

Education Legislative Report

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House Passes Comprehensive Education Reform Bill

After two days of spirited debate, on Thursday, April 2nd the House gave final approval to H.361, an act relating to making amendments to education funding, education spending and education governance. [Here](#) is a link to H.361 as amended by the House after second reading. This version does not include the Johnson amendment, which was passed by the House and can be found on [page 943 of the House Journal](#) from Thursday.

The following is a section-by-section description of the essential components of the bill.

Section 1 – Education Policy Goals: The bill begins with a statement of intent and policy goals. The stated intent is to move Vermont toward integrated Prek-12 education systems responsible for the equitable delivery of high quality education through revised governance structures that lead students to meet or exceed the Education Quality Standards, create improved transparency and accountability, and deliver education at a cost that parents, voters and taxpayers value.

Section 1 goes on to state that the bill is designed to encourage and support local decisions and actions, including structural changes that will accomplish 11 specific policy goals. Among those goals are to: promote equity of educational opportunities; improve student performance; create enhanced conditions for stable leadership; foster strong relationships between schools, parents and community; improve affordability and stability for taxpayers; and increase public accountability and transparency. The State Board of Education must adopt and publish performance measures for the policy goals on or before December 31, 2015. The Board is also required to issue guidelines on or before that date that are designed to assist districts to develop governance proposals and to guide the State Board’s evaluation of those proposals.

Sections 2-5 – Yield; Dollar Equivalent: These sections replace the base education amount currently used to calculate the base tax rates this year with a “dollar equivalent yield.” The “dollar equivalent yield” is the amount of per pupil spending that could be supported each year by a fixed homestead base tax rate of \$1.00 for taxpayers who pay based on the value of their property, and by a fixed applicable income percentage of 2.00% for taxpayers who receive an income sensitivity adjustment. The base education amount would no longer be used to calculate tax rates.

The Commissioner of Taxes would propose each dollar equivalent amount for the following fiscal year on or before December 1, but the General Assembly would establish each dollar equivalent annually. District specific homestead property tax rates would be higher or lower depending on the level of spending per equalized pupil relative to the amount raised by the dollar equivalent yield. Local rates would be set based on the amount they are spending above

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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.

Sections 6-7 - FY 2016 Property Tax Rates and Base Education Amount: This section sets the rates for FY 16 at \$0.98 for homestead property, \$1.535 for nonresidential property and 1.94 percent for income based tax calculations. It also sets the base education amount for FY 16 at \$9,459.00.

Sections 8-9 – Budget Warning Language: These sections require the warning for a school district’s proposed budget to state what the total budget means in terms of per equalized pupil spending and the percentage increase or decrease of per equalized pupil spending in relation to previous year.

Sections 10-12 – Merger Support Grants; Small Schools Grants: Districts eligible for small schools grants under current law must vote by Nov. 30, 2017 to form either a joint contract school, a RED or an integrated education system meeting the requirements in Section 17 of the bill in order to receive a merger support grant. The grant would be the amount equal to the small school grant the eligible district received in the fiscal year two years prior to merger. The merged district would keep receiving the grant indefinitely unless the originally eligible school closes. In the event of a school building in a formerly eligible school district closing in order to consolidate with another school into a renovated or new school building, the grant will continue to be paid for the term of the bond for that construction.

If a district does not vote to join either a RED, an integrated education system satisfying Section 17 or a joint contract by November 30, 2017, then its eligibility for continued grants will be subject to the new criteria laid out in Section 12. To be eligible, districts must operate at least one school, have an average grade size of 20 or fewer, have participated in a merger study and submitted a merger report to the State Board. The district must also be determined by the State Board, on an annual basis to be eligible based on high student to staff ratios, lengthy driving times or inhospitable travel routes to nearby districts with excess capacity, and success in meeting the educational quality standards.

The section takes effect in FY 2020. On or before July 1, 2018 the State Board shall adopt and publish metrics by which it will make determinations whether to award small school support on and after July 1, 2019.

Sections 13 - 14 - 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.

Sections 15-16 Out-Of State Tuition: These sections were removed from the bill in an amendment offered from the floor. There are no restrictions on payment of tuition to out-of-state institutions in this bill.

Section 17 – Education Governance: Section 17 requires that on or before July 1, 2019 educational opportunities shall be provided through integrated education systems that are responsible for the equitable delivery of high quality education to all resident prekindergarten through grade 12 students, and that are designed to improve transparency and accountability and to promote stable, affordable education costs. Integrated education systems are expected to accomplish the following outcomes:

- promote equity in the quality and variety of educational opportunities available throughout the State, regardless of the school's size or location;
- improve student performance as established by each school in the continuous improvement plan it develops pursuant to 16 V.S.A. § 165;
- provide a sequential, logical curriculum to all students;
- promote students' ability to think critically; communicate verbally, in writing, and through the use of technology; collaborate; and solve problems creatively;
- 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 if they are able to provide students with equitable educational opportunities and improved student performance at a stable, affordable cost;
- create enhanced opportunities and other conditions that promote stability in leadership;
- foster strong relationships between schools and the broader community and increased parental and community engagement at the school level;
- facilitate operational and educational efficiencies and effectiveness through greater flexibility in the management of resources to support student achievement and success, with a goal of increasing the district-level ratio of students to full-time equivalent staff;
- improve affordability and stability for taxpayers; and
- increase public accountability and transparency through greater consistency in educational governance structures and the accounting and reporting of financial information in accordance with Generally Accepted Accounting Principles and as otherwise required by the Secretary of Education.

Each integrated preK-12 education system must have an average daily membership of at least 1,100 students unless granted a waiver by the State Board. The bill states that the preferred structure for an integrated education system shall be a supervisory district that is responsible for the education of all resident PreK-12 students and that assumes one of the following common governance structures:

- a district that operates a school or schools for resident students in prekindergarten or kindergarten through grade 12;
- a district that operates a school or schools for resident students in prekindergarten or kindergarten through grade 6 and pays tuition for all resident students in grade 7 through grade 12;
- a district that operates a school or schools for resident students in prekindergarten or kindergarten through grade 8 and pays tuition for resident students in grade 9 through grade 12;
- a district that operates no schools and pays tuition for resident students in prekindergarten through grade 12.

The bill also recognizes that a supervisory district may not be the best means of achieving the goals and so districts may propose the creation, expansion, or continuation of a supervisory union with two or more member districts, but supervisory unions are encouraged to include the smallest number of school districts as practicable. The State Board may approve the proposal if it concludes that it is the best means of achieving an integrated education system capable of achieving the 11 goals, as long as the proposal also includes a process for insuring transparency and accountability in the supervisory union budget. This process could include a mechanism to allow for the electorate to vote directly on the supervisory union budget.

Districts are required to meet with one or more other districts, including those that have similar patterns of school operation and tuition payment, to evaluate the districts' structures and programs and determine how best to create and implement an integrated education system in the region. The districts do not have to be contiguous or within the same supervisory union.

Districts must form a study committee with one or more other districts and prepare a study report proposing how best to create either a new district or an integrated system of more than one district. The report should demonstrate how the proposed realignment will be capable of achieving the goals above that will be in effect by July 1, 2019.

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 Secretary of Education is required to develop a plan realigning any remaining districts into integrated education systems, to be approved by the State Board, which will publish an order realigning the remaining districts. This provision does not apply to interstate school districts.

The bill provides 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.

Sections 18-21 – Incentives: In Section 18 the bill would extend Act 153/156 incentives to those districts that approve an integrated preK-12 education systems plan by November 30, 2017 and become effective by July 1, 2019. Section 19 eliminates the requirement to refund school construction aid to the state in the event that a school district sells a building after it has formed a union school district or a joint contract school. Sections 20 and 21 amend existing law to comply with the November 30, 2017 deadline in Section 18.

Section 22 – Articles of Agreement: This section states that for those districts that have already formed a RED (or some other entity eligible to receive RED incentives), and that within their articles of agreement have a specific process by which another district may become or seek to become a member of the merged district, nothing in the bill will alter or change that process.

Section 23 - Data; Quality Assurance, Accountability: This section directs the Agency to implement statewide systems to maintain financial reporting and accounting data and longitudinal student data by July 1, 2017. The system should compare quality and variety of opportunities, student outcomes and financial costs on a district-to-district basis.

Section 24 – Collective Bargaining Study: This section was deleted.

Section 25 - Transition of Employees: This section provides for a transitional board to appoint a negotiations council for a newly merged district or SU to negotiate with future employees' representatives and recognize the representatives of the "Realigning Districts" or "Realigning SUs" as the recognized representatives of the employees of the new district or SU. Negotiations would commence within 90 days after formation of the transitional board.

If a new agreement is not ratified by both parties prior to the first day of the new district or SUs existence, then the parties will comply with existing agreements in place until a new agreement is reached.

The new district or new SU will assume the responsibilities of any one or more of the Realigning Districts or Realigning SUs that have been participants in the Vermont Municipal Employees' Retirement System. The membership and benefits of employees will not be impaired or reduced by the negotiations with the new district or new SU.

Section 26 – Unfunded Mandates: This section requires the Joint Fiscal Office to determine the total dollar amount required for SU’s and school districts to perform all new unfunded mandates imposed upon them in the fiscal year beginning in July 1. That amount shall be added to the General Fund transfer in the next fiscal year and in each subsequent fiscal year unless the General Assembly repeals the mandate.

Sections 27-28 – Education Spending Cap: These sections were among the most controversial and evolving sections of the bill. The final version passed by the House establishes caps on a school district’s allowable growth rate in education spending at the greater of either: the total district education spending amount adopted in the previous year’s budget, or the district education spending amount per equalized pupil in the previous year’s budget multiplied by the district’s equalized pupil count in the current year. The district’s allowable growth rate is indexed so that the cap is higher for a low-spending district than a cap for a higher spending district.

However, the caps do not go into effect until FY 2018 and then do so only if statewide education spending in FY 2017 exceeds total statewide education spending in FY 2016 by more than 2.95%. If the cap is not triggered for FY 2018, then the cap applies in FY 2019 only if total statewide education spending in FY 2018 exceeds the FY 2017 amount by more than 2.95%.

Section 29 - Special Education Funding Study: This section 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.

Section 30 - Superintendent/Principal Roles Study: 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.

Section 31 - Property Tax Adjustment Lag Study: Directs the Commissioner of Taxes to report to the General Assembly on the steps that would be required to transition property tax adjustments to a “current year” basis.

Section 32 - Adequacy Funding Study: Directs the Joint Fiscal Office, in consultation with the Senate Pro Tempore, the Speaker, and the chairs of the House and Senate Committees on Education to select and enter into a contract with a consultant to study adequacy funding models with emphasis on Vermont educational standards, compliance with the Brigham decision, and the promotion of substantial equality of opportunity for Vermont students.

Sections 33-34 - Joint Legislative Oversight Committee: A committee comprised of the chairs of designees of the House and Senate Committees on Appropriations and Education, the House Ways and Means Committee and the Senate Finance Committee would evaluate legislative policy and funding initiatives, including monitoring the progress and consequences of consolidation efforts.

Section 35 - Health Care Costs Study: Includes a set of findings stating that health care expenses are a major cause of increases in school budgets and education property taxes, and that until the State solves the problems associated with the cost of health care, it will be increasingly difficult for school districts to contain education spending and education property taxes.

On or before November 1, 2015 the Director of Health Care Reform in the Agency of Administration shall to report to the Health Reform Oversight Committee, the House and Senate Committees on Education, the House Committee on Health Care and the Senate Committee on Health and Welfare with options for the design of health benefits for school employees that will not trigger the excise tax and ways to administer those plans through VEHI, Vermont Health Connect or some other mechanism. The Director of Health Care Reform is required to consult with representatives from the VSBA, the Vermont-NEA, VEHI, VHC, the Office of the Treasurer and the Joint Fiscal Office.

Section 35a – Financial Incentives Appropriation: This section authorizes the Agency of Education to spend up to \$620,000.00 in FY 2016 for the reimbursement of costs and other financial incentives related to merger and governance-related activities.

Section 35b - Designation of Public or Independent High School: This section makes changes to Vermont’s statute on designation of public or independent schools. Currently, districts that don’t operate high schools may designate one public or approved independent school to be the high school for the district. This section would allow non-operating districts to designate three or fewer schools.

Bill to Eliminate Strikes Without Arbitration Heads to the Floor Next Week

On April 3rd, the House Committee on General, Housing and Military Affairs voted 3-5-0 against H.76 as [amended by the House Education Committee](#). The House Education amendment eliminates the right to strike and impose contracts without requiring binding arbitration. It establishes specific timelines for bargaining to begin, and if the parties were unable to reach agreement within 90 days of commencing negotiations, they would have to proceed to mediation. If the parties fail to reach agreement through mediation, they would have to proceed to the factfinding process within 45 days. The factfinder would issue a report with its recommendations, and the parties would be expected to continue to negotiate to reach a final agreement.

If the parties still have not reached an agreement after the expiration of the contract, current contract terms remain in place, and automatic step increases would only be granted if the expired contract allows for them. If the impasse continues six months after the expiration of the contract, the parties would be required to submit their proposals and any relevant information to the Vermont Labor Relations Board, which would have the authority to make recommendations to the parties and may also attempt to mediate the dispute.

If impasse continues twelve months after the expiration of the contract, then penalties would apply to both sides: teachers would be ineligible for retroactive pay for any increases agreed to as part of a final settlement, and the school district's base statewide education tax rate would be increased by one cent on all homestead property located within the district.

Even though a majority of the members of the General Housing and Military Affairs Committee voted in opposition to the amended version of H.76, it will move to the floor for a full vote of the House next week.

Felony for Failure to Protect a Child Still Under Deliberation

As of Thursday morning, the Human Services committee had begun to discuss their views of how to move forward with the comprehensive child protection bill. The committee appears to be split on what to do with Section 3 of the bill, which proposes to create a new felony, Failure to Protect a Child. Seven members seemed to be in favor of removing the controversial section, with four members preferring to leave section 3 in its current form.

Our associations support the efforts of the committee to strengthen Vermont's child protection system. The addition of a new crime that puts educators at risk of prosecution for a ten year felony, however, will not accomplish that purpose. Many other organizations have testified in Human Services asking the committee to remove the new crime from the bill including: The ACLU, The Agency of Education, The Vermont Council on Domestic Violence, The Howard Center, The National Association of Social Workers, Judge Brian Grearson (Chief Superior Judge), and The Department for Children and Families. The Committee will continue testimony and mark up next week, before eventually sending the bill to House Judiciary and Government Operations.

Senate Education Committee Continues to Work on Reform Package

Last week, Senator Baruth presented the Education Committee with a draft bill that would direct districts with ADM less than 1500 to form either a PreK- 12 district or an expanded SU with a limited number of districts. The committee was receptive to the framework, but continued to discuss how the move to larger governance units could be accomplished. The committee members seemed to favor a broad SU option for districts that do not feel they can consolidate into a larger system with a single board. The committee continues to discuss the many variations of SUs and the efficiencies that districts might find by forming larger SUs. The discussions are ongoing, but the [committee bill](#) as of Thursday, April 2 includes the following elements:

Goals

- Decreased growth rate for education spending, including the flexibility to manage, share and transfer resources and achieve higher student to adult ratios
- Substantial equity in the quality and variety of educational opportunities
- Improved student outcomes and the ability to collect and analyze meaningful data sets
- Effective, consistent and stable leadership, excellent teaching and active parental and community involvement

Obstacles

- The variety and complexity of governance units
- The large number of relatively autonomous governance units
- The small size of some governance units
- The decline in student population versus the comparatively constant number of personnel

Measures for Quality Assurance: The Secretary of Education will gather and review data regarding efficient use of financial, human and other resources, equity in the quality and variety of educational opportunities, and academic outcomes

Regional Education Quality Review Teams: The Secretary of Education will establish these teams to conduct on site reviews based on the measures for quality assurance. **They** would provide guidance to a school that is not making sufficient progress meeting student performance standards, not meeting education quality standards, **or** found to be no longer financially viable.

The governance reform portions of the draft bill present districts with two options. Before July 1, 2019 all districts must provide education through either a PreK-grade 12 district of no fewer than 900 students, or an expanded Supervisory Union of no fewer than 1500 students and a limited number of member districts. To accomplish the reform, before July 1, 2015, the Secretary of Education would publish a list of Identified Districts that do not meet the minimum ADM in their current governance structure.

All districts, regardless of whether they are Identified Districts, will be required to evaluate their financial efficiency, educational opportunities and student outcomes. All districts must also meet with the board of at least one other district to discuss ways to improve financial efficiency, educational opportunities and student outcomes.

The Senate Education Committee draft includes merger incentives that are similar to those in H.361, as well as the same limitations on small schools grants, ADM hold harmless provisions and personnel transitional language. It also includes language making it clear that the intent of the bill is not to close small schools.

Ways & Means Rejects Payroll Tax

Last week, the House Health Care Committee proposed that the health care funding package raise \$52 million dollars through imposition of a tax on sugar sweetened beverages and a .03 cent payroll tax. Members of the House leadership determined that amount should be lowered to \$20 million. The decision on how to raise that amount was left to the House Ways and Means Committee, which has decided to work exclusively with a sugar sweetened beverage tax, and abandoned consideration of a payroll tax. The full health care financing bill will go to the floor early next week.