

# Education Legislative Report

January 10, 2014 – Issue #1

## ***The Biennium Resumes***

This week, limited parking, icy roads, and the Vermont General Assembly returned to Montpelier. Since this is the second half of a biennium and an election year, conventional wisdom holds that the session will conclude in early May. Prior to adjournment, legislators will be asked to balance a state budget (including a projected \$72 million revenue-expenditure gap) and consider a host of fiscal and social policies. Among other topics relevant to public education, Legislators will be asked to set statewide property tax rates and address shortfalls in the teachers' retirement fund.

Consistent with Governor Shumlin's approach to last year's "State of the State" speech to the General Assembly, which he devoted entirely to education, this year he focused on the "rising tide of drug addiction and drug-related crime spreading across Vermont." As part of his plan to address this crisis, the Governor called on the General Assembly to support quality early care and education by passing the universal pre-k bill that passed the House last session. Noting that jobs and opportunity are the best prevention against drug addiction, he also put in a plug for his STEM scholarship proposal that did not pass either chamber last session.

Next Wednesday, the Governor is scheduled to present his budget proposal to the Assembly. We expect more education-related proposals and priorities to emerge in that address.

Although most committee assignments remain unchanged since last year, the House Education Committee does have a new member. Representative John Mitchell (R) of Fairfax, replaced Representative Patti Lewis (R) of Berlin, who moved to the House Committee on Government Operations. Rep. Bernie Juskiewicz of Cambridge replaces Rep. Lewis as the ranking Republican on the Committee.

As elected or professional leaders of your school districts and supervisory unions, you can and should serve in an important role as a voice for public education. As your state Associations, we strive to be strong representatives of the concerns of education officials but there is no substitute for contact between Legislators and their local constituents. We encourage you to read our *Reports*, keep abreast of issues, and form or strengthen relationships between yourself and the representatives elected from your districts. Here is a link to contact information for Legislators organized by each supervisory union:

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Throughout the session, you can expect to receive regular issues of this *Education Legislative Report*. This year, the *Report* will be published collaboratively by the Vermont School Boards Association (VSBA), the Vermont Superintendents Association (VSA), the Vermont Principals' Association (VPA), the Vermont Association of School Business Officials (VASBO), the Vermont Council of Special Education Administrators (VCSEA) and VSBIT. If you have questions or concerns regarding the content, contact your Association's executive director or Nicole Mace, Associate Director for Legal Services at VSBA and author of the *Report* at [nmace@vtvsba.org](mailto:nmace@vtvsba.org).

We look forward to working with you and with state policymakers to address our shared challenges during the upcoming year!

### ***Governor Urges School Districts to Hold Down Spending Levels***

In November, Governor Shumlin wrote a letter urging Vermont's local education leaders to "hold down spending levels" in FY15 in order to avoid a significant increase in the statewide education tax base rates for the second year in a row. Shumlin praised the work of school officials in holding spending relatively level between FY2011 and FY2013 and asked for a commitment on the part of boards to do so again. The Governor acknowledged the pressures facing school districts due to rising costs of fuel and health insurance, as well as new mandates and upgrades in technology. However, he noted that a second year of significant increases to the residential base tax rate is "not a sustainable rate of increase that Vermonters can afford."

On the same day as the Governor's letter, Tax Commissioner Mary Peterson released a statutorily required recommendation on education property tax rates for FY2015. In her letter dated November 26, the Commissioner announced that if school spending increases 3.8 percent overall (as forecast by the Agency of Education and the Joint Fiscal Office), then statewide education tax rates would each need to increase five cents, to \$0.99 for homestead property and \$1.49 for nonresidential property.

One component driving the Commissioner's recommended tax rates is the base education amount. 16 V.S.A. §4011(b) requires that the base education amount be reset annually incorporating inflation using the State and Local Government Price Index. Originally, Commissioner Peterson recommended a decrease in the base education amount, from \$9,151 to \$9,109 because calculations related to the State and Local Government Price Index indicated a very low inflation rate. However, one week later, the Commissioner revised the base education amount to \$9,382 due to errors in the original calculation. This increase would result in an additional two cents on the homestead and nonresidential tax rates – to \$1.01 for homestead property and \$1.51 for nonresidential property. This assumes projected increases in school spending hold true.

In her letter, Commissioner Peterson also recommended that the General Assembly examine our education funding formula to determine whether it should be "modified in order to more closely align local spending decisions with local and individual tax consequences." The Commissioner offered two specific recommendations: tie the excess spending threshold to a

specific year's statewide average spending and adjust it for inflation, rather than have it tied to the previous year's average spending; and make incentives available to districts that keep spending growth below a certain target.

There are a number of upward pressures on education tax rates. At the top of the list are declining enrollments and grand list values, increasing labor and energy costs, and increases in legislative requirements passed by the General Assembly (see *Compilation of 10 Years of Legislative Requirements* on page 4). In addition, no one can predict with accuracy what amount of spending voters will approve in school budgets this spring. Each of these variables contributes to uncertainty with regard to a prediction for FY2015 tax rates. Stay tuned.

### ***Secretary Holcombe Stresses Improving Learning for Every Child***

Education Secretary Rebecca Holcombe made her first appearance in the House Education Committee this week to discuss her vision for education in Vermont and the role of the Agency of Education in supporting that vision. Citing the changing nature of our society due to advances in technology, Holcombe stressed the need for today's students to be able to do the things that computers cannot do and to deal with the messy problems of our world.

In her remarks, Holcombe stated that the main role of the Agency of Education is to “systematically improve learning for every child”, which she will seek to do by developing an accountability system that makes sense for Vermont, supporting and reinforcing the professionalism of the teaching work force, looking at opportunity gaps that exist for children around the state – including access to high quality early education programs and online resources, and examining post-secondary outcomes for our students.

Holcombe also suggested that public education in Vermont faces a “crisis of credibility”, given our high costs, and committed to working with schools to do a better job examining and demonstrating what outcomes we get for the money we spend. When asked about her views on school district consolidation, Secretary Holcombe stressed the need for communities to collaborate in the best interests of students. Citing her experience with the formation of the Rivendell interstate school district, she noted that focusing on outcomes and opportunities for students is the best route to fruitful collaboration discussions.

### ***Session Kicks Off with Two Legislative Symposia on Public Education***

On **Monday, January 13** at UVM, there will be a Legislative Summit on Education Policy featuring a keynote by Tony Wagner, author of the book *Creating Innovators: The Making of Young People Who Will Change the World*. The day is designed to address three questions:

- 1) Does Vermont's current education system create innovative learners?
- 2) What is the best education policy to create the best outcomes for our children?
- 3) What is the Future of Education in Vermont?

On **Tuesday, January 14** at St. Michael's College Governor Shumlin and the General Assembly are holding an Education Finance Symposium designed to "explore the complex issues raised by our [school] funding system, in order to find ways to make it more sustainable and accountable while balancing equity, quality and local control." The symposium is being organized by Larry Picus, author of a 2012 report entitled [An Evaluation of Vermont's Education Finance System](#).

It is unclear what the outcome of each of these events will be, but they signal an interest on the part of the General Assembly in evaluating various policy approaches to ensure that our educational systems are operating as effectively and efficiently as possible.

### ***Compilation of 10 Years of Legislative Requirements***

Every year significant numbers of bills are introduced that relate to public education. Most are well-intended and have the interests of students and/or taxpayers in mind. Many do not become law for one reason or another, but several do. Over time, those legislative actions add up and serve to significantly expand the role and obligations of the education community.

Since the conclusion of the last session, we have [compiled a list](#) of ten years of education-related laws enacted by the General Assembly that affect public education. This list is not intended to be used as a singular justification for increases in education spending over time or to infer that the requirements are bad policy. It is intended to illustrate the magnitude of legislation relative to education, and to prompt a discussion about whether and how these requirements support student learning, what supports are available through the Agency of Education and Federal Department of Education, and whether our local education systems have the capacity to carry out the requirements imposed in the manner envisioned by policymakers.

### ***Public Education Issues Preview***

Although it can sometimes be difficult to predict which issues will capture the attention of Legislators and subsequently become the subject of bills in a given session, certain topics appear destined for serious consideration. Since we are in the second half of a biennium, much of the early activity will likely center on bills introduced last session that are still in play. What follows is a preview of several issues that we are reasonably confident will be under active consideration this year.

### **Education Finance**

Education funding was a major topic of discussion at the State House throughout the 2013 session, and promises to be once again this year, based on another projected property tax rate increase of \$0.05 - \$0.07 despite continued declines in enrollment.

In addition to the Education Finance Symposium to be held next week, which will convene a group of local and national finance experts to consider and suggest modifications to the funding

formula, the House Ways and Means Committee and the Senate Finance Committee are actively engaged in an analysis of issues related to our education finance system.

Over the fall, Senator Tim Ashe, chair of the Senate Finance Committee, held a series of roundtable discussions around the state between legislators and school board members, superintendents, principals and teachers. The purpose of those meetings was to have structured yet informal conversations about some of the known statewide trends in public education (student enrollment, spending pressures, special education, workforce demographics) and how they are playing out regionally. Senator Ashe held the discussions as part of an effort to build the "literacy" of his committee on these issues and to be able to relate them to the reality on the ground.

This week, the House Ways and Means Committee took up [H.164](#), which creates a tiered education tax that would vary based on income and per-pupil spending per town, along with a fixed statewide residential property tax that would be significantly lower than the current base residential rate. The Committee also spent time discussing Commissioner Peterson's tax rate letter and the results of a study on the state's renter rebate program.

### **Universal Access to Prekindergarten**

Last year, the prekindergarten education bill was passed by the House by a roughly two-to-one vote, but ran out of time in the Senate.

As passed by the House, [H.270](#) allows parents in all school districts to enroll their three- or four-year-old children (or five-year-old children not in kindergarten) in any prequalified private or public pre-k program statewide. Funding would be provided for 10 hours per week, 35 weeks per year, and school districts, as most do now, would include participating children who reside in the district in their average daily membership, with a 0.46 weight. School districts, if they so choose, and within rules established by the state, would be able to limit the geographic boundaries within which they would pay tuition. A statewide rate, with the possibility for regional adjustments, would be set for 10 hours per week of publicly-funded pre-k instruction through private providers. This would replace the current system, in which districts may choose whether or not to offer pre-k; and, if they do so, enter into individual agreements with individual providers and negotiate rates.

Last year, the Senate Education and Finance committees approved the bill and it got held up in the Appropriations Committee. That Committee took testimony on H.270 the first three days of the session. At this time, the bill is still under active review in Senate Appropriations.

### **Funding Retired Teachers' Health Care Costs**

Since the retired teachers' health care benefit was created in the 1990's, these healthcare premiums have been paid from the teachers' pension fund, with no separate funding stream dedicated to those costs. Long recognized as a flaw in the system, this year these unfunded

health care liabilities are posing a risk to the state's bond rating, because the funded ratio of the entire pension system could dip below 60% for the first time.

State Treasurer Beth Pearce has led the effort to address what she estimates to be a \$20 million problem, growing at 5% per year. She points out that the current system of borrowing funds to cover health care costs means that for every \$1 in premium not paid today, the taxpayer will pay \$3 over time. In advance of the legislative session, Pearce convened a group of stakeholders to discuss possible options for addressing the problem that could be presented to the General Assembly this year.

At this point there is consensus among all stakeholders that the pension problem needs to be solved and that the taxpayers of Vermont will have to foot the bill. The source of the funds is a question the General Assembly will have to grapple with, a tough task in an already-tight budget year.

### **Publicly-Funded Independent Schools**

The issue of public dollars going to independent schools received a fair amount of attention last session, particularly in the wake of the North Bennington school district's decision to close its public school and reopen it as an independent school. Several attempts were made in both the House and Senate to address issues surrounding the relationship between public and independent schools. At one point, the miscellaneous education bill ([Act 56 of 2013](#)) included a section that would prohibit school boards from closing a public school with the intention of reopening it as an independent school. This was removed, in favor of a study.

Section 16 of Act 56 created a committee to "research and consider both the opportunities and challenges created by closing a public school with the intention or result of reopening it as an approved independent school that serves essentially the same population of students and receives publicly funded tuition dollars." After holding three meetings with the Committee, which was comprised of several representatives of independent schools, along with representatives of our Associations, outgoing Secretary Armando Vilaseca issued a [report](#) with a series of recommendations designed to address "the legal, equity and governance implications" of closing a public school and reopening it as a private school where fewer services are provided than at the public school prior to privatization.

Among Secretary Vilaseca's recommendations were requiring that independent schools that accept publicly-funded students provide free and reduced lunch, meet all federal guidelines, provide all services public schools are required to provide, participate in US-DOE AYP determinations, and are approved for all special education disability categories. The Secretary also recommended that state law be amended to forbid the privatization of a public school. Vilaseca's report was met with strong opposition from the independent schools community, which issued this [dissenting report](#).

Last year the Senate Education committee, after days of testimony and discussion, did not vote on [S.91](#), “an act relating to public funding of some approved independent schools.” The legislation applies to independent schools intended for general education students that receive public tuition dollars for more than one-third of their enrolled students—roughly 30 schools. In order to receive that funding, schools would have to be approved in special education in at least four categories; maintain a blind admissions policy for publicly-funded students on a space-available basis; use state assessments to measure attainment of performance standards; provide free and reduced-price meals for eligible students; and employ licensed teachers and administrators.

We expect the Senate Education Committee will take up the issue again this session, especially given the recommendations offered by outgoing Secretary Vilaseca.

### **Childcare Provider Unionization**

Two attempts to allow home childcare providers to vote to form a union and bargain collectively with the State did not come to fruition in 2013. S.52, which applied solely to home providers receiving state subsidies, was voted down in committee. The proposal was revived—and expanded to include providers not receiving subsidies—in the form of an amendment to the miscellaneous education bill, H.521. The amendment was ruled non-germane on the Senate floor for not meeting a number of requirements for germaneness.

This week, the Senate Education Committee decided that they will not introduce the legislation as an amendment to any bill. With a few (mostly technical) amendments, the committee will be introducing the same legislation as a committee bill, [S.316](#). After going over the changes line by line, the members voted 5-0-0 to move the bill forward as a committee bill, which is anticipated to go to the Senate floor for a vote early this session.

### ***New Bills***

The following education-related bills have been introduced by one or more members of the Legislature as of January 9, 2014. The deadline for introducing new Senate bills has passed and the deadline for House bills is January 31. To read any bill’s full text or see its status in the Legislative process, go to <http://www.leg.state.vt.us/database/status/status.cfm>.

## **Senate Bills**

S.178 - AN ACT RELATING TO PROHIBITING THE POSSESSION OF FIREARMS AND OTHER DANGEROUS OR DEADLY WEAPONS ON ANY SCHOOL PROPERTY

S.185 - AN ACT RELATING TO IN-STATE RESIDENTIAL FACILITIES PROVIDING SPECIAL EDUCATION SERVICES

S.187 - AN ACT RELATING TO FUNDING CAREER TECHNICAL EDUCATION

S.189 - AN ACT RELATING TO THE OPEN MEETING LAW

S.192 - AN ACT RELATING TO THE VERMONT PAY IT FORWARD, PAY BACK COLLEGE AFFORDABILITY PROGRAM

S.194 - AN ACT RELATING TO POSTING AGGREGATED IMMUNIZATION RATES

S.217 - AN ACT RELATING TO THE OPEN MEETING LAW AND MINUTES OF CERTAIN EXECUTIVE SESSIONS

S.249 - AN ACT RELATING TO LOWERING EDUCATION PROPERTY TAX RATES FOR LOW SPENDING TOWNS

S.255 - AN ACT RELATING TO PAID ABSENCE FROM WORK FOR HEALTH CARE AND SAFETY

S.259 - AN ACT RELATING TO ADJUSTING THE BASE EDUCATION AMOUNT

S.303 - AN ACT RELATING TO A NONCUSTODIAL PARENT'S ACCESS TO RECORDS AND INFORMATION

S.304 - AN ACT RELATING TO PUBLIC SCHOOL PRINCIPALS AND NONRENEWAL OF CONTRACTS

S.316 - AN ACT RELATING TO CHILD CARE PROVIDERS

## **House Bills**

H.547 - AN ACT RELATING TO CREATING TWO NEW CRIMINAL OFFENSES, BULLYING AND AGGRAVATED BULLYING

H.566 - AN ACT RELATING TO ENDING THE REQUIREMENT THAT A RETIRED TEACHER WHO RETURNS TO WORK AND EARNS MORE THAN 60 PERCENT OF A TEACHER'S AVERAGE SALARY MUST PAY BACK ALL PENSION PAYMENTS RECEIVED DURING THE FISCAL YEAR