

ITEM H – State Board of Education Meeting – June 16, 2021**End of Session Legislative Update****Introduction**

The 2021 Session contained several meaningful pieces of legislation that advance education policy conversations in Vermont. During this session, the major interests of the Education committees, and the General Assembly as a whole, were responding to the impacts of the COVID-19 pandemic on Vermont students and Vermont schools, identifying how significant, once in a lifetime investments in our infrastructure as a result of federal COVID-19 relief legislation should be spent, and continuing conversations related to equity, literacy and academic achievement, and education finance and policy governance. The Agency of Education (AOE) worked with our partners in the Education committees, with the State Board of Education (SBE) and with stakeholders to advance many of these important topics and arrive at workable legislation in many of these areas.

The session included progress on issues that have been often discussed in recent years, including interest in assisting School Districts and Supervisory Unions (SU/SDs) with improving literacy, addressing school facilities concerns, and providing universal school meals. The General Assembly also made modest progress on issues of equity and inclusion, establishing a task force to study equitable and inclusive school environments and making several updates to the Act 1 of 2019 Ethnic and Social Equity Studies Advisory Working Group, though additional work in this area is likely in future sessions.

The General Assembly also took a first step to address the inequities in our education finance system, as demonstrated in the Pupil Weighting Factors Report. The miscellaneous education bill also brought an Agency requested “pause” in implementation of the eFinance SU/SD budgeting software required by the General Assembly in Act 11 of 2018 (Special Session). Several first steps in the conversation about the roles of the AOE and the SBE were taken, with meaningful updates to the Board’s powers and duties, appointment requirements of its membership, and a joint report requirement for the Board and the Agency to identify ways to improve their roles, responsibilities and relationship.

List of Bills and Acts

The following bills/acts are summarized in this legislative update:

[H.106 – Community Schools and School Nutrition](#)

[H.289 – Occupations/Professions Regulated by OPR](#)

[H.426 – School Facilities](#)

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[S.13 – Pupil Weighting Factors Report](#)

[S.16 – Equitable and Inclusive School Environments](#)

[S.114 \(Act 28\) – Literacy](#)

[S.115 – Miscellaneous Education Bill](#)

Passed Legislation

The following summarized bills were passed by both houses, and have either been signed by the Governor, or await his signature. Given the timing, several bills that have been signed do not yet have act numbers.

H. 106 – Community Schools and School Nutrition

The Governor signed [H.106: An act relating to equitable access to a high-quality education through community schools](#) on June 8, 2021, as Act 67 of 2021.

The bill was originally focused solely on community schools, and establishes a two-year funding program for community schools (Secs. 3 and 4). Community schools are a national model with programs that include integrated student supports, expanded and enriched learning time and opportunities, active family and community engagement, collaborative leadership and practices, and safe, inclusive and equitable learning environments. In this legislation, the General Assembly has defined eligible schools as public elementary or secondary schools with at least 40% of the student body eligible for free- and reduced-price lunch (FRL) or identified for comprehensive or equity support under the Every Student Succeeds Act (ESSA).

Eligible recipients (SU/SDs with one or more eligible schools, or a group of SU/SDs working collaboratively) are required to use the funding to conduct a needs assessment (if not done within three years), hire or designate a community schools coordinator to develop and implement community school programs, and implement Positive Behavioral Interventions and Supports (PBIS), if not already implemented. Recipients may also develop and implement a plan to improve literacy outcomes and objectively assess progress.

These sections link community schools to COVID-19 recovery in education, and the appropriate \$3.399 million of Elementary and Secondary School Emergency Relief (ESSER) funds set aside for the Agency of Education from the American Rescue Plan (ARP) Act of 2021 (ARP ESSER) to fund the program. There is also a reporting requirement for the AOE to report, in 2022 and 2024 on the impact of the funding program.

Later in the session several provisions were added to H.106 from a separate bill on local foods and universal school meals. Secs. 5 – 8 adds an incentive grant program for the purchasing of local foods, with the goal of reaching 20% local purchases by school food programs by 2023. SU/SDs applying for the grant may receive either a \$0.15 (for 15%), \$0.20 (for 20%), or \$0.25 (for 25%) per plate reimbursement depending on the percentage of local foods purchased. A position is created for AOE to help administer this program, with an appropriation of \$100,000 for salary and benefits.

These provisions require each SU/SD operating a school meals program to report to the AOE an estimate of the cost of all foods purchased that are locally produced, beginning in SY 2020-21. The AOE is then required to submit aggregate data on these purchases, on or before January 31 of each year, beginning in 2022.

Finally, this bill creates a Task Force on Universal School Lunch, to make recommendations on how to establish a statewide Universal School Lunch program by SY 2026-27, with a report due on or before January 15, 2022.

H.289 – Occupations/Professions Regulated by the Office of Professional Regulation (Licensing Hearings)

The Governor signed [H.289: An act relating to professions and occupations regulated by the Office of Professional Regulation](#) on June 8, 2021. As of writing it has not been assigned an act number.

Two sections are related to education. The first, Sec. 13, amends 16 V.S.A. § 1707 to transfer the current licensing hearing panel appeal process from the State Board of Education to the Office of Professional Regulation in the Secretary of State's Office (OPR). The rationale for this change was that the SBE hears these appeals rarely, which makes it challenging to find hearing officers with the needed background to staff appeals; at the same time OPR has an efficient system for hearing licensing appeals in multiple sectors.

The second section, Sec. 14, requires the Agency of Education and OPR to jointly assess the costs and benefits of transferring responsibility for educator discipline more generally to OPR. This report is due on or before, December 15, 2021.

H.426 – School Facilities

The Governor signed [H.426: An act relating to addressing the needs and conditions of public school facilities in the State](#) on June 8, 2021. As of writing it has not been assigned an act number.

The bill takes several actions to begin to address the facilities needs of SU/SDs. Among other provisions, the bill requires:

- the Agency of Education to update the school construction facilities standards, and the State Board of Education to update the Capital Outlay Financing Formula by January 15, 2023. The AOE may hire a consultant to assist the SBE with updating the formula (Sec. 2).
- the Agency to contract for an independent contractor to conduct a school facilities inventory and assessment. The inventory will gather information about the current state of school facilities, and planned investments, and is due on or before January 15, 2022. The assessment shall include development of methodology and collection of data on utilization, safety and security, technology, and building condition among others, to assist the General Assembly with prioritizing future school construction needs, and is due on or before October 1, 2022. (Sec. 3)

- the AOE to report an analysis of school construction funding challenges, financing systems in other states, and recommendations for funding sources to the General Assembly by January 15, 2023. (Sec. 4)
- the Agency to establish training and certification guidelines for school facilities managers. SU/SDs are required to hire or designate a facilities manager, who shall receive the training. (Sec. 5).
- SU/SDs to develop and maintain a five-year capital operations and improvement plan, updated annually. AOE shall develop a format for these plans (Sec. 6).
- AOE to contract with an independent third party to assist SU/SDs using ARP ESSER funds to improve the health and safety of school facilities as a result of COVID-19 (Sec. 9).

The legislation updates the public bid requirements in 16 V.S.A. §559, increasing the threshold to require three or more bids to \$40,000 from \$15,000 for construction, maintenance (Sec. 8).

The bill also establishes a renewable heating systems grant program through Efficiency Vermont, though the General Assembly did not appropriate the funding, and indicated it intends to do so in the second year of the biennium (Sec. 11). The AOE will also be required to submit a report on how the State Energy Management Program can support energy efficiency and conservation measures in schools by January 15, 2023 (Sec. 10). Finally, the bill requires public and approved independent schools to perform a radon test if testing has not been completed in five or more years, due by June 30, 2023, or June 30, 2024, if the school is engaged in indoor air quality improvement projects prior to June 30, 2023 (Sec. 12).

In terms of funding, H.426 appropriates \$2.5 million from the ARP ESSER funds allocated to the AOE to conduct the assessment and inventory in Sec. 3, and of that the Agency may use up to \$100,000 for a consultant to assist the Board with updating the Capital Outlay Financing Formula. A limited service position at AOE is also created until January 15, 2023 to support the work in this act, funded by ARP ESSER.

S.13 – Pupil Weighting Factors Report

The Governor signed [S.13: An act relating to the Pupil Weighting Factors Report](#) on June 7, 2021. As of writing it has not been assigned an act number.

The bill establishes a legislative task force made up of members of the senate committees on Education and Finance, and the house committees on Education and Ways and Means to recommend an “action plan and proposed legislation to ensure that all public schools have equitable access to educational opportunities.” This action plan and draft legislation shall “tak[e] into account the [Pupil Weighting Factors Report](#)” commissioned by the General Assembly in Act 173 of 2018. The action plan and draft bill are due on or before December 15, 2021.

Further sections require AOE to create a weighting factors simulator, establishes legislative intent to take action on the proposed legislation in the second year of this biennium, and appropriates \$25,000 to the Joint Fiscal Office (JFO) to retain a consultant to assist the task force. Finally, Sec. 5 removes the excess spending threshold pursuant to [16 V.S.A. § 4001\(6\)\(B\)](#) and [32 V.S.A. § 5401\(12\)](#) for Fiscal Years 2022 and 2023.

S.16 – Equitable and Inclusive School Environments

The Governor signed [S.16: An act relating to the creation of the Task Force on Equitable and Inclusive School Environments](#) on May 18, 2021, as Act 35 of 2021.

The intent of this bill is make progress in ending suspensions and expulsions for all but the most serious student behaviors, identify how to improve data on school discipline, provide guidance on inclusive discipline in SU/SDs and independent schools, and assess effectiveness of local and statewide policies and practices.

The bill creates a Task Force on Equitable and Inclusive School Environments to make recommendations to end suspensions and expulsions for all but the most serious student behaviors, review existing behavioral supports and services and recommend additional, define which serious behaviors should still be subject to suspension/expulsion, and review professional development programs to recommend improvement on professional development and best practices. The task force will also identify best practices to minimize law enforcement encounters, maximize restorative justice, and provide practices that are trauma-informed and support the social, emotional, and mental health needs of students. Finally, the task force will review existing data, and make recommendations to improve reporting and data quality of school disciplinary data (Sec. 2).

The task force is required to report its findings in two reports, with an initial report due on or before January 15, 2022, and a final report due on or before March 15, 2022 (Sec. 2), with \$6,750 appropriated from the General Fund to support expenses of the Task Force members (Sec. 3).

The bill also bans suspension and expulsion of students in public schools under eight years of age, except in cases where a student poses an imminent threat of harm or danger to others in the school (Sec. 6).

Additional provisions require the Agency of Education to provide data on exclusionary discipline to the task force, as well as an overview and training on accessing data (Sec. 4). Additionally, the Agency is required to provide an annual outcome analysis on suspensions and expulsions in the years 2025 through 2030 (Sec. 5). Finally, SU/SDs are also required to report the number of cases of truancy referred to State’s Attorneys, on or before September 1, 2021, with the AOE required to report collated data to the General Assembly by December 15, 2021 (Sec. 7).

S.114 (Act 28) – Literacy

The Governor signed [S.114: An act relating to improving prekindergarten through grade 12 literacy within the State](#) on May 13, 2021, as Act 28 of 2021.

The intent of the bill is to advance work on literacy outcomes, address the impact of COVID-19 on literacy, leverage federal COVID-19 relief funding, and provide technical assistance to SU/SDs to improve literacy. The bill requires the Agency of Education to provide professional development for educators on literacy instructions, assist supervisory unions in implementing evidence-based system-wide literacy approaches, and requires the Agency to direct ARP ESSER funding to addressing literacy. The AOE is also required to retain contractor(s) to provide technical assistance on implementation of Act 173 of 2018 with regard to literacy, evidence-

based practices for teaching literacy PreK-grade 3, recommend how to provide professional development to educators, and other policies, procedures and method to improve literacy (Sec. 3). The legislation appropriates \$450,000 for the contractors under Sec. 3, and \$3.06 million to provide professional development learning modules to educators, both from ARP ESSER (Sec. 4).

Act 28 also establishes an Advisory Council on Literacy, to advise the AOE, the SBE, and the General Assembly on how to improve literacy, including advising how to update state statute ([16 V.S.A. § 2903](#)), implementing the statewide literacy plan, and what services AOE should provide to SU/SDs to support statewide literacy efforts. The Council is also required to develop a plan collecting data on literacy, identify how to measure progress, recommend best practices, and review assessments and provide ongoing feedback. The Council shall report annually on or before December 15, on findings, recommendations, and progress. \$24,000 is appropriated from ARP ESSER to support the council, and the council sunsets on June 30, 2024.

The AOE is required to review teacher preparation programs in collaboration with the Vermont Standards Board for Professional Educators (VSBPE) (Sec. 9) and submit progress on the Act by submitting reports by December 15 of the years 2021 – 2023 (Sec. 10). Finally, the legislation adds an additional report for the Census Based Funding Advisory Group created under Act 173 of 2018 and removes per-diem compensation for this group.

S.115 – Miscellaneous Education Bill

The Governor signed [S.115: An act relating to making miscellaneous changes in education laws](#) on June 7, 2021, as Act 66 of 2021.

Among other provisions the bill:

- Adds **cultural liaisons** to the list of permissible uses of funds for education under 16 V.S.A. § 4029 (Sec. 8). A cultural liaison is a person who provides translation and interpretation services to help support students and families with limited English proficiency. Cultural liaisons would be jointly funded by school districts and municipalities.
- Updates the section of law on **wellness programs** and the **Advisory Council on Wellness and Comprehensive Health** under [16 V.S.A. § 136](#) (Sec. 9), including updating the definition of wellness program to include comprehensive health education, and updating the membership, meeting frequency, and duties of the advisory council. The provision adds a requirement that membership of the council include a school counselor and a school social worker, requires a minimum of two meetings per year, and coordination of state health wellness policies.
- Requires AOE to work with the Advisory Council on Wellness and Comprehensive Health and the Vermont School Boards Association to update and distribute a **model wellness program policy** that reflects national best practices such as the Centers for Disease Control and Prevention's [Whole School, Whole Community, Whole Child Model](#). (Sec. 10)

- Requires public and approved independent schools to provide access to menstrual products in bathrooms likely to be used by students eight years old or older, and the school nurse's office. (Sec. 11)
- Amends Act 1 of 2019 to increase by three the membership of the **Vermont Ethnic and Social Equity Standards Advisory Working Group** (Sec. 12). The provision increases the number of student members by two and requires two members to be members of Vermont's indigenous community. The provision also changes administrative, legal, and technical support requirements on the Agency, and provides for AOE to hire a contractor to assist this working group if needed. \$3,700 are additionally appropriated to support per diems, reimbursement for additional working group members, as well as \$50,000 for AOE to hire the contractor under Sec. 12. (Sec. 13)
- Extends the deadline for adoption of eFinancePlus, Vermont's Shared School District Data Management System to December 31, 2022, and pauses to January 1, 2022, further implementation of eFinancePlus, by further amending Act 11 of 2018 (Sp. Sess.), as Amended by act 72 of 2019), (Secs. 15 and 16). Additionally, it requires quarterly project status reports from AOE effective June 30, 2021, through March 31, 2023 (Sec. 17).

Finally, S.115 makes several changes related to the State Board of Education and the roles and relationship of the Agency and the Board. Sec. 18 requires the AOE and the SBE to jointly study how the roles of AOE and SBE should be restructured to ensure that:

- The PreK-12 educational system meets the needs of all students on a fair and equitable basis.
- Federal and State statutory mandates (including rulemaking) are carried out in a professional and timely manner.
- The SBE and the AOE have the resources necessary to fulfill their roles and responsibilities, including adequate staffing.
- The Board and the Agency maximize efficiencies.

Sec. 19 adds a requirement for the Governor to consider gender, racial, and ethnic diversity in addition to geographic diversity in the appointment of State Board of Education members, amending 16 V.S.A. § 161. And Sec. 20 makes SBE-requested changes to the Board's powers and duties section to remove provisions related to evaluating education policy proposals by the AOE and the Governor, review, and comment on AOE budget, and tighten rulemaking power to powers and duties and legislative intent. The provision adds a duty to establish and update a long-term strategic vision for education delivery in Vermont, and advisory power to the General Assembly, Governor and Secretary of Education.