciplinary case for the same person.
 - Witness also advises that an administrative law judge would not be a good fit because it lacks a trial by peers.
- **SAC recommendation: Keep.**
 - However, Commissioner Krauss does not agree with keeping the Hearing Panels because he thinks it could be rolled into the SBPE or the Agency of Education.
- **Residential Placement Review Team.**
 - Not understood to be a standard board or commission.
 - Provides advice.
 - Not suggesting any changes to statute.
 - **SAC recommendation: Internal to the Agency of Education, so keep.**
- **State Council for the Interstate Compact on Educational Opportunity for Military Children.**
 - Created pursuant to an interstate commission. The State Board of Education acts in this capacity
 - **SAC recommendation: Keep.**
- **Educational Opportunities Working Group.**
 - It was required to file a one-time report and is no longer needed
 - **SAC Recommendation: REPEAL b/c it seems to be a one-time report.**
- **Advisory Council on Special Education.**
 - Federally-required.
 - State statute is not necessary, because it is in conflict with federal statute; something must be done because of this V.S.A. conflict.
 - Education committees have considered this issue, with a potential amendment being to have a very simple statute saying that this entity exists in accordance with federal law.
 - This proposal was raised in a misc. education bill that did not pass.
 - **SAC recommendation: Revise statute with simplified language regarding a federal law requirement**
- **Council of Independent Schools.**
 - Has not yet met in 2019.

- Provides advice to the Sec. of Education re: independent schools.
 - Co-Chair White wonders why the schools themselves don't form their own council, rather than requiring one in statute.
 - Commissioner Zeller points out that the Council was created to advocate, which does not seem to be an appropriate function of State government.
 - There is separately an association of independent schools, which lobbies the Leg.
 - **SAC recommendation: REPEAL, but take testimony from the Council.**
- ***Harassment, Hazing, and Bullying Advisory Council.***
 - Provides advice to Sec. of Education.
 - Meets monthly.
 - Last known report was in 2016.
 - **SAC recommendation: Keep.**
 - ***Is reporting required, and are people interested in it?***
 - ***Advisory Council on Wellness and Comprehensive Health.***
 - Not able to find to which part of the Agency of Education this Council is attached.
 - ***Agency of Education follow-up.*** The Agency of Education will go back to fully address questions re: the State Board of Education and provide further info re: the Wellness Board and any updates from Hazing Board.

[Lunch Break]

IV. Review of New England Board of Higher Education. Witness: Jeb Spaulding, Chancellor of Vermont State Colleges. *See* handouts: [Answers to SAC questions](#); [Board list with terms](#); [NEBHE 2018 Annual Report](#); [NEBHE revenue expenditures](#); [Regional Student Program Benefits to Vermont](#); and [Board compact](#).

- Compact in 1955; *see* [16 V.S.A. ch. 83](#).
- Compact provides educational opportunities to New England students.
- Now there are steep discounts on tuition.
- There have been at least three VT college closures this year.
- Still an important organization, to help students get the education they seek.
- If VT wasn't in NEBHE, VT students wouldn't get the benefit of compact reciprocity.
- Thinks VT gets a good deal; if VT dropped out of the compact, it'd have to find another way to do this.
- Good way for VT to keep up to date on issues in the surrounding NE states, which may impact VT.
- Funded through a State appropriation.
- **SAC recommendation: Keep.**

V. Review of Racing Commission first draft.

- As a follow-up to its last meeting, SAC reviewed the first draft of a bill that would repeal the Racing Commission and transfer its duties to the Agency of Agriculture.
- After discussing that horse race betting has not been happening in the State and that the Leg. may revisit the issue of sports betting in light of the recent U.S. Supreme Court case Murphy v. NCAA, the SAC requested a revised draft to repeal the Racing Commission and its entire chapter on horse race betting, except to add to the chapter's dog race betting prohibition a prohibition on horse race betting.

VI. Review of Agency of Human Services categories. SAC reviewed and approved the categories of AHS boards and commissions that Commissioner Zeller and I proposed, which are based on the departments with which the boards and commissions are associated. Those departments and their number of boards and commissions are:

- DAIL – 9
- DCF – 9
- DMH – 4
- DOC – 6
- DOH – 14
- DVHA – 8

VII. Future meeting planning.

- Potentially review 16 boards and commissions per meeting as follows:
 - Sept.: DAIL, DCF, and State Board of Ed
 - Oct.: DMH, DOC, DVHA
 - Nov.: IT and bill draft review
 - [DOH at another time]