

Education Legislative Report

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Allowable Growth Rate Amended for FY 2017, Repealed for FY 2018

On Friday, January 29, 2016 the House gave final approval to a slate of modifications to the allowable growth rate (AGR). [S.233](#) was signed by the Governor on Saturday.

Both chambers of the General Assembly were under significant pressure to reach a compromise regarding which changes to make to the AGR before the deadline for warning school district budgets on January 31st. Last Thursday, the Senate received a House-passed amendment to S.233. That amendment included adjustments similar to those in the final bill, but did not include FY2018 repeal. The Senate considered options for compromise in a caucus of its membership Thursday afternoon, and following quick votes of both the Senate Education and Finance Committees, the full Senate gave its approval to the amendment Thursday evening.

Friday, following two failed procedural votes to suspend the rules requiring one day's notice prior to taking up S.233, the House opted to meet on the next legislative day, at one minute past midnight. At around 1:00 in the morning, after defeating a last-minute amendment that would have put the thresholds back into place for FY 2018, the House approved S.233 on a vote of 92-32.

The bill makes four changes to the AGR for FY2017 and repeals the AGR for FY2018. First, it exempts any district with FY2016 education spending per equalized pupil below the FY2016 statewide average spending per equalized pupil. The FY 2016 per pupil figure is \$14,094.73. Second, the bill raises individual district's thresholds by 0.9 percentage points. This will increase the per pupil amount any district can spend before exceeding its AGR. Third, the bill directs the Agency of Education to use the threshold

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calculation that is most advantageous between the two figures issued by the Agency (the first figure released in August and the second in mid-January). Finally, the bill will change the penalty for any district that exceeds its AGR to 40 percent of the spending above the threshold. Prior law required a dollar-for dollar penalty; S.233 creates a 40 cent penalty for every dollar spent above the threshold.

The AGR will not be applied to FY2018 budgets. Both House and Senate members expressed an interest in

tackling the issue of cost containment for FY 2018 throughout the remainder of the session.

House Committees to Consider Dollar-Equivalent Yield Variables

In December, the tax commissioner released the base property and income tax rates and corresponding yields as required by Act 46. The yield is a new feature of the education funding system, and represents the amount of revenue raised by \$1.00 base homestead property tax rate. The initial announced yield was projected to be \$9,955, which was later adjusted to \$9,780, due to adjustments to the state's grand list. The amount of the yield has continued to fluctuate based on different resolutions to the AGR, since the original yield calculations included \$9.5 million in anticipated AGR penalty revenue. The Joint Fiscal Office supplied lawmakers with estimated yield adjustments as they considered several AGR fixes. Each proposal for changing the AGR had its own implications for the yield, and therefore for eventual tax rates.

The yield projected to accompany the changes made by S.233 was \$9,744. However, this yield projection includes the application of \$21 million in unallocated education fund surplus from FY2016. Whether to apply some or all of those one-time funds in Fy2017 is a decision that the House Ways and Means and Education committees will consider in the coming weeks. Part of that consideration will rely on school board-approved budget proposals which will not be compiled by the Agency of Education until mid-February.

It is too soon to project what the yield will be for FY2017. The revised numbers provided by the Joint Fiscal Office throughout the past weeks illustrate how uncertain the final yield amount will be even if the \$21 million surplus is applied. While some boards may be anticipating tax relief due to the inflated yield calculation, some districts have applied reserve funds to offset expenses and stay under their AGR. This approach, combined with the potential upward adjustment of the yield with one-time money could create significant challenges for districts in the FY 2018 budget season.

Senate Education Considers Changes to Student Discipline Laws

This session, the Senate Education Committee has signaled that it will return to the issue of school discipline, a topic that received extensive consideration in that committee last session. Last week, in response to a request to a February 2015 request from Senate Education, Secretary Holcombe, along with Dr. Amy Fowler, Deputy Secretary of Education, presented a [report](#) on the use of exclusionary school discipline in Vermont.

The report found that most exclusionary discipline is administered as in-school suspension (42% of all exclusions) and out-of-school-suspension (56% of exclusions). Expulsion accounts for a very small number of disciplinary actions, with only 67

expulsions in Vermont since 2013. The average length of out-of-school suspension is 2 days. The Secretary pointed out that administrators are granted discretion in statute to suspend a student for up to 10 days without seeking school board approval.

The nationwide exclusionary discipline rate is around 15%. In Vermont, that figure is 5%. ([Exclusionary Discipline Response, page 17](#)). Nationally, there is heightened awareness around zero-tolerance school discipline policies and many studies on what is often termed the “school to prison pipeline.” The Agency’s study reveals that while Vermont does not have the same discipline policy concerns as other parts of the country, Vermont schools should continue to work on implementation of programs that teach positive social behaviors, (such as PBIS) which are proven to reduce the incidence of exclusionary discipline.

The Senate Education committee is scheduled to consider a school discipline bill, [S.194](#), for the majority of this week. The bill, introduced by Senator Campion, proposes to limit the circumstances in which a student can be suspended out of school.

Report Analyzes the Adequacy of Vermont’s Education Spending

On Thursday, the House Committees on Education and Ways & Means received a report required by Act 46 entitled “Using the Evidence-Based Method to Identify Adequate Spending Levels for Vermont Schools” (hereafter referred to as the adequacy study).

The adequacy study concluded that in 2014-15, Vermont spent approximately \$164 million more than what the evidence-based model estimates to be an adequate level of education spending. That number represents the difference between what would be required to fund the evidence-based education model detailed in the adequacy study and what Vermont spends to fund its education system. The adequacy study states that it is designed not to force reductions or changes from Vermont’s current model, but to help policy makers identify the most efficient and effective ways to allocate the state’s educational resources.

One of the largest differences between the adequacy model and current practice is the modeling of teacher to student ratios. The model employs a ratio of 1 to 17 in elementary school and 1 to 25 in high school. These ratios are, in general, higher than ratios in Vermont schools.

Another difference between the model and Vermont practice is the use of paraprofessionals. The adequacy model provides limited resources for paraprofessional positions in special education. This is based on research suggesting students with the greatest needs should be served by skilled teachers to provide the extra services they require who struggle to learn to standards. Yet, in Vermont and throughout the country, districts frequently rely heavily on paraprofessional positions to deliver special

education services. The adequacy model only includes paraprofessionals for a few students with severe and profound disabilities. The model also does not include instructional aides at any education level, whereas most Vermont school districts employ substantial numbers of aides in their instructional programs.

The adequacy model assumes a full day Pre-K program located in a public elementary school and available to all children currently enrolled in publicly-funded Pre-K in Vermont. The model does not contemplate Vermont's voucher program, which supports parental choice in private or public Pre-K programs for 10 hours a week.

Finally, the model uses a special education identification rate of 12%, which is based on the national average. In Vermont, the special education identification rate is 16%.

The adequacy study will form the backdrop to committee conversations over the coming weeks regarding strategies to contain costs in FY2018 and beyond. It is not yet clear whether the committees will undertake an evaluation of the underlying funding system in light of the findings of the report, which point to operational changes that should be made, rather than changes to the overall funding system. You can find the whole 291-page report [here](#).

Senate Committee Moves Marijuana Legalization Bill Forward

On Friday, the Senate Judiciary Committee voted 4-1 to give its approval to [S.241](#), a bill that would legalize possession of up to an ounce of marijuana for people 21 or older. The bill would allow marijuana to be sold in licensed dispensaries and would continue the ban on home cultivation. Friday's vote came after the Senate Judiciary Committee heard a month of testimony and held public hearings in several locations around the state.

The bill will now go to the Senate Finance Committee for testimony on a framework of taxation for regulated marijuana. Next Friday, amendments to the bill will be heard by several other Senate Committees. It is not yet certain whether Senate Education will take testimony on S.241, although several members of that committee have expressed an interest in considering the impact a regulated marijuana framework might have on schools.

Senate Bill Proposes Changes to Open Meeting Law

[S.114](#), currently under consideration by the Senate Government Operations Committee, proposes to make a slate of changes to the Open Meeting Law, many of which were recommended by the Vermont League of Cities and Towns last year. Those changes would include more time for public bodies to post minutes to a website and to respond to allegations of a violation of the Open Meeting Law. It would clarify the steps that a body must make to cure a violation, and provides that admission of a violation does not

subject a person to the criminal penalties in the law. The bill also would streamline the notice required for an electronic meeting.

S.114, was introduced last year and nearly passed the Senate before the session concluded. The bill was approved by the Senate Government Operations committee on Tuesday. It is expected to pass the Senate and undergo consideration in the House in the coming weeks.

Bill Providing Paid Sick Leave Expected to Receive Senate Approval

[S.187](#) was passed by the House last year and the Senate is expected to give final approval to the bill Wednesday afternoon. The bill in its current form would give workers one sick leave hour for every 52 hours worked. The bill would require employers to credit employees a maximum of 24 sick leave hours in a year until June 30, 2017, when the maximum would go up to 40 hours in a 12 month period. Employees would be allowed to use earned sick time when they are ill or injured, to obtain medical care, to care for a sick family member, or to obtain legal or social services for themselves or a family member. Unused hours from the previous year roll over to the next year, and employees can be paid for their unused hours on termination of employment, subject to agreement by the employer.

The bill applies to employees of school districts and supervisory unions, but not to temporary employees or substitutes who do not work more than 30 consecutive days on the same assignment. The bill also allows for collective bargaining agreements to include provisions that differ from the proposed requirements, so long as those agreements bestow equal or more generous sick leave benefits to employees.

Several amendments are expected to be offered during the Senate debate on S.187. If the bill receives Senate approval, the House is expected to concur, and the Governor has pledged to sign it into law.

Many New House Bills Introduced

January 31 marked the introduction deadline for House bills. A flurry of education proposals were introduced and referred to committee in the days before that deadline. The Education Legislative Report will discuss each bill in detail as it comes under active consideration by its committee of jurisdiction. The most recently introduced bills affecting education are listed below. You will be linked to the full text of the bill by clicking on the bill number.

[H.840](#) –An act relating to the Education Fund Outlook
Representative Manwaring and others

[H.839](#) – An act relating to official State estimates for the Education Fund
Representative Manwaring and others

[H834](#) – An act relating to unemployment compensation
Representative Ram and others

[H.831](#) – An act relating to public school choice
Representative Bancroft and others

[H.830](#) – An act relating to bullying
Representatives Kennan, Parent and and Fagan

[H.828](#) – An act relating to the Rozo McLaughlin Farm-to-School Program
Representative Zagar and others

[H.827](#) – An act relating to the Agency of Agriculture, Food and Markets establishing a
universal meals pilot project under the Farm-to-School Program
Representative Ram and others

[H.809](#) An act relating to the State Teachers' Retirement System of Vermont
Representative Hubert

[H.799](#) – An act relating to worker's compensation
Representatives Botzow and Marcotte

[H.798](#) – An act relating to eligibility for unemployment compensation
Representatives Botzow and Marcotte

[H.796](#) – An act relating to school safety and use of disciplinary action
Representatives Ram and Rachelson

[H.795](#) – An act relating to participation in public school activities by students enrolled
in independent schools
Representative Lewis and others

[H.794](#) – An act relating to requiring voter approval of supervisory union budgets
Representative Lewis and others

[H.770](#) – An act relating to municipal funding for education expenses
Representative Wright

[H.747](#) – An act relating to the State Treasurer's authority to intercept State funding to a municipality or school district in default from a Municipal Bond Bank borrowing
Representatives Emmons and Myers

[H.745](#) – An act relating to a study of career technical education
Representative Stuart and others

[H.735](#) – An act relating to creating an exemption from the statewide education property tax for certain municipally owned parking areas
Representatives Bissonnette, Gonzalez and Russell

[H.733](#) – An act relating to the ability of a school district to pay tuition to other schools
Representative Sibia and others

[H.732](#) – An act relating to withdrawal from a union school district
Representatives Sibia, Eastman and Hebert

[H.731](#) – An act relating to expanding the ability of a unified union district to operate and pay tuition
Representatives Briglin and Masland

[H.717](#) – An act relating to amendments to Act 46
Representative Browning

[H.694](#) – An act relating to responsibility for providing transportation services
Representatives Botzow and Marcotte

[H.678](#) – An act relating to the manner in which average daily membership is computed for public high school students exercising school choice
Representatives Fagan, Clarkson and Keenan

[H.664](#) – An act relating to entering into a statewide contract with public school teachers and capping teachers' salaries
Representatives Hubert and others

[H.656](#) – An act relating to creating an education tax that is adjusted by income for all taxpayers
Representatives Pearson and others

[H.652](#) – An act relating to school district reporting to the Agency of Education
Representative Eastman and others

[H.643](#) – An act relating to the right to appeal the State Board of Education's
determination of eligibility for a small schools support grant
Representatives Partridge and Trieber

[H.637](#) – An act relating to the requirement to pass a civics test for high school
graduation
Representative Brennan

[H.636](#) – An act relating to the payment of tuition by a unified union school district that
designates one or more schools as the public high school of the district
Representatives Briglan and Masland

[H.622](#) – An act relating to obligations for reporting child abuse and neglect and
cooperating in investigations of child abuse and neglect
Representatives Pugh and Haas

[H.594](#) – An act relating to side-by-side RED qualification
Representative Bartholomew and others

[H.583](#) – An act relating to amending 2015 Acts and Resolves No. 46
Representative Scheuermann and others

[H.579](#) – An act relating to expanding the ability of a unified union district to operate
and pay tuition
Representative Scheuermann and others

[H.553](#) – An act relating to conditions for eligibility to receive enhanced tax incentives
under Act 46
Representatives French and Ryerson

[H.529](#) – An act relating to State aid for school construction repayment obligations
Representative LaLonde and others