

Education Legislative Report

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House Education Committee Bill Addresses Governance and Education Finance

Last Thursday, David Sharpe, Chair of the House Education Committee, unveiled an education transformation bill for the committee's consideration. The bill has sections on governance, tuition payments, small schools grants & ADM hold-harmless, school district hiring processes, education finance, and special education funding. What follows is a brief overview of each of the major proposals of the bill.

Governance: Section one of the bill addresses governance, and would require all supervisory unions to become supervisory districts by July 1, 2018. This requirement would not apply if a school district votes to retain its current governance structure and that “opt-out” is approved by the State Board because the Board has determined that “the interests of the State, the students, the district and the other districts in the supervisory union if the district maintains its current governance structure.” The requirement would also not apply in those cases where some “alternative governance proposal” has been approved by the electorate on or before July 1, 2017. The governance section of the bill concludes with a requirement for the State Board to reorganize non-operating districts – districts that pay tuition for all resident PreK-12 students – into one or more non-operating supervisory district(s).

Tuition: The bill includes provisions from [H.38](#), and 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, or for a residential placement pursuant to a student's IEP.

Small Schools Grant & ADM Hold-Harmless: The bill eliminates the small schools grant when eligibility is based on a district's 2-year average combined enrollment of 100 or fewer students, and eliminates it for districts that have an average grade size of fewer than 20 students unless the district is geographically isolated. 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. On the ADM Hold-Harmless provision, the bill would apply the 3.5% calculation to a district's actual equalized pupils, rather than the prior year's inflated equalized pupils. The new calculation would be phased in over three years.

School District Hiring: The bill makes changes to superintendents' and principals' authority to nominate, hire and fire staff by giving principals the responsibility to nominate, hire and fire district-level and school level employees. Current law gives the superintendent that authority. Under the proposed bill, superintendents would retain the authority to nominate, hire and fire supervisory union-level employees and principals, although the hiring of the principal would be subject to the approval of the school district board.

Education Finance: The bill has several provisions designed to ensure greater transparency in the education finance system. One proposed change 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. 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.

The bill would also 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 also includes a moratorium on any new legislation that would increase property taxes through June 30, 2016.

Special Education Funding: The final section 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).

VSBA & VSA Introduce Framework to Address Quality, Equity and Efficiency

In the context of a legislative session where it seems likely that the General Assembly will take some action to simplify Vermont's complex governance system, last week the VSBA and VSA testified in House Education about their [proposed framework for governance reform](#) that is designed to address issues related to quality, equity and efficiency.

The framework lays out six goals for any education policy initiative that advances this year:

- ▶ Solutions must address concerns about equity, efficiency and quality
- ▶ Solutions must allow districts to more flexibly deploy resources
- ▶ Solutions should not assume one size fits all
- ▶ Local communities should design and implement their own structural changes
- ▶ Structural change should be encouraged through a mix of incentives and disincentives
- ▶ Solutions should be crafted to retain strong community connections

The VSBA/VSA proposal would set a policy requirement to provide educational opportunities that meet the Education Quality Standards (EQS) through integrated PreK-12 Education Systems by a date certain. PreK-12 Education Systems would be defined as units that are responsible for the equitable delivery of high quality education to all students in the region at a reasonable price for taxpayers. These systems would be designed to achieve the following outcomes in an efficient manner: equitable access to high quality learning opportunities that meet EQS; stability in tax rates and sustainability for taxpayers; conditions for stable leadership; a connected professional workforce; strong community influence and voice; transparency and accountability; and flexibility in the deployment of resources.

PreK-12 Education Systems could be governed by a single board, or where it can be demonstrated that a different configuration will achieve the outcomes, multiple boards within an SU structure. School districts would work with neighboring districts to design their own PreK-12 Education Systems plan, which would have to be approved by the electorate by date

certain in order to qualify for increased incentives, including school construction aid. The Agency of Education would have to publish and make readily available data on education and fiscal performance in order to inform local PreK-12 Education Systems design efforts. The Agency would be well-resourced to work with districts to analyze data and support plan development.

As is the case under current law, plans that involve structural changes would be submitted to the State Board of Education for approval prior to submission to the electorate. The State Board will publish guidelines for plan design and will approve a plan if it adheres to the guidelines, is reasonably designed to achieve the seven outcomes, and does not leave a district stranded.

The small schools grants would be retained in those communities that approve a PreK-12 Education Systems plan by date certain. The Agency of Education would work with school board members, administrators and teachers to develop an Education Quality Review process that will use multiple sources of data and site visits in order to evaluate compliance with EQS and fiscal efficiency measures. If, after date certain, districts have not created PreK-12 Education Systems and are not able to meet certain fiscal and educational benchmarks, the AOE/SBE will be empowered to intervene.

The VSBA/VSA is scheduled to discuss the framework in the Senate Education Committee this week.

Governor's Proposed Budget Could Add Pressure to School District Budgets

Since the Governor delivered his budget address last month, Mark Perrault of the Joint Fiscal Office has testified in both the House and Senate Education Committees about the financial impact of the Governor's proposals on the Education Fund. All proposals have been characterized by the Administration as neutral on the Education Fund and property tax rates. However, in a year in which voters are eager to see property tax reductions, the proposals place pressure on both the Education Fund and district budgets.

The first proposal is to restructure the Community High School of Vermont, reducing Education Fund expenditures and moving the savings (estimated at 1.7 million dollars) from the Education Fund to the General Fund.

Second, the Governor proposes to take up to 2 million dollars of state lottery revenues away from the Education Fund and redirect it to the Vermont Veterans Home. These funds are projected new revenue that is expected to come from new lottery consoles. If the new consoles make more than \$2M, the extra revenue will go into the Education Fund. However, if the new consoles drain business from traditional games, it could reduce the overall support flowing into the Education Fund.

Third, the Governor proposes to raise the assessed value of farm buildings to 30% of the actual assessed value. This would bring an additional \$1.2M into the Education Fund, but the new revenue would be offset by a reduction in the General Fund transfer. The proposal assumes

that current appraised values for farm buildings are accurate. If the appraisals are lower than expected, the General Fund transfer would still be reduced by \$1.2M, but the replacement revenue will not come into Education Fund.

Fourth, the Administration has proposed a 0.7% pay roll tax as part of an effort to reduce health care costs statewide. The tax would have a \$6M per year impact on school districts, which pay out \$850M in wages. The thought behind the payroll tax is to reduce health care premiums in the long term and offset the costs to districts in return. The joint fiscal office does not yet know exactly how that will play out. Additionally, the so called “Cadillac Tax” – the federal tax that applies to plans that have high actuarial value - will begin to be levied on several VEHI plans in 2018.

The Governor has also expressed support for eliminating the small schools grant (with an exception for geographically isolated schools) and eliminating the ADM hold harmless provisions. The number of phantom students is currently estimated at around 770. Eliminating the hold harmless provisions would have a greater impact on districts that have seen sharp enrollment declines in recent years. The Administration’s proposal includes a phase-out over several years in order to cushion the impact on district budgets.

Finally, the Governor has proposed allocating \$4.1M from the Capital Bill for school construction aid. A moratorium on state aid has been in place for several years. The proposal allocates an additional \$3.0M from the Capital Bill to incentivize school consolidation.

Overall, the proposals appear to exacerbate the property tax challenge. Your associations will closely monitor action on these proposals.

Education Labor Bills Receive Hearing This Week

Today the House Committee on General, Housing and Military Affairs began taking testimony on two education labor bills. The first, [H. 76](#), would prohibit teacher strikes and board imposition of contracts and require collective bargaining disputes to be resolved using mandatory binding arbitration. The Vermont Labor Relations Board would serve as the arbiter in the dispute, and the parties would be required to submit their last best offer. The Labor Board would select one of the two proposals as a single package.

Vermont is the only state in New England to allow teachers to strike; 37 other states in the country outlaw teacher strikes. However, only a few of those states require the use of binding interest arbitration to resolve the dispute.

The other bill to be presented to the committee is [H. 102](#), which would establish criteria for fact finders to consider when making their recommendations to the parties on issues that are in dispute. Those criteria include: the financial ability of the school district to pay for increased costs of public services; the cost of living as measured by the NEEP index and CPI; the overall compensation presently received by employees; and the willingness of the school district to

provide increased compensation as demonstrated by the results of two prior years' votes on the district's budget.

H. 102 would also prohibit fact finders from discounting one party's position based solely on its novelty or the other party's opposition to it. In addition, the bill sets out criteria that must be considered if a fact finder is going to supplement the above factors by considering settlements in "comparable" districts. In order to do so, the fact finder must demonstrate that the school districts are comparable based on relative tax burdens, cost per student, and student outcomes. Once a comparable district has been identified, the fact finder can only consider the total compensation provided to employees in that district, and the monetary value of any increase in total compensation, rather than the percentage increases currently relied upon by so many fact finders.

It is expected that more testimony will be taken on these two bills over the coming weeks. Stay tuned.

House Education Committee Examines Special Education Issues

Late last week, the House Committee on Education heard about special education from University of Vermont Researcher Michael Giangreco. The presentation focused on three major issues Giangreco stressed as important for the committee to consider. The first was special education funding. He characterized the current reimbursement model of special education funding as time consuming and burdensome on special educators. He also said that the rules governing reimbursement encourage "gamesmanship" among schools to ensure special education receives adequate funds. There are also hidden costs in the added personnel time to track instruction time.

Second, Giangreco discussed the need for equitable access to inclusive schools. He sees a problem with varying access to inclusive classroom settings across the state. According to Giangreco, the range of access to inclusive placement varies from 48% to 90% among SUs.

Finally, Giangreco focused on the need for equitable access to support from qualified personnel. The conversation around this point focused on the prevalence of paraprofessionals. In some settings, up to 80% of special education instruction comes from paraprofessionals, rather than a certified educator. Giangreco testified that he sees an inverse relationship between the acuity of student need and the time spent primarily with a paraprofessional. He stressed that paraprofessionals are, by and large, highly dedicated and valued for their work with students. The level of training and direction they receive is not, in Giangreco's opinion, an appropriate substitute for time spent with a certified educator. Vermont relies more heavily on paraprofessionals than any other state, which Giangreco stated was symptomatic of larger problems within the education system. He urged the committee to look at new funding rules with greater flexibility to allow special educators to decide how best to meet student needs.

Bill Seeks to Clarify Public Records Exemption on Personal Records

[H.18](#) was introduced early in the session as a vehicle to make some adjustments to the more than 40 exemptions to the requirement to disclose or produce public records under Vermont's Public Records Act. The most significant adjustment affecting school districts is related to the exemption on "personal records." The Vermont Supreme Court has interpreted the term "personal records" as those records that reveal "intimate details" of an individual's life. According to the Court's analysis, a personal record containing intimate details is only exempt from disclosure if the invasion of privacy outweighs the public interest in its disclosure.

Because of concerns that sensitive information could be disclosed due to a narrow interpretation of what constitutes "intimate details" of someone's life, H.18 clarifies that the definition of "personal record" exempt from disclosure is "records relating to an individual, if the nature, gravity, and potential consequences of the invasion of privacy occasioned by disclosure outweighs the public interest in favor of disclosure. A record is not required to reveal intimate or embarrassing facts about an individual in order to qualify as exempt under this subdivision."

The bill goes on to list some examples of the types of personal records that would be exempt under this analysis, including materials related to hiring, evaluating, promoting or terminating employment, medical or psychological information and information related to personal finances. The committee is taking testimony on the bill this week.

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>