

Education Legislative Report

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House Education Committee Bill Would Create PreK-12 Education Systems

The House Education Committee continues to work on a bill designed to address inequity in student opportunity and outcomes and to curb unsustainable increases in costs.

Since the first version of the House Education Committee's comprehensive bill was released two weeks ago, the VSBA and VSA have worked with the committee to incorporate significant revisions to the governance section. Other elements of the bill have been modified or eliminated as well. The following reflects the status of the [committee bill](#) as of Friday, February 20th:

Purpose: The bill starts with a purpose section, which states that the General Assembly intends to move towards integrated education systems that are responsible for the equitable delivery of high quality preK-12 education opportunities and for ensuring stable, affordable costs. It goes on to state that the bill is intended to encourage and support local decisions that:

- promote equity in the quality and variety of educational opportunities available throughout the State, regardless of the school's size or location;
- enable Vermont schools to meet or exceed the education quality standards set forth in 16 V.S.A. § 165, including goals established by the school in the continuous improvement plan it develops pursuant to that section, and to provide a sequential, logical curriculum to all students in the region;
- advance solutions, including structural changes, that are developed and implemented at the local level to meet community needs and priorities;
- enhance the possibility that the State's small schools remain open and provide students with equitable educational opportunities;
- create conditions that promote stability in leadership;
- foster strong relationships between schools and the broader community;
- facilitate operational and educational efficiencies through greater flexibility in the management of resources;
- improve affordability and stability for taxpayers through economies of scale; and
- increase accountability and transparency through greater consistency in educational governance structures.

Governance: Section 17 of the bill requires that on or before July 1, 2019, educational opportunities shall be provided through integrated preK-12 education systems. These systems may be governed by a single board or a multiple boards within a supervisory union structure, but all would have to demonstrate that they are designed to accomplish the following outcomes:

- provide equitable access to high quality educational opportunities that meet the Education Quality Standards;
- foster stable leadership by developing and supporting school and district leaders;
- hire, train, support and retain excellent administrators, teachers and staff;
- maximize the effective, flexible and efficient use of fiscal, human and facility resources to support student achievement and success;
- promote budgetary stability, leading to less volatility for taxpayers;
- account for and report financial information in accordance with GAAP principles and in a manner that promotes transparency and accountability; and
- promote a shared commitment to a strong, flexible and coherent system.

Each integrated preK-12 education system must have an average daily membership of at least 1,000 students unless granted a waiver by the State Board.

Districts are encouraged to work with neighbors to prepare a preK-12 integrated education systems plan and submit a report to the State Board of Education using the process outlined in Title 16, chapter 11 for union school district formation. The State Board will evaluate reports to determine whether a proposal is designed to create an integrated education system capable of achieving the above outcomes, and will work to ensure no districts are stranded as a result of a specific proposal.

The State Board is authorized to approve a plan that creates or continues supervisory union structures with two or more member districts if the Board concludes that it is the best method of accomplishing an integrated system and the plan includes provisions for ensuring transparency and accountability with respect to the supervisory union budget.

The bill creates an expedited process for supervisory unions that wish to realign into a supervisory district – such as supervisory unions that are entirely comprised of union high school districts and their member elementary districts. In those cases, the supervisory union board could submit a proposal to the State Board without having to go through a formal study committee process.

The bill also provides that supervisory districts that believe they can function as an integrated education system capable of accomplishing the outcomes do not have to engage in a formal study committee process, but can instead submit a report to the State Board attesting to that determination.

Once the State Board approves an integrated systems proposal, that proposal goes to the electorate for final approval. If, by November 30, 2017, a district has not engaged in a process to create an integrated education system, or if the electorate fails to authorize the creation of that system, the State Board is required to approve an order realigning any remaining districts into

integrated preK-12 education systems. This provision does not apply to interstate school districts.

The bill explicitly states that non-operating districts shall not be forced to give up choice nor shall operating districts be forced to pay tuition unless they agree to do so as part of an integrated preK-12 education systems plan.

Finally, the bill would extend Act 153/156 incentives to those districts that approve an integrated preK-12 education systems plan by July 1, 2019. It also eliminates the requirement to refund school construction aid to the state in the event that a school district sells a building.

Education Finance: The bill has several provisions designed to ensure greater transparency in the education finance system. Sections 2-6 of the bill would eliminate the base education amount and base homestead property tax rate and, instead, would present how much \$1.00 of homestead property tax rate would yield in spending support per equalized pupil. The Commissioner of Taxes would report the dollar equivalent amount for the following fiscal year on or before December 1. District specific homestead property tax rates would be higher or lower than \$1.00 depending on the level of spending per equalized pupil relative to the amount yielded by the \$1.00.

This change would eliminate the need for the General Assembly to set a base education amount or property tax rates on an annual basis. Local rates would be set based on the amount they are spending above the dollar equivalent amount (the amount a \$1.00 tax rate would “yield” from the Education Fund.) By way of example, if the \$1.00 tax rate would yield \$10,000, and a district presents a budget that has spending per equalized pupil at \$15,000, then that district’s tax rate would be \$1.50.

Section 7 of the bill would require the warning for the school district’s proposed budget to state what the total budget means in per-pupil spending and the percentage increase or decrease in per-pupil spending in relation to the prior year. The bill includes the specific ballot language to be used. Finally, section 24 of the bill includes a moratorium on any new legislation that would increase property taxes through June 30, 2016.

Small Schools Grant & ADM Hold-Harmless: Sections 9-11 of the bill address the small schools grant. The current language would eliminate the small schools grant when eligibility is based on a district’s 2-year average combined enrollment of 100 or fewer students, and eliminate it for districts that have an average grade size of fewer than 20 students unless the district is geographically isolated. The bill defines “eligible due to geographic necessity” as those schools for which the State Board has determined, on an annual basis, that “driving times, distances, and travel routes are an obstacle to transporting students.” The determination of the State Board shall be final.

The grants are phased out over two years, unless the district has formed a RED, in which case the RED would continue to receive the grant indefinitely. However, if a school that had once been an eligible school closes, then the RED would no longer receive the grant.

Sections 12 & 13 address the ADM Hold-Harmless provision. The bill would apply the current 3.5% calculation to a district's actual equalized pupils, rather than the prior year's inflated equalized pupils, which is current law. The new calculation would be phased in over three years for those districts that do require an adjustment to their ADM calculation based on a loss of more than 3.5% of their student population. In FY 2017, the district's equalized pupils will in no case be less than 90% of the prior year's equalized pupil count, and in FY 2018, the loss shall be no more than 80% of the prior year's equalized pupils.

Tuition: Section 16 of the bill would prohibit a school district from paying tuition for a resident student to attend an out-of-state public or independent school. The prohibition would not apply to a district that pays tuition to a school located in another state or country for all students in one or more grades, for its career technical education students, in circumstances where the State Board has determined that payment to a school outside of Vermont is authorized due to geographic necessity, or for a residential placement pursuant to a student's IEP.

Superintendent/Principal Roles: Section 22 of the bill directs the Secretary of Education to work with the VSBA, VSA and VPA to develop a proposal to clarify the roles of superintendents as systems managers and principals as instructional leaders. The proposal shall also address superintendents' and principals' relative responsibilities in the areas of supervision and evaluation.

Collective Bargaining: Section 23 of the bill directs the Secretary to work with the VSBA, VSA and Vermont-NEA to assess current collective bargaining laws for educators as they relate to the imposition of contracts, strikes and binding interest arbitration and recommend proposals for legislative changes to the House and Senate Education Committees next year.

Special Education Funding: Section 14 of the bill directs the Secretary of Education to develop a proposal for an alternative method of funding special education services, which may be based in part on payments based on average daily membership (ADM). The proposal should also include ways to reduce administrative responsibilities at the local level and increase flexibility in the provision of services.

Bill to Cap Statewide Education Spending Introduced

Representative Oliver Olsen of Londonderry and others have introduced [H. 257](#), a bill proposing to set a cap on statewide education spending growth and authorize the Agency of Education to award a limited number of waivers to school districts with extraordinary spending needs.

The bill was presented to the House Education Committee on February 19th, which is in the throes of reviewing a comprehensive education reform bill.

In his opening remarks to the committee, Representative Olsen commented that H.257 responds to the fact that "education spending in Vermont is growing faster than our ability to pay." Olsen described the bill as a bridge to a time when structural changes to the education delivery system will yield cost savings resulting from greater efficiency in use of resources. He

stated that the bill was crafted to address mounting frustrations with increasing property taxes and in an effort to put education spending on a sustainable course.

In summary, the bill would:

- Establish a statewide education spending cap effective with school district budgets established for FY2017. This would affect budgets voted on in March 2016.
- Cap aggregate statewide education spending at an amount equal to total statewide spending for the prior year increased by the most recent New England Economic Project Cumulative Price index as of November 15 plus an additional one-tenth of one percent (the same index used to calculate the growth rate of the annual transfer from the General Fund to the Ed Fund.)
- Within the capping mechanism itself, a cap on the allowable percentage increase in equalized per pupil spending would be calculated annually, based on the ratio of the district's prior year per pupil spending and the prior year statewide average of per pupil spending. Low spending districts would receive a greater percent increase allowance, while higher spending districts would receive a lesser percent increase allowance. This calculation would result in the “district allowable growth rate.”
- Set aside up to \$10 million of the aggregate allowable increase in spending to support “extraordinary spending waivers” issued on a competitive basis to eligible school districts that demonstrate extraordinary spending needs. Requests for grants could be partially awarded, or denied, or granted in full.
- Prioritize recipients of these awards on the basis of several factors, including extraordinary special education needs, sudden fluctuations in student enrollment, significant expenditures related to buildings, grounds, or physical plant, or extraordinary and unique needs of the student population served by the district.
- Require applications for the waiver to be submitted by October 31 each year (for the subsequent year budgeting process). These applications would trigger an evaluative review by the Agency of Education and could result in the Agency of Education “taking administrative control” of the district. Waiver determinations could not be appealed.
- Cap tuitions paid by non-operating districts – at the level of the district allowable growth rate calculated by the Agency of Education.

The law would sunset effective July 1, 2019. It is not clear what role the local board or electorate would play in the budget setting process under this new law. Our Associations understand that action needs to be taken this year to address property taxes, but absent a full understanding of both the proposal and its implication, we are opposed to capping mechanics.

Child Welfare Bill Creates Felony For Failure to Protect a Child

After months of testimony in the wake of two toddler deaths last year, the Senate Judiciary Committee unanimously approved S.9, a bill designed to make improvements to Vermont’s system to protect children from abuse and neglect. Within its nearly 50 pages, S. 9 includes the creation of a new crime, Failure to Prevent Harm to a Child. The crime would allow the state to

charge an individual with a ten year felony if the person fails to take action to protect a child from an enumerated list of harms: death, serious bodily injury, lewd or lascivious conduct with a child, sexual exploitation of children, and sexual assault.

In response to widespread opposition from groups including DCF, victims' advocates, child advocates, the NEA, and the Defender General, the original language of S.9 was narrowed. The provision is in Section 3 of the strike all amendment that the Senate Judiciary Committee will report to the full Senate next week.

Although the narrower language is a positive development from the initial broad and vaguely defined crime, there are still significant concerns for school employees. First, the bill proposes that the new crime will apply to any person with "custody or care" of a child. It would clearly apply to the relationship between school employees and students. Second, the standard of care for the crime is negligence. In other words, the State would only need to prove that the defendant reasonably should have known that the harm would come to the child without the defendant intervening. The State would also need to prove that the failure to act was the cause of the harm to the child. Finally, while the committee added a couple of affirmative defenses to the crime, those defenses would not assist the defense of school employees.

The bill as written does not go far enough to ensure that unintended prosecutions do not result from the creation of the new crime. School employees are already mandatory reporters of child abuse or neglect. S.9 elevates what might be a misjudgment on the part of a teacher or a principal to a felony punishable by up to ten years.

Bill Would Create Statewide Council to Collect School Discipline Data

S. 67 was introduced by Senators Sears, Campion and McCormack in response to the "[Kicked Out](#)" report that VT Legal Aid published in January. The bill would create an advisory council to collect and study school discipline data in Vermont and suggest solutions to any problems that the council may find. The major concern driving the bill is data compiled by Jay Diaz of VT Legal Aid that suggests Vermont public schools suspend students at a rate similar to that of other states, and that minority students and students with disabilities are more likely to be suspended.

The report's data has been called into question by the Agency of Education, because a number of small districts are barred from reporting their discipline data by privacy laws. S.67 proposes to enhance data collection on school discipline and to make that data more readily available to the public in the future. The Senate Education Committee heard testimony and began mark-up of the bill on February 18. The Committee will make its final decisions and likely take a vote this week. Still to be determined is whether the charge of the already-existing council on hazing, harassment and bullying might be expanded to examine these issues, or whether to create a wholly new council to study the issue.

Governor's Proposed Payroll Tax Under Scrutiny

The Ways and Means Committee has devoted significant time on the Governor's proposed 0.7% payroll tax, which is designed to increase the amount of payments made to medical providers who accept Medicaid patients and to make other investments in Vermont's health care system. The payroll tax is expected to raise \$41.4 million in FY 2016, and close to \$90 million going forward on an annual basis. The money will draw a federal match of \$86.1 million in FY 2016, and \$190 million annually going forward.

The Governor expects that these increased payments to providers will decrease the "cost shift" that currently occurs when these providers have to cover their costs by increasing the cost to consumers who have private insurance. The administration expects that the overall impact on the system will be a decrease in the premium costs of privately insured plans. The Governor's proposal is for the tax to go into effect January 1, 2016 with the expectation that the calendar year 2016 premium rates will reflect the increased Medicaid payments and therefore the rate of premium increase will be reduced.

As you know, school district FY 16 health plan rates have already been set by VEHI and built into FY 16 budgets that will soon go before the voters. The administration recognizes the timing of his initiative is challenging for schools and is therefore examining strategies to alleviate any increased pressure on the property tax until the benefits accrue to school health plans. VEHI is committed to working with the administration, BCBSVT and the Green Mountain Care Board to ensure all cost savings are fully passed on to schools as soon as possible.

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 4, 2015. To read any bill's full text or see its status in the legislative process, go here: <http://legislature.vermont.gov/bill/search/2016>