

# Education Legislative Report

February 4, 2014 – Issue #4

## ***House Education Priorities: Student Opportunity, Leadership and Governance***

Since the start of the session, members of the House Education Committee have expressed an interest in Vermont's system of education governance. Members are considering whether learning opportunities and the ability to create a 21<sup>st</sup> century learning system are impeded by the structural limitations of supervisory unions. The committee is also considering whether opportunities for children are limited by the small size of some of our districts and are concerned about existing opportunities being further reduced because boards must sometimes cut programs as tax pressures mount.

Another concern among committee members is the rate of leadership turnover among superintendents and principals. Many believe the structure is a contributing factor to this turnover, as well as the associated problem of diminishing pools of willing, qualified candidates. This is because under the current system leaders are unable to focus on teaching and learning and maximizing quality and efficiency because much time is spent in redundant work associated with supporting multiple boards.

Some of the more veteran committee members have also expressed concern that there has been only one school district merger under the state's voluntary merger framework – Act 153 of 2010. They believe that this lack of voluntary action is an indication that the only way to address the fractured nature of our system is for the state to take a more active role in fostering constructive change.

The House Education Committee is not alone in its views on this topic. Many legislators and administration officials echo similar concerns related to perceptions of diminishing student opportunity, unsustainable cost structures, volatile tax rates and leadership challenges. Driven both by a desire to improve education opportunities and by the imperative to bend the education cost curve, there are strong forces moving toward making substantial changes to our system of education governance.

Last week, the House Ed. Committee began reviewing specific proposals designed to move our system from supervisory unions to unified preK-12 systems over the next five years. Because of our commitment to furthering the interests of students and taxpayers, our Associations plan to actively engage in these discussions. The Committee is expected to begin taking testimony this week.

## ***More Voices Join the Chorus Calling for Education Finance Reform***

Last Tuesday the Vermont Realtors released a study of Vermont's education finance system at a press conference at the State House. The study, conducted by economists Art Woolf and

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Richard Heaps of Northern Economic Consulting, examined spending patterns since the enactment of Act 60 and declines in student enrollment. “Vermonters cannot afford to pay more and more money to educate a smaller and smaller group of school children. We need to make changes, and we need to start making those changes now,” said Donna Cusson, President of Vermont Realtors.

The Realtors’ two recommendations for this session are to lower the income cut-off for income sensitivity and to make small schools grants competitive based on geographic necessity and the capacity of nearby schools. They also called upon the legislature to look toward long-term sweeping changes that would “finance a preK-12 system that educates students capable of competing in national and international economies.” They believe that structural reforms to the education governance system should be part of the discussion.

Also last week, the House Education Committee invited the mayors of Montpelier (John Hollar) and Barre (Thom Lauzon) to discuss the Vermont Mayors’ Coalition’s legislative agenda. Part of that agenda speaks to property tax reform and education cost containment. The mayors expressed concern over increasing education spending despite falling enrollment and the effect this has had, and may continue to have, on education property tax rates. They emphasized that they are not calling for cuts to education spending, but for changes to the governance structure and funding system in order to improve outcomes and educational opportunities. They proposed three initiatives for the Legislature to take up:

- 1) Create an Administrative Education Cost Reduction Commission with "comprehensive administrative consolidation powers." The commission would have a mandate to find savings to fund investments in early (0–5) education.
- 2) Lower the excess-spending threshold "to provide a greater incentive for districts that spend above the statewide average to reduce spending." (Based on a proposal from Tax Commissioner Peterson, there has been some discussion in the State House this year to tie the threshold to the CPI, instead of to the previous year's average education spending.)
- 3) "Create a stronger link between increased local spending and tax rates." By this, the coalition means making changes to the income sensitivity program, in which taxpayers with household incomes under \$90,000 pay their homestead property taxes based on income, instead of property value. Currently, 60 to 65 percent of taxpayers pay based *mostly* (or entirely) on income. They did not offer specific recommendations for achieving this goal.

In a related activity, the Senate Finance Committee heard from four superintendents from around the state on measures they've taken to address education costs and improve education quality. The superintendents described what they've done in their supervisory unions and districts, and made some recommendations for action. A common theme was that the structure of supervisory unions makes it very challenging to maximize efficiencies, due to separate collective bargaining agreements – which limit flexibility in sharing staff between districts – and separate budgets, which often create redundancies.

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## ***Open Meeting Law Adjustments Under Review***

H. 497, an act related to the Open Meeting Law was introduced last year and has been in the House Government Operations Committee awaiting action. In 2011, S.67, a different open meeting law bill, passed the Senate; when it was considered by the House, the Government Operations Committee recommended some changes, and the bill went to the floor, but was then recommitted to the committee—it never saw a full House vote. H.497 is based largely on what was recommitted to the committee in 2011.

The bill clarifies the existing definition of a meeting to specifically exempt communications among members of the public body for the purpose of scheduling a meeting, organizing and agenda, or distributing materials to discuss at a meeting. Mere scheduling or distributing information via written correspondence or email would not constitute an open meeting; however, these communications would be available for inspection under the Public Records Act.

The bill also makes clear that public bodies can hold electronic meetings, so long as notice is posted at least 24 hours in advance and the notice identifies at least one physical location where members of the public can attend and participate or an electronic or other means by which the public can access the meeting remotely. If such electronic meetings are conducted, all votes must be taken by roll call, the members of the public body must be audible to the public, and must be able to simultaneously hear each member and speak to each member during the meeting.

The bill creates a requirement that, at least 24 hours prior to a meeting, the agenda shall be posted to a website if the public body maintains one, as well as in or near the municipal office and at least two other public places. The bill would permit changes to be made to the agenda as the first act of business in the meeting.

The bill clarifies and changes some executive session requirements of the Open Meeting Law. It creates the ability to discuss or consider in closed session municipal or school security or emergency response measures, the disclosure of which could jeopardize public safety. It also clarifies that a public body may meet in closed session to discuss, interview, and evaluate the merits of a candidate for public office or employment, provided that a final decision to hire or appoint is made in open session.

The law currently has no process for providing notice to the public body when there is an alleged violation of the law. H. 497 has new language requiring any aggrieved person to notify a public body that they believe a violation of the law has taken place; to do so the person must allege a specific violation and make a request for specific actions to be taken remedy the violation. The public body would then have five days to respond publicly to the alleged violation; if they acknowledge a violation then they must cure it – by declaring as void any action or actions taken at a meeting held in violation of the law - within 14 calendar days. Any action declared void may be ratified at a subsequent open meeting.

If the public body denies a violation then an aggrieved party may seek relief in superior court. If the court finds there was a violation of the law, it will assess reasonable attorney's fees and other litigation costs against the public body, unless there was a reasonable basis for the public body to act the way it did and it acted in good faith. The bill extends also liability for violations to others besides members of the public body itself - administrative assistants, for example - if they knowingly violate the Open Meeting Law.

Our Associations believe that bringing further clarity to the Open Meeting Law is a worthy goal and will actively participate in discussions with the various committees involved as this bill moves forward.

### ***Vermont-NEA Proposes to Eliminate Certain Relicensing Requirements***

Last week Vermont-NEA asked the House and Senate Education Committees to consider elimination of the requirement that licensed educators develop individual professional learning plans (IPLP) and professional portfolios in order to retain their license to teach. The union testified that Vermont has among the most onerous re-licensure requirements for professional educators. In order to renew a license, an educator must participate in 135 hours of continuing education, submit a portfolio documenting professional growth over the previous seven years, and obtain approval for an IPLP that articulates the educator's professional learning goals for the ensuing seven-year licensing period. These requirements are in addition to whatever professional learning goals an educator may have resulting from a local evaluation conducted by his or her employer.

In 2013, the Vermont-NEA, with support from the Governor's office and the Agency of Education, administered the TELL survey, which was completed by almost 8,000 Vermont teachers. One significant need identified by teachers in the survey is more time to engage in useful professional activities. Witnesses for Vermont-NEA suggested that the vast majority of educators believe that the IPLP obligation does not serve them or their students well and takes time away from activities that would.

Licensing requirements are overseen by the Vermont Standards Board for Professional Educators, a body comprised primarily of educators appointed by the Governor. Committee members wondered why the union was coming to the General Assembly to resolve a question that sits in the purview of the standards board. Vermont-NEA responded that it had made several unsuccessful attempts to convince the standards board to eliminate the portfolio and IPLP requirements. They are scheduled to appear before the standards board in February to discuss this issue; the Senate Education Committee will take testimony later this week.

### ***Senate Education Takes Up Principal Nonrenewal Bill***

Last week, the Senate Education Committee began taking testimony on [S.304](#), an act relating to public school principals and nonrenewal of contracts. The bill proposes to make changes to the date whereby principals under contract receive written notice of nonrenewal. Current law

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requires notice to be given 90 days prior to the date the existing contract expires; S.304 would require a school district to provide that notice on or before February 1.

The bill would also change the standard for nonrenewal of a principal's contract. Current law states that nonrenewal can be based upon "elimination of the position, performance deficiencies or other reasons." If nonrenewal is based on performance deficiencies, it must be accompanied by a written evaluation from the superintendent and the school board has discretion to allow a period of remediation prior to issuing the written notice of nonrenewal. S.304 eliminates "or other reasons" and allows for nonrenewal only due to the elimination of the position or performance deficiencies. If nonrenewal is due to performance deficiencies, then the principal "shall have the opportunity to correct the deficient areas" prior to receiving notice of nonrenewal.

Our Associations are watching this bill closely. The timing and standards for nonrenewal of administrator contracts are important issues that could have significant impact on the hiring and evaluation processes for principals. The Senate Education Committee is expected to resume taking testimony this week.

### ***Financing Mechanisms for Single-Payer Health Care Discussed***

Last week, House Ways and Means heard from Robin Lunge and Michael Costa, two key administration officials charged with overseeing Vermont's health care reform efforts. They presented an overview of the roles, financing considerations and timeframe needed in order to meet the implementation target date of January 1, 2017 for Green Mountain Care, the state's single-payer health system.

The committee was thorough in its questions. It was clear that members felt the need for much more information before making a decision around financing. Members expressed concern at the challenges of changing such a complex system. Issues raised more than once included the need to understand how a new system would impact various groups - the winners and losers so to speak - as well as the need to be able to explain to constituents the new system and rationale for whatever financing approach is finally taken.

Under Act 48 of 2011, the Green Mountain Care system will have the same benefits/coverage as Vermont Health Connect. Act 48 also defines the parameters regarding the cost shares Vermonters will pay in the new system - the out-of-pocket expenses Vermont consumers will be expected to bear. These costs range from almost nothing for those who qualify for Medicaid to out-of-pocket costs equivalent to the Gold plan on VHC for the highest-income Vermonters.

Of particular interest to school districts are the assumptions being made about school district employees. The administration is assuming that education employees will be integrated into the unified Green Mountain Care plan and that collective bargaining agreements may provide for supplemental coverage beyond Green Mountain Care's coverage. Therefore to the degree Green

Mountain Care requires higher employee cost sharing, unions would be able to bargain supplemental and wrap-around coverage by employers to make them whole.

We will continue to monitor discussions regarding financing plans for Green Mountain Care, as well as to begin a conversation that asks: in the context of health care reform, what is the appropriate contribution for Vermont public schools to make toward the health coverage of their employees to attract and retain the best staff to meet the mission of the schools? This is a conversation that school districts ought to be initiating with their communities as more information emerges about the options for health coverage now under Vermont Health Connect and in the future under Green Mountain Care.

### ***Education-Related Bills***

**This document** summarizes all education-related bills that have been introduced by one or more members of the Legislature as of February 3, 2014. The deadline for introducing new Senate bills has passed and the deadline for House bills was January 31. Committees can introduce bills through the end of March. To read any bill's full text or see its status in the legislative process, go here: <http://www.leg.state.vt.us/database/status/status.cfm>.