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## T E S T I M O N Y

To: House Committee on Commerce and Economic Development  
From: Sarah Buxton, Director of Workforce Development, Department of Labor  
Date: March 8, 2022  
Subject: VDOL Testimony regarding H.377

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The Vermont Department of Labor (VDOL) **strongly opposes H.377** and asks this Committee not to adopt any portion of the bill this year. Our primary reasons for opposition are as follows:

- 1. The duties that would be assigned to a private organization are already assigned to state entities under federal and state law.**
- 2. The contracting, policy implementation, monitoring, and enforcement responsibilities as described in the bill are inherently the work of government and should not become privatized activities.**
- 3. The organization identified does not have the subject matter expertise to perform the work identified.**

There are errors in the findings and in testimony presented to this Committee specific to data, its use, and application to individual and policy decisions which are not addressed in this memo. VDOL can submit additional written testimony to assist the Committee in composing a correct record from which to craft legislation if the Committee declines our request to take no action on H.377.

### **Background**

The workforce development system is one of the most complex systems within the state of Vermont. It involves public and private entities, federal and state regulations, and a myriad of stakeholders who have an interest in the benefits that investments, alignment, and coordination can provide. As you contemplate changes in roles and responsibilities this session, and pursue permanent and one-time investments, I urge that **you deeply consider the existing framework**



for service delivery, coordination, and alignment; the work that has been done in the last five years to organize and advance this important work.

## **Discussion**

### **1. The duties that would be assigned to a private organization are already assigned to state entities under federal and state law.**

The Vermont Department of Labor (VDOL), Agency of Education (AOE), and the State Workforce Development Board (SWDB) are assigned responsibilities referenced in H.377 at the State and Federal level. The coordination of work between the Department, Agency, Board, and other federally and state funded programs have been an area of focus of the Legislature since 2012; bolstered and catalyzed by the passing of the federal Workforce Innovation and Opportunity Act (WIOA) of 2014. *All are carrying out this work as fast as resources and circumstances allow.*

In 10 VSA 540, VDOL has “the responsibility for the coordination of workforce education and training within State government.” In addition, state statute directs VDOL to (relevant sections included below):

- Establish an integrated system of workforce education and training for Vermont,
- Use data to ensure that State workforce education and training activities are aligned with the needs of the available workforce, the current and future job opportunities in the State, and the specific credentials needed to achieve employment in those jobs,
- Develop a state plan to ensure that workforce education and training programs and activities in the State serve Vermont citizens and businesses to the maximum extent possible,
- Coordinate public and private workforce programs to ensure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact,
- Facilitate communication between the business community and public and private educational institutions,
- Coordinate intentional outreach and connections between students graduating from Vermont's colleges and universities and employment opportunities in Vermont, and
- Ensure coordination and nonduplication of workforce education and training activities.

Under federal law (20 CFR §675), VDOL is required to (relevant sections included below):

- Increase access to education, training, and support services necessary to succeed in the labor market, with a particular focus on those individuals with disabilities or other



barriers to employment including out of school youth with the goal of improving their outcomes,

- Streamline service delivery across multiple programs by requiring coordination and integration of activities and information to make the system understandable and accessible for individuals and businesses,
- Support the alignment of the workforce investment, education, and economic development systems in support of a comprehensive, accessible, and high-quality workforce development system at the Federal, State, and local and regional levels,
- Improve the quality and labor market relevance of workforce investment, education, and economic development efforts by promoting the use of industry and sector partnerships, career pathways, and regional service delivery strategies in order to both provide America's workers with the skills and credentials that will enable them to secure and advance in employment with family-sustaining wages, and to provide America's employers with the skilled workers the employers need to succeed in a global economy;
- Promote accountability using core indicators of performance measured across all WIOA authorized programs and improve the structure and delivery of services through the workforce development system; and
- Provide workforce development activities to increase employment, retention and earnings of participants *and to increase industry-recognized postsecondary credential attainment* to improve the quality of the workforce, reduce welfare dependency, increase economic self-sufficiency, meet skill requirements of employers, and enhance productivity and competitiveness of the nation.

*Additionally, VDOL's Labor Market Information (LMI) Division is required by the federal government to collect and maintain data - including through a website - and create other resources that display data, produce reports, and provide analysis of key data points related to the policy aim of H.377. Within the next two years, the Department will begin rehauling the website where this information is displayed. VDOL will ensure that LMI and Workforce Development (WD) Divisions coordinate to ensure that the LMI and WD online resources are integrated seamlessly to aid our customers and ensure efficient use of resources.*

The SWDB is charged with assisting the Governor and the Department in the execution of duties under WIOA. Under State and Federal Regulations, the SWDB:

- **Approves state-endorsed and industry-recognized credentials and certificates that are aligned with the Career Pathway;**
- Reviews and approve State-endorsed Career Pathways that reflect a shared vision across multiple sectors and agencies for improving employment outcomes, meeting employers' and workers' needs, and leveraging available State and federal funding;



- Publicizes the State-endorsed Career Pathways, including on websites managed by AOE, VDOL, and Department of Economic Development (DED),and
- Conducts ongoing public engagement process throughout the State that brings together employers and potential employees, including students, to provide feedback and information concerning their workforce education and training needs.

*The SWDB is the already existing “public-private partnership” articulated in H.377. It consists of the Governor and the following members, appointed by the Governor (conforming with WIOA):*

- Commissioner of Labor;
- Two members of the Vermont House of Representatives appointed by the Speaker of the House;
- Two members of the Vermont Senate appointed by the Senate Committee on Committees;
- President of the University of Vermont;
- Chancellor of the Vermont State Colleges;
- President of the Vermont Student Assistance Corporation;
- Representative of an independent Vermont college or university;
- Director of a regional technical center;
- Principal of a Vermont high school;
- Two representatives of labor organizations who have been nominated by a State labor federation;
- Two representatives of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § 3102(71);
- Two representatives of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § 3102(68);
- The lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. § 3151(b), or if no official has that responsibility, representatives in the State with responsibility relating to these programs and activities;
- Commissioner of Economic Development;
- Secretary of Commerce and Community Development;
- Secretary of Human Services;
- Secretary of Education;
- Two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and
- A number of appointees sufficient to constitute a majority of the Board who:
  - a. are owners, chief executives, or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;



- b. represent businesses with employment opportunities that reflect in-demand sectors and employment opportunities in the State; and
- c. are appointed from among individuals nominated by State business organizations and business trade associations.

As you will hear from the Agency of Education and accredited post-secondary training providers, they have specific duties and obligations to collect, maintain, and report information through independent systems. **It would be inappropriate to assign other non-governmental entity to direct this work without careful understanding of the legal and practical implications of those decision.**

Last biennium, VDOL reported on implementation of some of this work stating:

*“Creating a Workforce Development Portal VDOL is in a ten-state consortium called American’s Job Link Alliance (AJLA) to develop and maintain cost-effective workforce technology to support the delivery of our workforce programs... Our consortium is currently supporting a massive overhaul of our IT system – which includes our Job Board, reporting system, and case management system ... The updated product will make a marked improvement for users and customers (both job seekers and employers) in locating accessing and understanding workforce services and opportunities. Further, the Department is completing Phase 1 of a three-phase procurement process (required by the state) to competitively bid our information management systems in 2021 and 2022 to meet short- and long-term needs. [We will] involve other Departments, Agencies, and public and private Workforce Partners in developing the RFIs and RFPs that will be part of this procurement. [We will] maintain IT systems, sites, and online services that meet the needs of multiple users and believe we could incorporate the aims of H.703 into this process.”*

VDOL is now in in Phase Three of this process. We have vetted vendor responses to the RFP and will asking a small number to demonstrate their products to us and other stakeholders. We’ve included and will continue to include AdvanceVT in this process as we’ve been clear that we are creating the online resources sought in this bill.

Additionally, VDOL, AOE, and VR have recently participated in a US DOL training cohort on credentialing – receiving technical assistance and beginning the work of establishing a state system of recognizing and promoting credentials. They SWDB also charged a task force composed of public andprivate stakeholders, with identifying and recommending to the SWDB on how we might develop a process, overseen by the SWDB, to stand up this system.

**In summary, adding another “public-private partnership” would not produce more or better outcomes and would cause greater inefficiency, confusion, and delay.**



**2. Contracting, policy implementation monitoring, and enforcement, as described in the bill are inherently the work of state entities and should not be privatized.**

As indicated above, there is significant responsibility already assigned to the government, through federal and state law, supporting the identification, recognition, funding, promotion, and coordination of post-secondary credentials. All these entities are also subject to the Agency of Administration's Bulletin 3.5 that sets out the process for complying with state law regarding procurement, contracting, and use of state funds. We are all accountable to the General Assembly and other oversight entities in the performance of these duties. Redirecting duty and authority on any of these matters to a private, non-government organization should not be undertaken lightly and should consider the impact to longstanding policies of transparency, accountability, disinterested disbursement of public dollars, efficiency, and duty to serve the public interest. The Legislature should further explore any biases, private interests, external control or influence driven by funders or funding organizations before privatizing work that was designed to be carried out by governmental entities.

**3. The organization identified does not have the subject matter expertise to perform the work identified.**

H.377 requires a high-level of subject matter expertise in workforce policy, workforce system implementation, labor market information collection and analysis, education and career counseling expertise, curriculum development, credential value and portability, applicable federal and state regulations, standard monitoring procedures, project management, IT and technical system implementation, and communication and messaging. AdvanceVT lacks the required knowledge and experience required to perform many of the directives in H.377 and would require substantial initial and ongoing training, mentoring, and other investments of time from VDOL, AOE, SWDB, and other state entities – adding cost and duplicating resources already dedicated to the purposed outlined. Additionally, AdvanceVT uses publicly available data published by the state and federal governments. As such, if AdvanceVT wishes to display this information in a more consumable manner, all data is made public and therefore a public-private partnership is not needed for the entity to continue its work.

**Conclusion**

In recent years, the Legislature has affirmed key areas of shared responsibility related to H.377 – include funding, development, monitoring, and publication of education and training opportunities, setting and utilizing shared state-level performance metrics, defining, promoting, and linking industry recognized credentials and credentials of value, and ensuring that all systems and services are accessible to Vermonters. **We ask the Legislature to allow us to complete the work we've already been tasked with and decline any action proposed in H.377.**

